

Chapter 256

(House Bill 250)

AN ACT concerning

State Board of Barbers and State Board of Cosmetologists – Special Fund and Fees

FOR the purpose of establishing the State Barbers and Cosmetologists Boards' Fund as a special, nonlapsing fund in the Department of Labor, Licensing, and Regulation; specifying the contents of the Fund; requiring that the Fund be used for certain purposes; requiring the Secretary of Labor, Licensing, and Regulation, or a designee of the Secretary, to administer the Fund; providing for an audit of the Fund; requiring any unspent and unencumbered portion of the Fund in excess of a certain amount to revert to the General Fund at the end of each fiscal year; crediting certain earnings to the General Fund; requiring the Secretary, in consultation with the State Board of Barbers and the State Board of Cosmetologists, to annually calculate certain costs; authorizing the State Board of Barbers and the State Board of Cosmetologists to set by regulation certain fees based on certain calculations; requiring each board to publish a certain fee schedule; repealing provisions of law requiring each board to pay certain money into the General Fund of the State; requiring each board to pay certain fees to the Comptroller; requiring the Comptroller to distribute certain fees to the Fund; prohibiting certain fees from increasing by more than a certain amount each year; altering certain fees; requiring that certain fees in effect on a certain date shall remain in full force and effect until certain other fees are adopted and become effective; providing for a delayed effective date; and generally relating to the State Barbers and Cosmetologists Boards' Fund.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 4–205(a), 4–206, 4–304(a), 5–205, and 5–206
Annotated Code of Maryland
(2010 Replacement Volume and 2016 Supplement)

BY repealing
Article – Business Occupations and Professions
Section 4–207 and 5–208
Annotated Code of Maryland
(2010 Replacement Volume and 2016 Supplement)

BY adding to
Article – Business Occupations and Professions
Section 4–207 and 5–208
Annotated Code of Maryland
(2010 Replacement Volume and 2016 Supplement)

BY adding to

Article – Business Regulation

Section 2–106.9 and 2–106.10

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

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

Article – Business Occupations and Professions

4–205.

(a) On request of any person and payment of a certification fee **SET BY THE BOARD**, the Board shall certify the licensing, registration, or permit status and qualifications of any person who is the subject of the request.

4–206.

(a) [(1)] In addition to any powers set forth elsewhere, the Board may adopt any regulation to carry out this title.

[(2) (i) The Board shall establish reasonable fees for examinations, licensing, licensing renewal, reinstatement, certification, applications, preopening inspections, per diem fees for Board members, compensation for inspectors appointed by the Board, and any other service performed by the Board necessary to carry out the provisions of this title.

(ii) 1. Except for examination fees which the Board shall establish in amounts not to exceed the costs of the required examinations and subject to subsubparagraph 2 of this subparagraph, the fees established by the Board shall be set in a manner that will produce funds sufficient to cover the actual direct and indirect costs of regulating the barber industry in this State in accordance with the provisions of this title.

2. The Board may not set fees for licensing and license renewals that exceed \$50.

(iii) The total cost of regulating the barber industry in this State in accordance with the provisions of this title may not be more than the revenues generated by the fees established under subparagraph (i) of this paragraph.]

(b) (1) The Board shall adopt regulations that establish detailed curriculum standards for use by the State Board of Education or the Maryland Higher Education Commission in approving applications for instruction in the practice of barbering and the provision of barber–stylist services at public schools or private career schools.

(2) The curriculum standards established under paragraph (1) of this subsection shall:

(i) incorporate modern methods and practices for the practice of barbering and the provision of barber–stylist services;

(ii) include a reference to each topic and the emphasis of each topic required of a comprehensive barbering and barber–stylist curriculum; and

(iii) be reviewed and updated periodically as determined by the Board.

(c) In addition to any duties set forth elsewhere, the Board shall administer and enforce this title.

[4–207.

The Board shall pay all money collected under this title into the General Fund of the State.]

4–207.

(A) (1) EXCEPT FOR THE EXAMINATION FEES THAT THE BOARD SHALL ESTABLISH IN AMOUNTS NOT TO EXCEED THE COSTS OF THE EXAMINATIONS, THE BOARD MAY SET BY REGULATION REASONABLE FEES FOR ITS SERVICES, INCLUDING APPLICATION FEES, LICENSING FEES, LICENSE RENEWAL FEES, LICENSE REINSTATEMENT FEES, CERTIFICATION FEES, PERMIT FEES, PERMIT RENEWAL FEES, INSPECTION FEES, AND ANY OTHER FEES NECESSARY FOR THE BOARD TO CARRY OUT THE PROVISIONS OF THIS TITLE.

(2) THE FEES CHARGED SHALL BE:

(I) SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COST OF MAINTAINING THE BOARD; AND

(II) BASED ON THE CALCULATIONS PERFORMED BY THE SECRETARY UNDER § 2–106.10 OF THE BUSINESS REGULATION ARTICLE.

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

(C) (1) THE BOARD SHALL PAY ALL FEES COLLECTED UNDER THIS TITLE TO THE COMPTROLLER.

(2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE STATE BARBERS AND COSMETOLOGISTS BOARDS' FUND ESTABLISHED IN § 2-106.9 OF THE BUSINESS REGULATION ARTICLE.

4-304.

(a) Except as otherwise provided in § 4-304.1 of this subtitle, an applicant is entitled to be examined as provided in this section if the applicant:

(1) otherwise qualifies for a license under this title; and

(2) pays an examination fee established by the Board in accordance with [§§ 4-206 and] § 4-303 of this title to the Board or the Board's designee.

5-205.

(a) In addition to any duties set forth elsewhere, the Board shall adopt:

(1) bylaws for the conduct of its proceedings;

(2) regulations for qualification and examination of applicants for licenses, registration, and permits and issuance of licenses, certificates of registration, and permits;

(3) regulations to govern the conduct of persons regulated under this title;

(4) regulations to govern sanitation and safety in practicing cosmetology, including regulations that establish precautions to prevent the spread of infectious and contagious diseases; and

(5) regulations to govern the direct supervision of the operation of limited practice beauty salons.

(b) [(1) The Board shall establish reasonable fees for licensing, licensing renewal, examinations, reinstatements, certifications, applications, preopening inspections, per diem fees for Board members, compensation for inspectors appointed by the Board, and for any other service performed by the Board necessary to carry out the provisions of this title.

(2) (i) Except for the examination fees which the Board shall establish in amounts not to exceed the costs of the examinations and subject to subparagraph (ii) of this paragraph, the fees established by the Board shall be set in a manner that will produce funds sufficient to cover the actual direct and indirect costs of regulating the cosmetology industry in the State in accordance with the provisions of this title.

(ii) The Board may not set fees for licensing and license renewals that exceed \$50.

(3) The total cost of regulating the cosmetology industry in the State in accordance with the provisions of this title may not be more than the revenues generated by the fees established under paragraph (1) of this subsection.

(c)] (1) The Board shall adopt regulations that establish detailed curriculum standards for use by the State Board of Education or the Maryland Higher Education Commission in approving applications for instruction in the practice of cosmetology, the provision of esthetic services, the provision of hair services, and the provision of nail technician services at public schools or private career schools.

(2) The curriculum standards established under paragraph (1) of this subsection shall:

(i) incorporate modern methods and practices for:

1. practicing cosmetology;
2. providing esthetic services;
3. providing hair services;
4. providing hair services – blow drying; and
5. providing nail technician services;

(ii) include a reference to each topic and the emphasis of each topic required of a comprehensive curriculum in the appropriate licensing area; and

(iii) be reviewed and updated periodically as determined by the Board.

5–206.

(a) On request of any person and payment of a certification fee established by the Board in accordance with [§ 5–205] **§ 5–208** of this subtitle, the Board shall certify the licensing, registration, or permit status and qualifications of any person who is the subject of the request.

(b) Each certification under this section:

(1) shall include a statement of the licensing, registration, or permit status of the person who is the subject of the request; and

(2) may include:

(i) information about the examination results and other qualifications of that person;

(ii) information about the dates of issuance and renewal of the license, registration, or permit of that person;

(iii) information about any disciplinary action taken against that person; and

(iv) if authorized by that person, information about any complaint against that person.

(c) The Board shall collect the certification fee established by the Board in accordance with ~~[§ 5–205]~~ **§ 5–208** of this subtitle for each certification under this section.

~~[5–208.~~

The Board shall pay all money collected under this title into the General Fund of the State.]

5–208.

(A) EXCEPT FOR THE EXAMINATION FEES THAT THE BOARD SHALL ESTABLISH IN AMOUNTS NOT TO EXCEED THE COSTS OF THE EXAMINATIONS, THE BOARD MAY SET BY REGULATION REASONABLE FEES FOR ITS SERVICES, INCLUDING APPLICATION FEES, LICENSING FEES, LICENSE RENEWAL FEES, LICENSE REINSTATEMENT FEES, CERTIFICATION FEES, PERMIT FEES, PERMIT RENEWAL FEES, INSPECTION FEES, AND ANY OTHER FEES NECESSARY FOR THE BOARD TO CARRY OUT THIS TITLE.

(B) THE FEES CHARGED SHALL BE:

(1) SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COST OF MAINTAINING THE BOARD; AND

(2) BASED ON THE CALCULATIONS PERFORMED BY THE SECRETARY UNDER § 2–106.10 OF THE BUSINESS REGULATION ARTICLE.

(C) THE BOARD SHALL PUBLISH A SCHEDULE OF FEES SET BY THE BOARD.

(D) (1) THE BOARD SHALL PAY ALL FEES COLLECTED UNDER THIS TITLE TO THE COMPTROLLER.

(2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE STATE BARBERS AND COSMETOLOGISTS BOARDS' FUND ESTABLISHED IN § 2-106.9 OF THE BUSINESS REGULATION ARTICLE.

Article – Business Regulation

2-106.9.

(A) IN THIS SECTION, “FUND” MEANS THE STATE BARBERS AND COSMETOLOGISTS BOARDS' FUND.

(B) THIS SECTION APPLIES TO THE FOLLOWING OCCUPATIONAL LICENSING BOARDS:

(1) THE STATE BOARD OF BARBERS ESTABLISHED UNDER TITLE 4 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE; AND

(2) THE STATE BOARD OF COSMETOLOGISTS ESTABLISHED UNDER TITLE 5 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

(C) (1) THERE IS A STATE BARBERS AND COSMETOLOGISTS BOARDS' FUND IN THE DEPARTMENT.

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

(D) (1) EXCEPT AS OTHERWISE PROVIDED BY LAW, EACH OCCUPATIONAL LICENSING BOARD DESCRIBED IN SUBSECTION (B) OF THIS SECTION SHALL PAY ALL FEES COLLECTED TO THE COMPTROLLER.

(2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE FUND.

(E) THE FUND SHALL BE USED TO COVER THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY DUTIES OF EACH OCCUPATIONAL LICENSING BOARD DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

(F) THE SECRETARY OR A DESIGNEE OF THE SECRETARY SHALL ADMINISTER THE FUND.

(G) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

(H) AT THE END OF EACH FISCAL YEAR, ANY UNSPENT AND UNENCUMBERED PORTION OF THE FUND IN EXCESS OF \$100,000 SHALL REVERT TO THE GENERAL FUND OF THE STATE.

(I) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE GENERAL FUND OF THE STATE.

2-106.10.

(A) (1) IN CONSULTATION WITH EACH BOARD SPECIFIED UNDER § 2-106.9 OF THIS SUBTITLE, THE SECRETARY SHALL ANNUALLY CALCULATE THE DIRECT AND INDIRECT COSTS ATTRIBUTABLE TO EACH BOARD.

(2) EACH BOARD SHALL ESTABLISH FEES BASED ON THE CALCULATIONS PROVIDED BY THE SECRETARY UNDER THIS SECTION.

(3) EXCEPT FOR EXAMINATION FEES UNDER §§ 4-303 AND 5-306 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, EACH FEE ESTABLISHED BY AN INDIVIDUAL BOARD MAY NOT BE INCREASED ANNUALLY BY MORE THAN 12.5% OF THE EXISTING AND CORRESPONDING FEE OF THE BOARD.

(B) IN ORDER TO ESTABLISH FEES THAT MORE EQUITABLY DISTRIBUTE THE COSTS ASSOCIATED WITH THE OPERATION OF EACH BOARD AMONG SIMILAR BOARDS, THE SECRETARY MAY AVERAGE THE DIRECT AND INDIRECT COSTS OF THE BOARDS PROVIDED THAT THE BOARDS CONSENT TO HAVING THEIR DIRECT AND INDIRECT COSTS AVERAGED TOGETHER.

SECTION 2. AND BE IT FURTHER ENACTED, That the fees set forth in Title 4, Subtitles 2 and 3 and Title 5, Subtitle 2 of the Business Occupations and Professions Article, respectively, in effect on June 30, ~~2017~~ 2018, shall remain in full force and effect until the fees authorized to be set by the State Board of Barbers and the State Board of Cosmetologists, respectively, under this Act are adopted and become effective.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, ~~2017~~ 2018.

Approved by the Governor, April 18, 2017.