

# HOUSE BILL 136

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By: **Delegate Stein**

Introduced and read first time: January 15, 2020

Assigned to: Environment and Transportation

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## A BILL ENTITLED

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; requiring the Board to review certain regulations; specifying the duties of the  
15 Board; requiring a county to enforce and adopt certain standards relating to certain  
16 design, installation, and maintenance of certain on-site wastewater systems;  
17 requiring the Board to set reasonable fees for a certain purpose; requiring the Board  
18 to publish a schedule of the fees; requiring the Board to pay certain funds collected  
19 from certain fees into the On-Site Wastewater Professionals Fund; establishing the  
20 Fund as a special, nonlapsing fund; specifying the purpose of the Fund; requiring the  
21 Board to administer the Fund; requiring the State Treasurer to hold the Fund, and  
22 the Comptroller to account for the Fund; specifying the contents of the Fund;  
23 specifying the purpose for which the Fund may be used; requiring interest earnings  
24 of the Fund to be credited to the Fund; providing for expenditures from the Fund;  
25 requiring the Board to submit a certain annual report to the Secretary of the  
26 Environment; requiring a certain individual to be licensed by the Board before  
27 performing certain on-site wastewater services in the State; requiring an applicant  
28 for a license to meet certain requirements established by regulation and to submit a  
29 certain application and pay a certain fee to the Board; requiring that a business  
30 performing on-site wastewater services or contracting to perform certain on-site  
31 wastewater services have an employee or owner licensed by the Board; authorizing

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the Board to take certain disciplinary action against an applicant or a licensee under  
2 certain circumstances; requiring the Board to give a certain individual an  
3 opportunity for a hearing before the Board and to give certain notice and hold the  
4 hearing in accordance with certain provisions of law; authorizing the Board to  
5 administer oaths under certain circumstances; authorizing the Board to hear and  
6 determine a matter under certain circumstances; authorizing a person aggrieved by  
7 a decision of the Board to take certain action under certain circumstances;  
8 prohibiting a person from performing certain on-site wastewater services without a  
9 license from the Board; prohibiting the borrowing, renting, or transferring of a  
10 license; establishing a certain penalty for violations of this Act; requiring that the  
11 failure to pay a certain penalty be forwarded to the Central Collection Unit under  
12 certain circumstances; exempting the Fund from a certain provision of law requiring  
13 interest earnings on State money to accrue to the General Fund of the State; defining  
14 certain terms; providing for the application of this Act; specifying that this Act does  
15 not prevent or prohibit a local government from imposing certain requirements or  
16 standards; requiring that the Board be fully operational on or before a certain date;  
17 specifying the terms of the initial members of the Board; and generally relating to  
18 the establishment of the State Board of On-Site Wastewater Professionals and the  
19 regulation of individuals performing on-site wastewater services in the State.

20 BY adding to

21 Article – Environment

22 Section 9–11A–01 through 9–11A–22 to be under the new subtitle “Subtitle 11A.  
23 On-Site Wastewater Services”

24 Annotated Code of Maryland

25 (2014 Replacement Volume and 2019 Supplement)

26 BY repealing and reenacting, without amendments,

27 Article – State Finance and Procurement

28 Section 6–226(a)(2)(i)

29 Annotated Code of Maryland

30 (2015 Replacement Volume and 2019 Supplement)

31 BY repealing and reenacting, with amendments,

32 Article – State Finance and Procurement

33 Section 6–226(a)(2)(ii)121. and 122.

34 Annotated Code of Maryland

35 (2015 Replacement Volume and 2019 Supplement)

36 BY adding to

37 Article – State Finance and Procurement

38 Section 6–226(a)(2)(ii)123.

39 Annotated Code of Maryland

40 (2015 Replacement Volume and 2019 Supplement)

41 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

42 That the Laws of Maryland read as follows:

1 Article – Environment

2 SUBTITLE 11A. ON-SITE WASTEWATER SERVICES.

3 PART I. DEFINITIONS.

4 9-11A-01.

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

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

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

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

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

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

19 (II) A HOLDING TANK.

20 (2) “ON-SITE WASTEWATER SYSTEM” INCLUDES A SEPTIC OR ANY  
21 OTHER ON-SITE SEWAGE DISPOSAL SYSTEM.

22 9-11A-02.

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

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

1 **9-11A-03. RESERVED.**

2 **9-11A-04. RESERVED.**

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

4 **9-11A-05.**

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

7 **(B) THE PURPOSE OF THE BOARD IS TO:**

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

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

17 **9-11A-06.**

18 **(A) (1) THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:**

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

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

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

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

28 **(2) OF THE MEMBERS OF THE BOARD:**

1                   **(I) SEVEN SHALL BE ON-SITE WASTEWATER PROFESSIONALS**  
2 **CURRENTLY LICENSED OR CERTIFIED BY THE STATE OR A LOCAL GOVERNMENT;**  
3 **AND**

4                   **(II) TWO SHALL BE CONSUMER MEMBERS.**

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

8                   **A. AT LEAST ONE SHALL BE A LICENSED MASTER**  
9 **INSTALLER;**

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

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

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

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

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

20                   **(II) OF THE SEVEN ON-SITE WASTEWATER PROFESSIONAL**  
21 **MEMBERS OF THE BOARD:**

22                   **1. AT LEAST ONE SHALL BE FROM THE AREA THAT**  
23 **CONSISTS OF ALLEGANY COUNTY, FREDERICK COUNTY, GARRETT COUNTY, AND**  
24 **WASHINGTON COUNTY;**

25                   **2. AT LEAST ONE SHALL BE FROM THE AREA THAT**  
26 **CONSISTS OF BALTIMORE CITY, BALTIMORE COUNTY, CARROLL COUNTY,**  
27 **HARFORD COUNTY, HOWARD COUNTY, AND MONTGOMERY COUNTY;**

28                   **3. AT LEAST ONE SHALL BE FROM THE AREA THAT**  
29 **CONSISTS OF ANNE ARUNDEL COUNTY, CALVERT COUNTY, CHARLES COUNTY,**  
30 **PRINCE GEORGE'S COUNTY, AND ST. MARY'S COUNTY; AND**

1                   4.     AT LEAST ONE SHALL BE FROM THE AREA THAT  
2     CONSISTS OF CAROLINE COUNTY, CECIL COUNTY, DORCHESTER COUNTY, KENT  
3     COUNTY, QUEEN ANNE'S COUNTY, SOMERSET COUNTY, TALBOT COUNTY,  
4     WICOMICO COUNTY, AND WORCESTER COUNTY.

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

7                   (5)    EACH CONSUMER MEMBER OF THE BOARD:

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

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

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

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

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

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

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

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

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

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

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

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

1           **(5) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES**  
2 **ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND**  
3 **QUALIFIES.**

4           **(E) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR**  
5 **MISCONDUCT.**

6 **9-11A-07.**

7           **(A) THE MEMBERS OF THE BOARD SHALL DESIGNATE A CHAIR.**

8           **(B) THE BOARD SHALL DETERMINE THE MEANS OF THE ELECTION OF**  
9 **OFFICERS.**

10 **9-11A-08.**

11           **(A) A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A**  
12 **QUORUM.**

13           **(B) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS**  
14 **MEETINGS.**

15           **(C) EACH MEMBER OF THE BOARD IS ENTITLED TO REIMBURSEMENT FOR**  
16 **EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN**  
17 **THE STATE BUDGET.**

18           **(D) THE BOARD MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE**  
19 **BUDGET.**

20 **9-11A-09.**

21           **(A) THE BOARD SHALL:**

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

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

27                   1.   **MASTER INSTALLER AND JOURNEY INSTALLER;**

28                   2.   **MASTER PROPERTY TRANSFER INSPECTOR AND**

1 JOURNEY PROPERTY TRANSFER INSPECTOR;

2 3. MASTER PUMPER AND JOURNEY PUMPER;

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

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

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

9 1. DESIGNER;

10 2. ADVANCED TREATMENT INSTALLER;

11 3. MOUND INSTALLER;

12 4. DRIP DISPERSAL INSTALLER;

13 5. PUMP DISPERSAL SYSTEM INSTALLER;

14 6. ADVANCED TREATMENT OPERATION AND  
15 MAINTENANCE PROVIDER;

16 7. ADVANCED TREATMENT UNIT PUMPER;

17 8. ADVANCED TREATMENT PROPERTY TRANSFER  
18 INSPECTOR; AND

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

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

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



1 **9-323 OF THIS TITLE; AND**

2 **(2) REVIEW REGULATIONS PROPOSED TO CARRY OUT THE**  
3 **PROVISIONS OF THIS SUBTITLE.**

4 **(B) THE BOARD SHALL:**

5 **(1) CARRY OUT THE PROVISIONS OF THIS SUBTITLE;**

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

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

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

13 **9-11A-10.**

14 **A COUNTY SHALL:**

15 **(1) ENFORCE THE MINIMUM STANDARDS ADOPTED BY REGULATION**  
16 **BY THE BOARD FOR ANY PROCESSES, PROCEDURES, TECHNIQUES, AND MATERIALS**  
17 **ASSOCIATED WITH THE PROPER DESIGN, ACCEPTABLE INSTALLATION, ADEQUATE**  
18 **OPERATION AND MAINTENANCE, INCLUDING PUMPING OR REPAIR, AND PROPERTY**  
19 **TRANSFER INSPECTIONS OF AN ON-SITE WASTEWATER SYSTEM; OR**

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

26 **9-11A-11.**

27 **(A) (1) THE BOARD, IN CONSULTATION WITH THE DEPARTMENT, SHALL**  
28 **SET REASONABLE FEES FOR THE ISSUANCE AND RENEWAL OF LICENSES AND OTHER**  
29 **SERVICES THAT THE BOARD PROVIDES.**

30 **(2) THE FEES SHALL BE SET TO PRODUCE FUNDS TO APPROXIMATE**

1 THE COSTS OF MAINTAINING THE BOARD.

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

3 (C) THE BOARD SHALL PAY ALL FUNDS COLLECTED UNDER THIS SUBTITLE  
4 INTO THE ON-SITE WASTEWATER PROFESSIONALS FUND ESTABLISHED UNDER §  
5 9-11A-12 OF THIS SUBTITLE.

6 9-11A-12.

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

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

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

12 (D) THE BOARD SHALL ADMINISTER THE FUND.

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

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

17 (F) THE FUND CONSISTS OF:

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

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

21 (3) INTEREST EARNINGS OF THE FUND;

22 (4) DONATIONS TO THE FUND; AND

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

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

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

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

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

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

11 **9-11A-13.**

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

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

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

18           **(3) THE EFFICIENCY OF THE REGULATIONS ADOPTED TO IMPLEMENT**  
19 **THE PROVISIONS OF THIS SUBTITLE;**

20           **(4) COMPLIANCE WITH THE REGULATIONS ADOPTED TO IMPLEMENT**  
21 **THE PROVISIONS OF THIS SUBTITLE; AND**

22           **(5) BASED ON THE FACTORS SPECIFIED IN ITEMS (1) THROUGH (4) OF**  
23 **THIS SECTION, THE NECESSITY TO REVIEW AND ADJUST THE FEES SET BY THE**  
24 **BOARD.**

25 **9-11A-14. RESERVED.**

26 **9-11A-15. RESERVED.**

27   **PART III. LICENSING.**

28 **9-11A-16.**

1 (A) AN INDIVIDUAL MUST BE LICENSED BY THE BOARD IN ACCORDANCE  
2 WITH THIS SUBTITLE BEFORE THE INDIVIDUAL MAY PERFORM ON-SITE  
3 WASTEWATER SERVICES IN THE STATE.

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

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

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

9 (2) PAY TO THE BOARD THE REQUIRED APPLICATION FEE SET BY THE  
10 BOARD.

11 (D) A BUSINESS PERFORMING ON-SITE WASTEWATER SERVICES OR  
12 CONTRACTING TO PERFORM ON-SITE WASTEWATER SERVICES THAT ARE  
13 REGULATED BY THE BOARD MUST HAVE AN EMPLOYEE OR OWNER LICENSED BY THE  
14 BOARD.

15 9-11A-17.

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

19 (1) VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY  
20 REGULATION ADOPTED UNDER THIS SUBTITLE;

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

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

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

26 9-11A-18.

27 (A) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 2 OF THE  
28 STATE GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION  
29 UNDER § 9-11A-17 OF THIS SUBTITLE IT SHALL GIVE THE INDIVIDUAL AGAINST  
30 WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE

1 THE BOARD.

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

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

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

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

13 9-11A-19. RESERVED.

14 9-11A-20. RESERVED.

15 PART IV. PROHIBITED ACTS; PENALTIES.

16 9-11A-21.

17 (A) AN INDIVIDUAL MAY NOT PERFORM, ATTEMPT TO PERFORM, OR OFFER  
18 TO PERFORM ON-SITE WASTEWATER SERVICES UNLESS THE INDIVIDUAL IS  
19 LICENSED BY THE BOARD.

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

22 9-11A-22.

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

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

29 (1) THE SERIOUSNESS OF THE VIOLATION;

- 1           **(2) THE HARM CAUSED BY THE VIOLATION;**  
 2           **(3) THE GOOD FAITH OF THE VIOLATOR;**  
 3           **(4) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR; AND**  
 4           **(5) ANY OTHER RELEVANT FACTORS.**

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

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

13                                   **Article – State Finance and Procurement**

14           6-226.

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

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

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

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

27                                   **123. THE ON-SITE WASTEWATER PROFESSIONALS FUND.**

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

30           SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial

1 members of the State Board of On–Site Wastewater Professionals shall expire as follows:

2 (1) three members in 2022;

3 (2) three members in 2023; and

4 (3) three members in 2024.

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