

HOUSE BILL 302

M3, C2
HB 136/20 – ENT

(PRE-FILED)

11r0834

By: **Delegate Stein**

Requested: October 2, 2020

Introduced and read first time: January 13, 2021

Assigned to: Environment and Transportation

Committee Report: Favorable

House action: Adopted

Read second time: February 11, 2021

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 certain regulations on or before a certain date;
14 requiring the Board to review certain regulations proposed by the Department;
15 requiring the Board to establish a certain code of ethics for certain individuals;
16 specifying the duties of the Board; requiring the Department, in consultation with
17 the Board, to set by regulation certain fees for certain purposes; requiring the Board
18 to publish a schedule of the fees; requiring the Board and the Department to pay
19 certain funds collected from certain fees into the On-Site Wastewater Professionals
20 Fund; establishing the Fund as a special, nonlapsing fund; specifying the purpose of
21 the Fund; requiring the Board to administer the Fund; requiring the State Treasurer
22 to hold the Fund, and the Comptroller to account for the Fund; specifying the
23 contents of the Fund; specifying the purpose for which the Fund may be used;
24 requiring interest earnings of the Fund to be credited to the Fund; providing for

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.



1 expenditures from the Fund; requiring the Board to submit a certain annual report
2 to the Secretary of the Environment; requiring, subject to a certain exception, a
3 certain individual to be licensed by the Board before performing certain on-site
4 wastewater services in the State; authorizing a certain individual to continue to
5 perform certain services until certain license requirements are established if the
6 individual pays a certain fee to the Department; requiring an applicant for a license
7 to meet certain requirements established by the Department by regulation and to
8 submit a certain application and pay a certain fee to the Board; requiring that a
9 business performing on-site wastewater services or contracting to perform certain
10 on-site wastewater services have an employee or owner licensed by the Board;
11 specifying that a certain license is valid for a certain period of time; authorizing the
12 Board to take certain disciplinary action against an applicant or a licensee under
13 certain circumstances; requiring the Board to give a certain individual an
14 opportunity for a hearing before the Board and to give certain notice and hold the
15 hearing in accordance with certain provisions of law; authorizing the Board to
16 administer oaths under certain circumstances; authorizing the Board to hear and
17 determine a matter under certain circumstances; authorizing a person aggrieved by
18 a decision of the Board to take certain action under certain circumstances;
19 prohibiting a person from performing certain on-site wastewater services without a
20 license from the Board; prohibiting the borrowing, renting, or transferring of a
21 license; establishing a certain penalty for violations of this Act; requiring that the
22 failure to pay a certain penalty be forwarded to the Central Collection Unit under
23 certain circumstances; exempting the Fund from a certain provision of law requiring
24 interest earnings on State money to accrue to the General Fund of the State; defining
25 certain terms; providing for the application of this Act; specifying that this Act does
26 not prevent or prohibit a local government from imposing certain requirements or
27 standards; requiring that the Board be fully operational on or before a certain date;
28 specifying the terms of the initial members of the Board; requiring the Department,
29 in consultation with the Board, to adopt certain regulations on or before a certain
30 date; and generally relating to the establishment of the State Board of On-Site
31 Wastewater Professionals and the regulation of individuals performing on-site
32 wastewater services in the State.

33 BY adding to

34 Article – Environment

35 Section 9-11A-01 through 9-11A-21 to be under the new subtitle “Subtitle 11A.

36 On-Site Wastewater Services”

37 Annotated Code of Maryland

38 (2014 Replacement Volume and 2020 Supplement)

39 BY repealing and reenacting, without amendments,

40 Article – State Finance and Procurement

41 Section 6-226(a)(2)(i)

42 Annotated Code of Maryland

43 (2015 Replacement Volume and 2020 Supplement)

44 BY repealing and reenacting, with amendments,

1 Article – State Finance and Procurement
2 Section 6–226(a)(2)(ii)122. and 123.
3 Annotated Code of Maryland
4 (2015 Replacement Volume and 2020 Supplement)

5 BY adding to
6 Article – State Finance and Procurement
7 Section 6–226(a)(2)(ii)124.
8 Annotated Code of Maryland
9 (2015 Replacement Volume and 2020 Supplement)

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

12 **Article – Environment**

13 **SUBTITLE 11A. ON–SITE WASTEWATER SERVICES.**

14 **PART I. DEFINITIONS; GENERAL PROVISIONS.**

15 **9–11A–01.**

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

18 (B) “BOARD” MEANS THE STATE BOARD OF ON–SITE WASTEWATER
19 PROFESSIONALS.

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

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

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

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

30 (II) A HOLDING TANK.

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

3 **9-11A-02.**

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

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

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

12 **9-11A-04. RESERVED.**

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

14 **9-11A-05.**

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

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

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

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

27 **9-11A-06.**

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

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

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

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

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

8 (2) OF THE MEMBERS OF THE BOARD:

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

12 (II) TWO SHALL BE CONSUMER MEMBERS.

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

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

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

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

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

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

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

28 (II) OF THE ON-SITE WASTEWATER PROFESSIONAL MEMBERS
29 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 AND PRINCE GEORGE'S COUNTY;

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

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

15 (4) EACH CONSUMER MEMBER OF THE BOARD:

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

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

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

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

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

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

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

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

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

1 **(2) A MEMBER MAY SERVE TWO TERMS CONSECUTIVELY.**

2 **(3) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE**
3 **TERMS PROVIDED FOR MEMBERS OF THE BOARD ON JULY 1, 2021.**

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

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

9 **(E) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR**
10 **MISCONDUCT.**

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

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

13 **(B) THE BOARD SHALL DETERMINE THE MEANS OF THE ELECTION OF**
14 **OFFICERS.**

15 **9-11A-08.**

16 **(A) A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A**
17 **QUORUM.**

18 **(B) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS**
19 **MEETINGS.**

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

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

25 **9-11A-09.**

26 **(A) THE BOARD SHALL:**

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

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

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

4 2. **MASTER ON-SITE WASTEWATER PROPERTY**
5 **TRANSFER INSPECTOR AND JOURNEY ON-SITE WASTEWATER PROPERTY TRANSFER**
6 **INSPECTOR;**

7 3. **MASTER PUMPER AND JOURNEY PUMPER; AND**

8 4. **MASTER OPERATION AND MAINTENANCE PROVIDER**
9 **AND JOURNEY OPERATION AND MAINTENANCE PROVIDER;**

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

12 1. **DESIGNER;**

13 2. **ADVANCED TREATMENT INSTALLER;**

14 3. **MOUND INSTALLER;**

15 4. **DRIP DISPERSAL INSTALLER;**

16 5. **PUMP DISPERSAL SYSTEM INSTALLER;**

17 6. **ADVANCED TREATMENT OPERATION AND**
18 **MAINTENANCE PROVIDER;**

19 7. **ADVANCED TREATMENT UNIT PUMPER;**

20 8. **ADVANCED TREATMENT PROPERTY TRANSFER**
21 **INSPECTOR; AND**

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

24 **(III) 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 §**
29 **9-323 OF THIS TITLE;**

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

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

5 **(I) MEMBERS OF THE BOARD; AND**

6 **(II) INDIVIDUALS LICENSED BY THE BOARD.**

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

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

9 **(2) ON OR BEFORE JUNE 1, 2023, MAKE RECOMMENDATIONS TO THE**
10 **DEPARTMENT FOR ESTABLISHING THE LICENSING AND CERTIFICATION**
11 **PROCEDURES SPECIFIED UNDER SUBSECTION (A)(1) OF THIS SECTION;**

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

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

16 **9-11A-10.**

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

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

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

23 **(C) THE BOARD SHALL PAY ALL FUNDS COLLECTED UNDER THIS SUBTITLE**
24 **INTO THE ON-SITE WASTEWATER PROFESSIONALS FUND ESTABLISHED UNDER §**
25 **9-11A-11 OF THIS SUBTITLE.**

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

27 **(A) IN THIS SECTION, “FUND” MEANS THE ON-SITE WASTEWATER**
28 **PROFESSIONALS FUND.**

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

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

4 **(D) THE BOARD SHALL ADMINISTER THE FUND.**

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

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

9 **(F) THE FUND CONSISTS OF:**

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

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

13 **(3) INTEREST EARNINGS OF THE FUND;**

14 **(4) DONATIONS TO THE FUND; AND**

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

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

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

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

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

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

1 9-11A-12.

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

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

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

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

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

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

15 9-11A-13. RESERVED.

16 9-11A-14. RESERVED.

17 PART III. LICENSING.

18 9-11A-15.

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

23 (2) (I) AN INDIVIDUAL WHO, AS OF JANUARY 1, 2021, HOLDS A
24 LICENSE, REGISTRATION, OR CERTIFICATION TO PERFORM ON-SITE WASTEWATER
25 SERVICES IN THE STATE MAY CONTINUE TO PERFORM ON-SITE WASTEWATER
26 SERVICES UNTIL THE LICENSING REQUIREMENTS ARE ESTABLISHED BY THE
27 DEPARTMENT BY REGULATION IF THE INDIVIDUAL:

28 1. ON OR BEFORE DECEMBER 31, 2021, PAYS TO THE
29 DEPARTMENT A FEE OF \$150; AND

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

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

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

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

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

12 **(2) PAY TO THE BOARD THE REQUIRED APPLICATION FEE SET BY THE**
13 **DEPARTMENT BY REGULATION.**

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

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

20 **9-11A-16.**

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

24 **(1) VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY**
25 **REGULATION ADOPTED UNDER THIS SUBTITLE;**

26 **(2) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO**
27 **OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER;**

28 **(3) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE; OR**

29 **(4) COMMITS ANY GROSS NEGLIGENCE, INCOMPETENCE, OR**
30 **MISCONDUCT WHILE PROVIDING ON-SITE WASTEWATER SERVICES.**

1 9-11A-17.

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

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

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

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

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

18 9-11A-18. RESERVED.

19 9-11A-19. RESERVED.

20 PART IV. PROHIBITED ACTS; PENALTIES.

21 9-11A-20.

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

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

28 9-11A-21.

29 (A) INSTEAD OF OR IN ADDITION TO ANY OTHER PENALTIES AUTHORIZED
30 UNDER THIS TITLE, THE BOARD MAY IMPOSE AN ADMINISTRATIVE PENALTY ON A

1 PERSON WHO VIOLATES THIS SUBTITLE IN AN AMOUNT NOT EXCEEDING \$1,000 PER
2 DAY FOR ALL VIOLATIONS CITED ON A SINGLE DAY.

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

5 (1) THE SERIOUSNESS OF THE VIOLATION;

6 (2) THE HARM CAUSED BY THE VIOLATION;

7 (3) THE GOOD FAITH OF THE VIOLATOR;

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

9 (5) ANY OTHER RELEVANT FACTORS.

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

15 (D) ANY PENALTIES COLLECTED UNDER THIS SECTION SHALL BE PAID INTO
16 THE ON-SITE WASTEWATER PROFESSIONALS FUND ESTABLISHED UNDER §
17 9-11A-11 OF THIS SUBTITLE.

18 **Article – State Finance and Procurement**

19 6-226.

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

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

28 122. the Racing and Community Development Financing Fund;
29 [and]

30 123. the Racing and Community Development Facilities Fund;
31 AND

1 **124. THE ON-SITE WASTEWATER PROFESSIONALS FUND.**

2 SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of On-Site
3 Wastewater Professionals shall be fully operational on or before June 1, 2022.

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

- 6 (1) three members in 2023;
- 7 (2) three members in 2024; and
- 8 (3) three members in 2025.

9 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before July 1, 2024, the
10 Department of the Environment, in consultation with the State Board of On-Site
11 Wastewater Professionals, shall adopt regulations to implement Section 1 of this Act.

12 SECTION 5. AND BE IT FURTHER ENACTED, That, on or before July 1, 2025, all
13 individuals who perform on-site wastewater services in the State shall be licensed by the
14 State Board of On-Site Wastewater Professionals.

15 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect July
16 1, 2021.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.