

SENATE BILL 479

M3, C2

2lr2546
CF HB 318

By: **Senator Hester**

Introduced and read first time: January 27, 2022

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 29, 2022

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; establishing the On-Site Wastewater
5 Professionals Fund as a special, nonlapsing fund; requiring interest earnings of the
6 Fund to be credited to the Fund; requiring the Board to submit a certain annual
7 report to the Secretary of the Environment; requiring, subject to a certain exception,
8 a certain individual to be licensed by the Board before providing certain on-site
9 wastewater services in the State; authorizing a certain individual to continue to
10 provide certain services until certain license requirements are established if the
11 individual pays a certain fee to the Department; specifying that this Act does not
12 prevent or prohibit a local government from imposing certain requirements or
13 standards; providing that the Board is subject to the Maryland Program Evaluation
14 Act; repealing provisions of law establishing and requiring an on-site wastewater
15 property transfer inspection license under certain circumstances; and generally
16 relating to the establishment of the State Board of On-Site Wastewater
17 Professionals and the regulation of individuals providing on-site wastewater
18 services in the State.

19 BY renumbering

20 Article – State Government
21 Section 8-403(43) through 8-403(62), respectively
22 to be Section 8-403(44) through 8-403(63), respectively
23 Annotated Code of Maryland
24 (2021 Replacement Volume)

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 BY repealing and reenacting, without amendments,
2 Article – Environment
3 Section 1–401
4 Annotated Code of Maryland
5 (2013 Replacement Volume and 2021 Supplement)
- 6 BY repealing and reenacting, with amendments,
7 Article – Environment
8 Section 1–406
9 Annotated Code of Maryland
10 (2013 Replacement Volume and 2021 Supplement)
- 11 BY adding to
12 Article – Environment
13 Section 9–11A–01 through ~~9–11A–21~~ 9–11A–23 to be under the new subtitle
14 “Subtitle 11A. On–Site Wastewater Services”
15 Annotated Code of Maryland
16 (2014 Replacement Volume and 2021 Supplement)
- 17 BY repealing and reenacting, without amendments,
18 Article – State Finance and Procurement
19 Section 6–226(a)(2)(i)
20 Annotated Code of Maryland
21 (2021 Replacement Volume)
- 22 BY repealing and reenacting, with amendments,
23 Article – State Finance and Procurement
24 Section 6–226(a)(2)(ii)144. and 145.
25 Annotated Code of Maryland
26 (2021 Replacement Volume)
- 27 BY adding to
28 Article – State Finance and Procurement
29 Section 6–226(a)(2)(ii)146.
30 Annotated Code of Maryland
31 (2021 Replacement Volume)
- 32 BY adding to
33 Article – State Government
34 Section 8–403(43)
35 Annotated Code of Maryland
36 (2021 Replacement Volume)
- 37 BY repealing
38 Article – Environment
39 Section 9–217.2

1 Annotated Code of Maryland
2 (2014 Replacement Volume and 2021 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
4 That ~~the Laws of Maryland read as follows:~~ Section(s) 8–403(43) through 8–403(62),
5 respectively, of Article – State Government of the Annotated Code of Maryland be
6 renumbered to be Section(s) 8–403(44) through 8–403(63), respectively.

7 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
8 as follows:

9 **Article – Environment**

10 1–401.

11 There is a Department of the Environment, established as a principal department of
12 the State government.

13 1–406.

14 The following units, among other units, are included in the Department:

- 15 (1) Air Quality Control Advisory Council;
16 (2) Hazardous Substances Advisory Council;
17 (3) Radiation Control Advisory Board;
18 (4) Science and Health Advisory Group;
19 (5) Board of Waterworks and Waste System Operators;
20 (6) Board of Well Drillers;
21 (7) Hazardous Waste Facilities Siting Board; [and]
22 (8) Marine Contractors Licensing Board; AND
23 (9) **BOARD OF ON–SITE WASTEWATER PROFESSIONALS.**

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

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

26 **9–11A–01.**

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

3 (B) "BOARD" MEANS THE STATE BOARD OF ON-SITE WASTEWATER
4 PROFESSIONALS.

5 (C) "LICENSE" MEANS ANY CATEGORY OF PROFESSIONAL LICENSE ISSUED
6 BY THE BOARD TO AN INDIVIDUAL TO PROVIDE ON-SITE WASTEWATER SERVICES IN
7 THE STATE.

8 (D) (1) "ON-SITE WASTEWATER SERVICES" MEANS ANY ACTIVITY
9 ASSOCIATED WITH THE DESIGN, INSTALLATION, OPERATION AND MAINTENANCE,
10 PUMPING, REPAIR, OR PROPERTY TRANSFER INSPECTION OF AN ON-SITE
11 WASTEWATER SYSTEM.

12 (2) "ON-SITE WASTEWATER SERVICES" DOES NOT INCLUDE ANY TYPE
13 OF ON-SITE WASTEWATER SYSTEM INSPECTION OTHER THAN A PROPERTY
14 TRANSFER INSPECTION.

15 (E) (1) "ON-SITE WASTEWATER SYSTEM" MEANS:

16 (I) A WASTEWATER SYSTEM DESIGNED TO TREAT AND DISPOSE
17 OF EFFLUENT ON:

18 1. THE SAME PROPERTY THAT PRODUCES THE
19 WASTEWATER; OR

20 2. AN EASEMENT; OR

21 (II) A HOLDING TANK.

22 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,
23 "ON-SITE ON-SITE WASTEWATER SYSTEM" INCLUDES A SEPTIC OR ANY OTHER
24 ON-SITE SEWAGE DISPOSAL SYSTEM.

25 (3) "ON-SITE WASTEWATER SYSTEM" DOES NOT INCLUDE A
26 WASTEWATER TREATMENT SYSTEM THAT:

27 (I) REQUIRES A DISCHARGE PERMIT FROM THE DEPARTMENT;
28 OR

29 (II) TREATS 5,000 OR MORE GALLONS PER DAY.

30 9-11A-02.

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

4 (B) NOTHING IN THIS SUBTITLE PREVENTS OR PROHIBITS A LOCAL
5 GOVERNMENT FROM IMPOSING REQUIREMENTS, STANDARDS, OR FEES THAT ARE
6 MORE STRINGENT THAN THE REQUIREMENTS, STANDARDS, OR FEES ESTABLISHED
7 IN THIS SUBTITLE.

8 9-11A-03. RESERVED.

9 9-11A-04. RESERVED.

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

11 9-11A-05.

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

14 (B) THE PURPOSE OF THE BOARD IS TO:

15 ~~(1) REGULATE~~ REGULATE INDIVIDUALS WHO PROVIDE ON-SITE
16 WASTEWATER SERVICES OR ENGAGE IN THE BUSINESS OF PROVIDING ON-SITE
17 WASTEWATER SERVICES IN THE STATE FOR THE PURPOSE OF SAFEGUARDING THE
18 LIFE, HEALTH, PROPERTY, ENVIRONMENT, AND PUBLIC WELFARE OF THE
19 RESIDENTS OF 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 (C) ANY FINAL ACTION OF THE BOARD IS SUBJECT TO REVIEW BY THE
28 SECRETARY OR THE SECRETARY'S DESIGNEE.

29 9-11A-06.

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

1 (I) ~~AS A NONVOTING MEMBER OF THE BOARD, THE~~ THE
2 SECRETARY, OR THE SECRETARY'S DESIGNEE;

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

5 (III) ONE INDIVIDUAL DESIGNATED BY THE MARYLAND ONSITE
6 WASTEWATER PROFESSIONALS ASSOCIATION; AND

7 (IV) ONE REPRESENTATIVE OF THE MARYLAND CONFERENCE
8 OF LOCAL ENVIRONMENTAL HEALTH DIRECTORS, DESIGNATED BY THE MARYLAND
9 CONFERENCE OF LOCAL ENVIRONMENTAL HEALTH DIRECTORS.

10 (2) OF THE MEMBERS OF THE BOARD:

11 (I) AT LEAST SIX SHALL BE ON-SITE WASTEWATER
12 PROFESSIONALS; AND

13 (II) TWO SHALL BE CONSUMER MEMBERS.

14 (3) (I) ~~THE~~ OF THE ON-SITE WASTEWATER PROFESSIONAL
15 MEMBERS OF THE BOARD ~~SHALL BE REPRESENTATIVE OF ALL REGIONS OF THE~~
16 ~~STATE;~~

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

20 2. AT LEAST ONE SHALL BE FROM THE AREA THAT
21 CONSISTS OF BALTIMORE CITY, BALTIMORE COUNTY, CARROLL COUNTY,
22 HARFORD COUNTY, HOWARD COUNTY, AND MONTGOMERY COUNTY;

23 3. AT LEAST ONE SHALL BE FROM THE AREA THAT
24 CONSISTS OF ANNE ARUNDEL COUNTY AND PRINCE GEORGE'S COUNTY;

25 4. AT LEAST ONE SHALL BE FROM THE AREA THAT
26 CONSISTS OF CAROLINE COUNTY, CECIL COUNTY, DORCHESTER COUNTY, KENT
27 COUNTY, QUEEN ANNE'S COUNTY, SOMERSET COUNTY, TALBOT COUNTY,
28 WICOMICO COUNTY, AND WORCESTER COUNTY; AND

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

1 **(II) BEFORE JULY 1, 2026, THE ON-SITE WASTEWATER**
2 **PROFESSIONAL MEMBERS OF THE BOARD SHALL:**

3 **1. BE LICENSED BY A LOCAL GOVERNMENT; OR**

4 **2. HOLD A LETTER FROM THE LOCAL HEALTH**
5 **DEPARTMENT STATING THAT THE MEMBER HAS BEEN PROVIDING ON-SITE**
6 **WASTEWATER SERVICES FOR A MINIMUM OF 7 YEARS AND IS IN GOOD STANDING.**

7 **(III) ON AND AFTER JULY 1, 2026, AND IN ACCORDANCE WITH**
8 **THIS SUBTITLE, THE ON-SITE WASTEWATER PROFESSIONAL MEMBERS OF THE**
9 **BOARD SHALL BE LICENSED BY THE BOARD.**

10 **(4) EACH CONSUMER MEMBER OF THE BOARD:**

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

12 **(II) MAY NOT BE A LICENSEE OR OTHERWISE BE SUBJECT TO**
13 **REGULATION BY THE BOARD;**

14 **(III) MAY NOT BE REQUIRED TO MEET THE QUALIFICATIONS FOR**
15 **THE PROFESSIONAL MEMBERS OF THE BOARD; AND**

16 **(IV) MAY NOT, WITHIN 1 YEAR BEFORE APPOINTMENT, HAVE**
17 **HAD A FINANCIAL INTEREST IN OR HAVE RECEIVED COMPENSATION FROM A PERSON**
18 **REGULATED BY THE BOARD.**

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

20 **(1) HAVE A FINANCIAL INTEREST IN OR RECEIVE COMPENSATION**
21 **FROM A PERSON REGULATED BY THE BOARD; OR**

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

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

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

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

27 **(3) THE TERMS OF VOTING MEMBERS ARE STAGGERED AS REQUIRED**
28 **BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON JULY 1, 2022.**

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

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

6 (E) THE GOVERNOR MAY REMOVE A VOTING MEMBER FOR INCOMPETENCE,
7 MISCONDUCT, OR ON RECOMMENDATION OF A MAJORITY OF THE BOARD.

8 9-11A-07.

9 (A) THE MEMBERS OF THE BOARD SHALL DESIGNATE A CHAIR, A VICE
10 CHAIR, AND A SECRETARY.

11 (B) THE BOARD SHALL DETERMINE THE MEANS OF THE ELECTION OF
12 OFFICERS.

13 9-11A-08.

14 (A) A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A
15 QUORUM.

16 (B) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS
17 MEETINGS.

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

21 (D) THE BOARD MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE
22 BUDGET.

23 9-11A-09.

24 **THE BOARD, IN CONSULTATION WITH THE DEPARTMENT, SHALL:**

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

28 (i) LICENSING PROCEDURES, DEFINITIONS, QUALIFICATIONS,
29 AND CONTINUING EDUCATION REQUIREMENTS FOR THE FOLLOWING CATEGORIES:

- 1 1. **DESIGNER;**
- 2 2. **MASTER INSTALLER AND JOURNEY INSTALLER;**
- 3 3. **MASTER ON-SITE WASTEWATER PROPERTY**
4 **TRANSFER INSPECTOR AND JOURNEY ON-SITE WASTEWATER PROPERTY TRANSFER**
5 **INSPECTOR;**
- 6 4. **MASTER PUMPER AND JOURNEY PUMPER; AND**
- 7 5. **MASTER OPERATION AND MAINTENANCE PROVIDER**
8 **AND JOURNEY OPERATION AND MAINTENANCE PROVIDER;**

9 (ii) **CERTIFICATION PROCEDURES, DEFINITIONS,**
10 **QUALIFICATIONS, AND CONTINUING EDUCATION REQUIREMENTS FOR THE**
11 **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 ON-SITE WASTEWATER SYSTEMS;~~**

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

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

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

6 **(II) INDIVIDUALS LICENSED AND CERTIFIED BY THE BOARD;**

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

10 **(5) COLLECT AND ACCOUNT FOR THE FEES PROVIDED FOR UNDER**
11 **THIS SUBTITLE; AND**

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

14 **9-11A-10.**

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

18 **(2) THE FEES SHALL BE SET TO PRODUCE FUNDS TO APPROXIMATE**
19 **THE COSTS OF ~~MAINTAINING THE BOARD~~ THE BOARD'S CREATION, MAINTENANCE,**
20 **REASONABLE ADMINISTRATIVE COSTS, AND ONGOING ACTIVITIES.**

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

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

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

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

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

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

3 (D) THE BOARD SHALL ADMINISTER THE FUND.

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

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

8 (F) THE FUND CONSISTS OF:

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

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

12 (3) INTEREST EARNINGS OF THE FUND;

13 (4) DONATIONS TO THE FUND; AND

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

16 (G) THE FUND SHALL BE USED ONLY TO ~~MAINTAIN THE BOARD~~ PAY FOR
17 THE COST OF CREATING THE BOARD, THE MAINTENANCE OF THE BOARD,
18 REASONABLE ADMINISTRATIVE COSTS, AND TO IMPLEMENT THE PROVISIONS OF
19 THIS SUBTITLE.

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

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

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

26 (J) MONEY EXPENDED FROM THE FUND TO MAINTAIN THE BOARD OR
27 IMPLEMENT THE PROVISIONS OF THIS SUBTITLE IS SUPPLEMENTAL TO AND IS NOT
28 INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE
29 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 PROVIDE ON-SITE WASTEWATER SERVICES
22 IN THE STATE.

23 (2) (I) AN INDIVIDUAL WHO, ~~AS OF JANUARY 1, 2022, HOLDS A~~
24 ~~LICENSE, REGISTRATION, OR CERTIFICATION TO PROVIDE~~ PROVIDES ON-SITE
25 WASTEWATER SERVICES IN THE STATE MAY CONTINUE TO PROVIDE ON-SITE
26 WASTEWATER SERVICES UNTIL THE LICENSING REQUIREMENTS ARE ESTABLISHED
27 BY THE DEPARTMENT BY REGULATION IF THE INDIVIDUAL:

28 1. COMPLIES WITH ALL APPLICABLE STATE AND LOCAL
29 LAWS AND REGULATIONS;

1 **2. ON OR BEFORE DECEMBER 31, 2022, PAYS TO THE**
 2 **DEPARTMENT A FEE OF \$150; AND**

3 ~~2.3. EVERY 2 YEARS THEREAFTER UNTIL THE~~
 4 **DEPARTMENT SETS FEES IN ACCORDANCE WITH § 9-11A-10 OF THIS SUBTITLE,**
 5 **PAYS TO THE DEPARTMENT A RENEWAL FEE OF \$150.**

6 ~~(II) IF A LOCAL GOVERNMENT DOES NOT ISSUE LICENSES,~~
 7 ~~REGISTRATIONS, OR CERTIFICATIONS TO INDIVIDUALS TO PROVIDE ON SITE~~
 8 ~~WASTEWATER SERVICES, AN INDIVIDUAL MAY REQUEST A LETTER OF GOOD~~
 9 ~~STANDING FROM THE LOCAL HEALTH DEPARTMENT TO CONTINUE TO PROVIDE~~
 10 ~~ON SITE WASTEWATER SERVICES IN ACCORDANCE WITH SUBPARAGRAPH (I) OF~~
 11 ~~THIS PARAGRAPH.~~

12 ~~(III) THE DEPARTMENT SHALL PAY ALL FEES COLLECTED~~
 13 ~~UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION INTO THE ON SITE WASTEWATER~~
 14 ~~PROFESSIONALS FUND ESTABLISHED UNDER § 9-11A-11 OF THIS SUBTITLE ALL~~
 15 ~~FEES COLLECTED BY THE DEPARTMENT UNDER THIS PARAGRAPH SHALL BE USED~~
 16 ~~BY THE DEPARTMENT TO:~~

17 **1. PAY FOR THE CREATION OF THE BOARD;**

18 **2. COVER REASONABLE ADMINISTRATIVE COSTS; AND**

19 **3. IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.**

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

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

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

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

27 ~~(D) A BUSINESS PROVIDING ON SITE WASTEWATER SERVICES OR~~
 28 ~~CONTRACTING TO PROVIDE ON SITE WASTEWATER SERVICES THAT ARE~~
 29 ~~REGULATED BY THE BOARD MUST HAVE AN EMPLOYEE OR OWNER LICENSED BY THE~~
 30 ~~BOARD.~~

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

1 ~~(F)~~ **(E)** IN ACCORDANCE WITH THE REQUIREMENTS ESTABLISHED BY THE
2 DEPARTMENT BY REGULATION, THE BOARD MAY ISSUE A CERTIFICATION TO AN
3 INDIVIDUAL TO PERFORM SPECIFIC TASKS ASSOCIATED WITH ON-SITE
4 WASTEWATER SERVICES IF THE INDIVIDUAL:

5 (1) IS LICENSED BY THE BOARD; OR

6 (2) HOLDS A PROFESSIONAL LICENSE THAT IS APPROVED BY THE
7 BOARD.

8 **9-11A-16.**

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

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

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

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

17 (4) ~~COMMITTS ANY~~ IS FOUND GUILTY OF GROSS NEGLIGENCE,
18 INCOMPETENCE, OR MISCONDUCT WHILE PROVIDING ON-SITE WASTEWATER
19 SERVICES.

20 **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-16 OF THIS SUBTITLE IT SHALL GIVE THE INDIVIDUAL AGAINST
24 WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE
25 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.

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

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

8 9-11A-18. RESERVED.

9 9-11A-19. RESERVED.

10 PART IV. PROHIBITED ACTS; PENALTIES.

11 9-11A-20.

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

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

18 9-11A-21.

19 (A) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF ANY
20 REGULATION ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND
21 ON CONVICTION IS SUBJECT:

22 (1) TO A FINE NOT EXCEEDING \$500 OR IMPRISONMENT NOT
23 EXCEEDING 3 MONTHS, OR BOTH; OR

24 (2) TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT
25 EXCEEDING 1 YEAR, OR BOTH, FOR ANY SUBSEQUENT VIOLATION OF THIS TITLE
26 THAT OCCURS WITHIN 2 YEARS OF AN EARLIER VIOLATION OF THIS TITLE.

27 (B) EACH DAY THAT A PERSON PROVIDES ON-SITE WASTEWATER SERVICES
28 WITHOUT A LICENSE CONSTITUTES A SEPARATE OFFENSE.

29 9-11A-22.

1 **(A) INSTEAD OF OR IN ADDITION TO ANY OTHER PENALTIES UNDER THIS**
2 **TITLE, THE BOARD MAY IMPOSE A CIVIL PENALTY ON A PERSON WHO VIOLATES §**
3 **9-11A-20 OF THIS SUBTITLE IN AN AMOUNT NOT EXCEEDING \$1,000 PER DAY FOR**
4 **ALL VIOLATIONS CITED ON A SINGLE DAY.**

5 **(B) IN SETTING THE AMOUNT OF THE CIVIL PENALTY, THE BOARD SHALL**
6 **CONSIDER:**

7 **(1) THE SERIOUSNESS OF THE VIOLATION;**

8 **(2) THE HARM CAUSED BY THE VIOLATION;**

9 **(3) THE GOOD FAITH OF THE VIOLATOR;**

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

11 **(5) OTHER RELEVANT FACTORS.**

12 **(C) IF A VIOLATOR FAILS TO PAY A CIVIL PENALTY WITHIN 30 DAYS OF ITS**
13 **IMPOSITION BY THE BOARD, THE MATTERS SHALL BE FORWARDED TO THE CENTRAL**
14 **COLLECTION UNIT IN THE DEPARTMENT OF BUDGET AND MANAGEMENT FOR THE**
15 **COLLECTION OF THE CIVIL PENALTY.**

16 **(D) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS**
17 **SECTION INTO THE ON-SITE WASTEWATER PROFESSIONALS FUND UNDER §**
18 **9-11A-11 OF THIS SUBTITLE.**

19 **9-11A-23.**

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

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

26 **(1) THE SERIOUSNESS OF THE VIOLATION;**

27 **(2) THE HARM CAUSED BY THE VIOLATION;**

28 **(3) THE GOOD FAITH OF THE VIOLATOR;**

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

1 [9-217.2.

2 (a) In this section, "license holder" means an individual who holds a valid on-site
3 wastewater property transfer inspection license issued by the Department under this
4 section.

5 (b) This section does not apply to an individual who inspects an on-site sewage
6 disposal system as a part of the individual's duties as an employee of the federal
7 government, the State, or any local government of the State.

8 (c) On or after July 1, 2022, an individual may not engage in the business of
9 inspecting an on-site sewage disposal system unless the individual holds a valid on-site
10 wastewater property transfer inspection license issued by the Department.

11 (d) (1) On or before January 1, 2022, the Department shall adopt regulations
12 establishing eligibility criteria, minimum training standards for on-site wastewater
13 property transfer inspection licenses, the frequency with which licenses must be renewed,
14 and the fees for license applications and renewals.

15 (2) The regulations adopted under this subsection shall require that:

16 (i) The training include instruction on determining whether an
17 on-site sewage disposal system is:

18 1. In need of replacement or repair; and

19 2. Not in compliance with statutory or regulatory
20 requirements; and

21 (ii) Each inspection performed by a license holder follows the
22 inspection format provided by the Department.

23 (e) An applicant for a license under this section shall:

24 (1) Submit an application to the Department on the form the Department
25 provides; and

26 (2) Pay an application fee set by the Department.

27 (f) (1) An individual who violates a provision of this section or any regulation
28 adopted under this section is subject to an administrative penalty not exceeding \$10,000.

29 (2) Each on-site sewage disposal system that an individual knowingly
30 inspects without a valid on-site wastewater property transfer inspection license constitutes
31 a separate violation of this section.

1 (3) Any administrative penalty collected by the Department under this
2 subsection shall be paid into the separate account within the Bay Restoration Fund
3 established under § 9-1605.2(h) of this title.

4 (g) A local government may establish additional requirements for inspections of
5 on-site sewage disposal systems.]

6 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That the State Board of On-Site
7 Wastewater Professionals shall be fully operational on or before June 1, 2023.

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

10 (1) three members in 2025;

11 (2) three members in 2026; and

12 (3) three members in 2027.

13 SECTION ~~4~~ 6. AND BE IT FURTHER ENACTED, That, on or before July 1, 2025,
14 the Department of the Environment, in consultation with the State Board of On-Site
15 Wastewater Professionals, shall adopt regulations to implement Section ~~1~~ 2 of this Act.

16 SECTION ~~5~~ 7. AND BE IT FURTHER ENACTED, That, on or before July 1, 2026,
17 all individuals who provide on-site wastewater services in the State shall be licensed by
18 the State Board of On-Site Wastewater Professionals.

19 SECTION 8. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take
20 effect June 30, 2025.

21 SECTION ~~6~~ 9. AND BE IT FURTHER ENACTED, That, except as provided in
22 Section 8 of this Act, this Act shall take effect July 1, 2022.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.