

SENATE BILL 179

C2

3lr0039

By: **Chair, Education, Health, and Environmental Affairs Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Introduced and read first time: January 17, 2013

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 21, 2013

CHAPTER _____

1 AN ACT concerning

2 **Architects, Landscape Architects, and Professional Land Surveyors – Firm**
3 **Permits**

4 FOR the purpose of altering certain requirements for the responsible member of an
5 entity providing architectural services; authorizing the State Board of
6 Architects to deny a firm permit to an applicant, reprimand a permit holder,
7 suspend or revoke a permit, or impose a certain penalty under certain
8 circumstances and subject to certain hearing provisions; providing for the
9 reinstatement of a firm permit issued by the State Board of Architects under
10 certain circumstances; authorizing landscape architecture to be practiced
11 through a limited liability company under certain circumstances; requiring a
12 limited liability company to hold a permit issued by the State Board of
13 Examiners of Landscape Architects before operating a business through which
14 landscape architecture is practiced; establishing certain qualifications and
15 application requirements for a firm permit issued by the State Board of
16 Examiners of Landscape Architects; authorizing the State Board of Examiners
17 of Landscape Architects to deny a firm permit to an applicant, reprimand a
18 permit holder, suspend or revoke a permit, or impose a certain penalty under
19 certain circumstances and subject to certain hearing provisions; providing for
20 the reinstatement of a firm permit issued by the State Board of Examiners of
21 Landscape Architects under certain circumstances; establishing certain
22 qualifications, application requirements, and renewal requirements for a firm
23 permit to operate a business through which land surveying or property line
24 surveying is practiced; authorizing the State Board for Professional Land

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 Surveyors to deny a firm permit to an applicant, reprimand a permit holder,
 2 suspend or revoke a permit, or impose a certain penalty under certain
 3 circumstances and subject to certain hearing provisions; providing for the
 4 reinstatement of a firm permit issued by the State Board for Professional Land
 5 Surveyors under certain circumstances; requiring certain permit holders to
 6 provide certain notification of certain changes or occurrences within a certain
 7 period of time; altering certain definitions; making stylistic and conforming
 8 changes; and generally relating to firm permits issued by the State Board of
 9 Architects, the State Board of Examiners of Landscape Architects, and the State
 10 Board for Professional Land Surveyors.

11 BY repealing and reenacting, with amendments,
 12 Article – Business Occupations and Professions
 13 Section 3–401, 3–403(b), 3–404(c)(3), 3–602, 9–401, 9–402, 9–403, 9–404, 9–602,
 14 15–402, 15–403, and 15–406
 15 Annotated Code of Maryland
 16 (2010 Replacement Volume and 2012 Supplement)

17 BY adding to
 18 Article – Business Occupations and Professions
 19 Section 3–410 through 3–416, 9–405(b), 9–409 through 9–416, 15–402.1, and
 20 15–407 through 15–414
 21 Annotated Code of Maryland
 22 (2010 Replacement Volume and 2012 Supplement)

23 BY repealing
 24 Article – Business Occupations and Professions
 25 Section 9–405(b) and 9–409
 26 Annotated Code of Maryland
 27 (2010 Replacement Volume and 2012 Supplement)

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

30 **Article – Business Occupations and Professions**

31 3–401.

32 In this subtitle, “responsible member” means a director of a corporation, a
 33 member of a limited liability company, or A **GENERAL** partner **OF A PARTNERSHIP**
 34 who is appointed under § 3–404(c) of this subtitle to be in responsible charge of
 35 architecture practiced through the corporation, limited liability company, or
 36 partnership.

37 3–403.

1 (b) A corporation, **LIMITED LIABILITY COMPANY, OR PARTNERSHIP** may
2 provide architectural services for itself or for an affiliated corporation, **LIMITED**
3 **LIABILITY COMPANY, OR PARTNERSHIP** without a permit issued by the Board.

4 3-404.

5 (c) (3) Each responsible member shall be:

6 (i) a director of a corporation, a member of a limited liability
7 company, or a **GENERAL** partner of a partnership; and

8 (ii) a licensed architect.

9 **3-410.**

10 (A) **SUBJECT TO THE HEARING PROVISIONS OF § 3-411 OF THIS**
11 **SUBTITLE, THE BOARD, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS**
12 **MEMBERS THEN SERVING, MAY DENY A PERMIT TO ANY APPLICANT, REPRIMAND**
13 **A PERMIT HOLDER, OR SUSPEND OR REVOKE A PERMIT IF:**

14 (1) **THE APPLICANT OR PERMIT HOLDER FRAUDULENTLY OR**
15 **DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A PERMIT; OR**

16 (2) **THE PERMIT HOLDER FRAUDULENTLY OR DECEPTIVELY USES**
17 **A PERMIT; OR**

18 (3) ~~**THE APPLICANT OR PERMIT HOLDER FAILS TO MEET OR**~~
19 ~~**CONTINUE TO MEET THE QUALIFICATIONS OR REQUIREMENTS SET FORTH IN**~~
20 ~~**THIS SUBTITLE.**~~

21 (B) (1) ~~**INSTEAD OF OR IN ADDITION TO REPRIMANDING THE PERMIT**~~
22 ~~**HOLDER OR DENYING, SUSPENDING, OR REVOKING A PERMIT UNDER**~~
23 ~~**SUBSECTION (A) OF THIS SECTION, THE BOARD MAY IMPOSE A PENALTY NOT**~~
24 ~~**EXCEEDING \$5,000 FOR EACH VIOLATION.**~~

25 (B) (1) **IN ADDITION TO A SANCTION IMPOSED UNDER SUBSECTION**
26 **(A) OF THIS SECTION, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING**
27 **\$5,000 FOR EACH:**

28 (I) **VIOLATION FOR WHICH A DENIAL, REPRIMAND,**
29 **SUSPENSION, OR REVOCATION WAS IMPOSED UNDER SUBSECTION (A) OF THIS**
30 **SECTION; AND**

31 (II) **FAILURE TO MEET OR CONTINUE TO MEET THE**
32 **QUALIFICATIONS OR REQUIREMENTS SET FORTH IN THIS SUBTITLE.**

1 **(2) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED**
2 **UNDER THIS SUBSECTION, THE BOARD SHALL CONSIDER:**

3 **(I) THE SERIOUSNESS OF THE VIOLATION;**

4 **(II) THE HARM CAUSED BY THE VIOLATION;**

5 **(III) THE GOOD FAITH OF THE PERMIT HOLDER OR THE**
6 **APPLICANT; AND**

7 **(IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE PERMIT**
8 **HOLDER OR THE APPLICANT.**

9 **(C) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER**
10 **SUBSECTION (B) OF THIS SECTION INTO THE GENERAL FUND OF THE STATE.**

11 **3-411.**

12 **(A) EXCEPT AS OTHERWISE PROVIDED IN § 10-226 OF THE STATE**
13 **GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION UNDER**
14 **§ 3-410 OF THIS SUBTITLE, IT SHALL GIVE THE PERSON AGAINST WHOM THE**
15 **ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE**
16 **BOARD.**

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

20 **(C) AT LEAST 30 DAYS BEFORE THE HEARING, THE HEARING NOTICE**
21 **AND A COPY OF THE COMPLAINT SHALL BE:**

22 **(1) SERVED PERSONALLY ON THE APPLICANT OR ON A PERSON IN**
23 **RESPONSIBLE CHARGE OF ARCHITECTURE PRACTICED THROUGH THE ENTITY**
24 **HOLDING THE PERMIT OR A PERSON DESIGNATED AS A RESIDENT AGENT TO**
25 **RECEIVE PROCESS ON BEHALF OF THE ENTITY; OR**

26 **(2) MAILED TO THE LAST KNOWN BUSINESS ADDRESS OF THE**
27 **APPLICANT OR THE ENTITY HOLDING THE PERMIT.**

28 **(D) IF, AFTER DUE NOTICE, THE PERSON AGAINST WHOM THE ACTION IS**
29 **CONTEMPLATED FAILS OR REFUSES TO APPEAR, THE BOARD MAY HEAR AND**
30 **DETERMINE THE MATTER.**

1 **3-412.**

2 (A) (1) FOR THE LIMITED PURPOSE SET FORTH IN PARAGRAPH (2) OF
3 THIS SUBSECTION, A PERMIT SHALL REMAIN IN EFFECT AND DOES NOT EXPIRE
4 BY OPERATION OF LAW WHILE THE PERMIT HOLDER IS UNDER INVESTIGATION
5 BY THE BOARD OR AWAITING A HEARING OR DISPOSITION ON CHARGES
6 SUBJECT TO DISCIPLINARY ACTION UNDER THIS SUBTITLE.

7 (2) AN EXTENSION OF A PERMIT TERM UNDER THIS SUBSECTION
8 IS EFFECTIVE ONLY FOR THE PURPOSE OF RETAINING THE JURISDICTION OF
9 THE BOARD OVER THE PERMIT HOLDER DURING THE COURSE OF DISCIPLINARY
10 PROCEEDINGS AND DOES NOT PREVENT THE PERMIT FROM EXPIRING FOR ANY
11 OTHER PURPOSE.

12 (B) UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER, A
13 PERMIT HOLDER MAY NOT SURRENDER A PERMIT WHILE THE HOLDER IS UNDER
14 INVESTIGATION OR AWAITING A HEARING OR DISPOSITION ON CHARGES
15 SUBJECT TO DISCIPLINARY ACTION UNDER THIS SUBTITLE.

16 **3-413.**

17 A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY WHOSE
18 PERMIT HAS BEEN SUSPENDED OR REVOKED UNDER § 3-410 OF THIS SUBTITLE
19 MAY NOT OFFER OR PROVIDE ARCHITECTURAL SERVICES UNTIL THE
20 SUSPENSION IS LIFTED OR THE PERMIT IS REINSTATED.

21 **3-414.**

22 (A) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE BOARD MAY
23 REINSTATE:

24 (1) A PERMIT THAT HAS BEEN REVOKED; OR

25 (2) BEFORE FULFILLMENT OF THE CONDITIONS OF THE
26 SUSPENSION, A PERMIT THAT HAS BEEN SUSPENDED.

27 (B) A PERMIT MAY BE REINSTATED UNDER THIS SECTION ONLY IF:

28 (1) THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY
29 COMPANY WHOSE PERMIT HAS BEEN REVOKED OR SUSPENDED SUBMITS A
30 WRITTEN REQUEST TO THE BOARD; AND

31 (2) THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY
32 COMPANY PAYS TO THE BOARD A REINSTATEMENT FEE SET BY THE BOARD.

1 **(C) THE BOARD, BY AN AFFIRMATIVE VOTE OF A MAJORITY OF ITS**
2 **MEMBERS THEN SERVING, SHALL VOTE ON THE REQUEST FOR REINSTATEMENT**
3 **OR LIFTING OF THE SUSPENSION WITHIN 60 DAYS OF RECEIPT OF THE WRITTEN**
4 **REQUEST.**

5 **3-415.**

6 **THE BOARD MAY REINSTATE THE PERMIT OF A CORPORATION,**
7 **PARTNERSHIP, OR LIMITED LIABILITY COMPANY THAT HAS FAILED TO RENEW**
8 **THE PERMIT FOR ANY REASON IF THE CORPORATION, PARTNERSHIP, OR**
9 **LIMITED LIABILITY COMPANY:**

10 **(1) OTHERWISE IS ENTITLED TO A PERMIT; AND**

11 **(2) PAYS TO THE BOARD A REINSTATEMENT FEE SET BY THE**
12 **BOARD.**

13 **3-416.**

14 **AFTER THE BOARD REINSTATES A PERMIT, THE PERMIT HOLDER SHALL**
15 **CONTINUE TO COMPLY WITH ALL APPLICABLE REQUIREMENTS SET FORTH IN**
16 **THIS SUBTITLE.**

17 **3-602.**

18 Except for a licensed architect who operates a business as a sole practitioner, a
19 person may not operate a business through which architecture is practiced, unless:

20 **(1) the business is a corporation [or a], partnership, OR LIMITED**
21 **LIABILITY COMPANY; and**

22 **(2) the corporation [or], partnership, OR LIMITED LIABILITY**
23 **COMPANY holds a permit issued by the Board.**

24 **9-401.**

25 In this subtitle, ["responsible member" means an officer of a corporation or
26 partner] **"PERSON IN RESPONSIBLE CHARGE" MEANS A LICENSEE** who is
27 appointed under § 9-404(b) of this subtitle [to be in responsible charge of landscape
28 architecture practiced through the corporation or partnership].

29 **9-402.**

1 (a) (1) Subject to the provisions of this subtitle, a licensed landscape
2 architect may practice landscape architecture for others through:

3 (i) a corporation as an officer, employee, or agent of the
4 corporation; [or]

5 (ii) a partnership as a partner, employee, or agent of the
6 partnership; **OR**

7 **(III) A LIMITED LIABILITY COMPANY AS A MEMBER,**
8 **EMPLOYEE, OR AGENT OF THE LIMITED LIABILITY COMPANY.**

9 (2) Subject to the provisions of this subtitle, a corporation [or],
10 partnership, **OR LIMITED LIABILITY COMPANY** may provide landscape architectural
11 services through a licensed landscape architect [but may not use the title “landscape
12 architect” in connection with the name of the corporation or partnership].

13 (b) A licensed landscape architect who practices landscape architecture
14 through a corporation [or], partnership, **OR LIMITED LIABILITY COMPANY** under
15 this subtitle is subject to all of the provisions of this title that relate to practicing
16 landscape architecture.

17 (c) (1) A corporation [or], partnership, **OR LIMITED LIABILITY**
18 **COMPANY** that provides landscape architectural services to others under this subtitle
19 is not, by its compliance with this subtitle, relieved of any responsibility that the
20 corporation [or], partnership, **OR LIMITED LIABILITY COMPANY** may have for an act
21 or omission of its officer, partner, **MEMBER**, employee, or agent.

22 (2) An individual who practices landscape architecture through a
23 corporation [or], partnership, **OR LIMITED LIABILITY COMPANY** is not, by reason of
24 the individual’s employment or other relationship with the corporation [or],
25 partnership, **OR LIMITED LIABILITY COMPANY** relieved of any individual
26 responsibility that the individual may have regarding that practice.

27 9–403.

28 (a) Except as provided in subsection (b) of this section, a corporation [or],
29 partnership, **OR LIMITED LIABILITY COMPANY** shall hold a permit issued by the
30 Board before the corporation [or], partnership, **OR LIMITED LIABILITY COMPANY**
31 may operate a business through which landscape architecture is practiced.

32 (b) A corporation, **PARTNERSHIP, OR LIMITED LIABILITY COMPANY** may
33 provide landscape architectural services for itself or for an affiliated corporation,
34 **PARTNERSHIP, OR LIMITED LIABILITY COMPANY** without a permit issued by the
35 Board.

1 9-404.

2 (a) To qualify for a permit, a corporation [or], partnership, **OR LIMITED**
3 **LIABILITY COMPANY** shall meet the requirements of this section.

4 [(b) (1) A corporation or partnership shall have appointed at least 1
5 responsible member of the corporation or partnership.

6 (2) A responsible member shall be in responsible charge of landscape
7 architecture practiced through the corporation or partnership.

8 (3) The responsible member shall be:

9 (i) an officer of a corporation or a partner of a partnership; and

10 (ii) a licensed landscape architect.]

11 **(B) (1) A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY**
12 **COMPANY SHALL APPOINT AT LEAST ONE PERSON IN RESPONSIBLE CHARGE OF**
13 **THE LANDSCAPE ARCHITECTURAL SERVICES PERFORMED OR OFFERED TO BE**
14 **PERFORMED THROUGH THE CORPORATION, PARTNERSHIP, OR LIMITED**
15 **LIABILITY COMPANY.**

16 **(2) A PERSON IN RESPONSIBLE CHARGE SHALL BE:**

17 **(I) IN DIRECT CONTROL OF LANDSCAPE ARCHITECTURAL**
18 **SERVICES PERFORMED OR OFFERED TO BE PERFORMED THROUGH THE**
19 **CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY;**

20 **(II) IN A POSITION TO ACT ON BEHALF OF, AND**
21 **RESPONSIBLE FOR, THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY**
22 **COMPANY IN MATTERS RELATED TO THE PRACTICE OF LANDSCAPE**
23 **ARCHITECTURE; AND**

24 **(III) A LICENSED LANDSCAPE ARCHITECT IN GOOD**
25 **STANDING.**

26 **(3) A LICENSEE MAY NOT BE DESIGNATED AS A PERSON IN**
27 **RESPONSIBLE CHARGE FOR MORE THAN ONE CORPORATION, PARTNERSHIP, OR**
28 **LIMITED LIABILITY COMPANY THAT PROVIDES OR OFFERS TO PROVIDE**
29 **LANDSCAPE ARCHITECTURAL SERVICES WITHOUT THE PRIOR APPROVAL OF**
30 **THE BOARD.**

31 9-405.

1 [(b) In addition to any other information required on an application form, the
2 form shall require the name and address of:

- 3 (1) each responsible member of a corporation or partnership;
4 (2) each officer and shareholder of a corporation; and
5 (3) each partner of a partnership.]

6 **(B) IN ADDITION TO ANY OTHER INFORMATION REQUIRED ON AN
7 APPLICATION FORM, THE FORM SHALL REQUIRE THE FOLLOWING:**

8 **(1) THE NAME AND ADDRESS OF AT LEAST ONE PERSON IN
9 RESPONSIBLE CHARGE OF THE LANDSCAPE ARCHITECTURAL SERVICES
10 PERFORMED OR OFFERED TO BE PERFORMED THROUGH THE CORPORATION,
11 PARTNERSHIP, OR LIMITED LIABILITY COMPANY; AND**

12 **(2) EVIDENCE ACCEPTABLE TO THE BOARD THAT A PERSON IN
13 RESPONSIBLE CHARGE IS AN EMPLOYEE, OWNER, DIRECTOR, OFFICER,
14 MEMBER, OR PARTNER, AS APPLICABLE, OF THE ENTITY SEEKING A PERMIT.**

15 **[9-409.**

16 Within 1 month after the effective date of the change, a permit holder shall
17 submit to the Board an application form that shows a change in the name of:

- 18 (1) a responsible member of the holder;
19 (2) an officer or shareholder, if the holder is a corporation; or
20 (3) a partner, if the holder is a partnership.]

21 **9-409.**

22 **WITHIN 1 MONTH AFTER THE EFFECTIVE DATE OF THE CHANGE OR
23 OCCURRENCE, A PERMIT HOLDER SHALL NOTIFY THE BOARD IN WRITING IF
24 THERE HAS BEEN A CHANGE IN:**

25 **(1) THE IDENTITY OF THE PERSON IN RESPONSIBLE CHARGE OF
26 LANDSCAPE ARCHITECTURAL SERVICES PERFORMED OR OFFERED TO BE
27 PERFORMED THROUGH THE CORPORATION, PARTNERSHIP, OR LIMITED
28 LIABILITY COMPANY; OR**

1 (2) THE NAME OF THE CORPORATION, PARTNERSHIP, OR LIMITED
2 LIABILITY COMPANY.

3 9-410.

4 (A) SUBJECT TO THE HEARING PROVISIONS OF § 9-411 OF THIS
5 SUBTITLE, THE BOARD, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS
6 MEMBERS THEN SERVING, MAY DENY A PERMIT TO ANY APPLICANT, REPRIMAND
7 A PERMIT HOLDER, OR SUSPEND OR REVOKE A PERMIT IF:

8 (1) THE APPLICANT OR PERMIT HOLDER FRAUDULENTLY OR
9 DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A PERMIT; OR

10 (2) THE PERMIT HOLDER FRAUDULENTLY OR DECEPTIVELY USES
11 A PERMIT; ~~OR.~~

12 ~~(3) THE APPLICANT OR PERMIT HOLDER FAILS TO MEET OR~~
13 ~~CONTINUE TO MEET THE QUALIFICATIONS OR REQUIREMENTS SET FORTH IN~~
14 ~~THIS SUBTITLE.~~

15 ~~(B) (1) INSTEAD OF OR IN ADDITION TO REPRIMANDING THE PERMIT~~
16 ~~HOLDER OR DENYING, SUSPENDING, OR REVOKING A PERMIT UNDER~~
17 ~~SUBSECTION (A) OF THIS SECTION, THE BOARD MAY IMPOSE A PENALTY NOT~~
18 ~~EXCEEDING \$5,000 FOR EACH VIOLATION.~~

19 (B) (1) IN ADDITION TO A SANCTION IMPOSED UNDER SUBSECTION
20 (A) OF THIS SECTION, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING
21 \$5,000 FOR EACH:

22 (I) VIOLATION FOR WHICH A DENIAL, REPRIMAND,
23 SUSPENSION, OR REVOCATION WAS IMPOSED UNDER SUBSECTION (A) OF THIS
24 SECTION; AND

25 (II) FAILURE TO MEET OR CONTINUE TO MEET THE
26 QUALIFICATIONS OR REQUIREMENTS SET FORTH IN THIS SUBTITLE.

27 (2) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED
28 UNDER THIS SUBSECTION, THE BOARD SHALL CONSIDER:

29 (I) THE SERIOUSNESS OF THE VIOLATION;

30 (II) THE HARM CAUSED BY THE VIOLATION;

1 (III) THE GOOD FAITH OF THE PERMIT HOLDER OR THE
2 APPLICANT; AND

3 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE PERMIT
4 HOLDER OR THE APPLICANT.

5 (C) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER
6 SUBSECTION (B) OF THIS SECTION INTO THE GENERAL FUND OF THE STATE.

7 9-411.

8 (A) EXCEPT AS OTHERWISE PROVIDED IN § 10-226 OF THE STATE
9 GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION UNDER
10 § 9-410 OF THIS SUBTITLE, IT SHALL GIVE THE PERSON AGAINST WHOM THE
11 ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE
12 BOARD.

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

16 (C) AT LEAST 30 DAYS BEFORE THE HEARING, THE HEARING NOTICE
17 AND A COPY OF THE COMPLAINT SHALL BE:

18 (1) SERVED PERSONALLY ON THE APPLICANT OR ON A PERSON IN
19 RESPONSIBLE CHARGE OF LANDSCAPE ARCHITECTURE PRACTICED THROUGH
20 THE ENTITY HOLDING THE PERMIT OR A PERSON DESIGNATED AS A RESIDENT
21 AGENT TO RECEIVE PROCESS ON BEHALF OF THE ENTITY; OR

22 (2) MAILED TO THE LAST KNOWN BUSINESS ADDRESS OF THE
23 APPLICANT OR THE ENTITY HOLDING THE PERMIT.

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

27 9-412.

28 (A) (1) FOR THE LIMITED PURPOSE SET FORTH IN PARAGRAPH (2) OF
29 THIS SUBSECTION, A PERMIT SHALL REMAIN IN EFFECT AND DOES NOT EXPIRE
30 BY OPERATION OF LAW WHILE THE PERMIT HOLDER IS UNDER INVESTIGATION
31 BY THE BOARD OR AWAITING A HEARING OR DISPOSITION ON CHARGES
32 SUBJECT TO DISCIPLINARY ACTION UNDER THIS SUBTITLE.

1 **(2) AN EXTENSION OF A PERMIT TERM UNDER THIS SUBSECTION**
2 **IS EFFECTIVE ONLY FOR THE PURPOSE OF RETAINING THE JURISDICTION OF**
3 **THE BOARD OVER THE PERMIT HOLDER DURING THE COURSE OF DISCIPLINARY**
4 **PROCEEDINGS AND DOES NOT PREVENT THE PERMIT FROM EXPIRING FOR ANY**
5 **OTHER PURPOSE.**

6 **(B) UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER, A**
7 **PERMIT HOLDER MAY NOT SURRENDER A PERMIT WHILE THE HOLDER IS UNDER**
8 **INVESTIGATION OR AWAITING A HEARING OR DISPOSITION ON CHARGES**
9 **SUBJECT TO DISCIPLINARY ACTION UNDER THIS SUBTITLE.**

10 **9-413.**

11 **A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY WHOSE**
12 **PERMIT HAS BEEN SUSPENDED OR REVOKED UNDER § 9-410 OF THIS SUBTITLE**
13 **MAY NOT OFFER OR PROVIDE LANDSCAPE ARCHITECTURAL SERVICES UNTIL**
14 **THE SUSPENSION IS LIFTED OR THE PERMIT IS REINSTATED.**

15 **9-414.**

16 **(A) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE BOARD MAY**
17 **REINSTATE:**

18 **(1) A PERMIT THAT HAS BEEN REVOKED; OR**

19 **(2) BEFORE FULFILLMENT OF THE CONDITIONS OF THE**
20 **SUSPENSION, A PERMIT THAT HAS BEEN SUSPENDED.**

21 **(B) A PERMIT MAY BE REINSTATED UNDER THIS SECTION ONLY IF:**

22 **(1) THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY**
23 **COMPANY WHOSE PERMIT HAS BEEN REVOKED OR SUSPENDED SUBMITS A**
24 **WRITTEN REQUEST TO THE BOARD; AND**

25 **(2) THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY**
26 **COMPANY PAYS TO THE BOARD A REINSTATEMENT FEE SET BY THE BOARD.**

27 **(C) THE BOARD, BY AN AFFIRMATIVE VOTE OF A MAJORITY OF ITS**
28 **MEMBERS THEN SERVING, SHALL VOTE ON THE REQUEST FOR REINSTATEMENT**
29 **OR LIFTING OF THE SUSPENSION WITHIN 60 DAYS OF RECEIPT OF THE WRITTEN**
30 **REQUEST.**

31 **9-415.**

1 **THE BOARD MAY REINSTATE THE PERMIT OF A CORPORATION,**
2 **PARTNERSHIP, OR LIMITED LIABILITY COMPANY THAT HAS FAILED TO RENEW**
3 **THE PERMIT FOR ANY REASON IF THE CORPORATION, PARTNERSHIP, OR**
4 **LIMITED LIABILITY COMPANY:**

5 **(1) OTHERWISE IS ENTITLED TO A PERMIT; AND**

6 **(2) PAYS TO THE BOARD A REINSTATEMENT FEE SET BY THE**
7 **BOARD.**

8 **9-416.**

9 **AFTER THE BOARD REINSTATES A PERMIT, THE PERMIT HOLDER SHALL**
10 **CONTINUE TO COMPLY WITH ALL APPLICABLE REQUIREMENTS SET FORTH IN**
11 **THIS SUBTITLE.**

12 **9-602.**

13 Except for a licensed landscape architect who operates a business as a sole
14 practitioner, a person may not operate a business through which landscape
15 architecture is practiced unless:

16 **(1) the business is a corporation [or a], partnership, OR LIMITED**
17 **LIABILITY COMPANY; and**

18 **(2) the corporation [or], partnership, OR LIMITED LIABILITY**
19 **COMPANY holds a permit issued by the Board.**

20 **15-402.**

21 **(A) [A] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A**
22 **corporation, partnership, or limited liability company shall hold a permit issued by the**
23 **Board before the corporation, partnership, or limited liability company may operate a**
24 **business through which land surveying or property line surveying is practiced.**

25 **(B) A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY**
26 **MAY PROVIDE LAND SURVEYING OR PROPERTY LINE SURVEYING SERVICES FOR**
27 **ITSELF OR FOR AN AFFILIATED CORPORATION, PARTNERSHIP, OR LIMITED**
28 **LIABILITY COMPANY WITHOUT A PERMIT ISSUED BY THE BOARD.**

29 **15-402.1.**

30 **(A) TO QUALIFY FOR A PERMIT, A CORPORATION, PARTNERSHIP, OR**
31 **LIMITED LIABILITY COMPANY SHALL MEET THE REQUIREMENTS OF THIS**
32 **SECTION.**

1 **(B) (1) A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY**
2 **COMPANY SHALL APPOINT AT LEAST ONE PERSON IN RESPONSIBLE CHARGE OF**
3 **THE PROFESSIONAL LAND SURVEYING OR PROPERTY LINE SURVEYING**
4 **SERVICES PERFORMED OR OFFERED TO BE PERFORMED THROUGH THE**
5 **CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY.**

6 **(2) A PERSON IN RESPONSIBLE CHARGE SHALL BE:**

7 **(I) IN DIRECT CONTROL OF PROFESSIONAL LAND**
8 **SURVEYING OR PROPERTY LINE SURVEYING SERVICES PERFORMED OR**
9 **OFFERED TO BE PERFORMED THROUGH THE CORPORATION, PARTNERSHIP, OR**
10 **LIMITED LIABILITY COMPANY;**

11 **(II) IN A POSITION TO ACT ON BEHALF OF, AND**
12 **RESPONSIBLE FOR, THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY**
13 **COMPANY IN MATTERS RELATED TO THE PRACTICE OF PROFESSIONAL LAND**
14 **SURVEYING OR PROPERTY LINE SURVEYING; AND**

15 **(III) A PROFESSIONAL LAND SURVEYOR OR LICENSED**
16 **PROPERTY LINE SURVEYOR IN GOOD STANDING.**

17 **(3) A LICENSEE MAY NOT BE DESIGNATED AS A PERSON IN**
18 **RESPONSIBLE CHARGE FOR MORE THAN ONE CORPORATION, PARTNERSHIP, OR**
19 **LIMITED LIABILITY COMPANY THAT PROVIDES OR OFFERS TO PROVIDE**
20 **PROFESSIONAL LAND OR PROPERTY LINE SURVEYING SERVICES WITHOUT THE**
21 **PRIOR APPROVAL OF THE BOARD.**

22 15-403.

23 **(A) An applicant for a permit shall:**

24 (1) submit to the Board an application on the form that the Board
25 provides; and

26 (2) pay to the Board a nonrefundable application fee set by the Board.

27 **(B) IN ADDITION TO ANY OTHER INFORMATION REQUIRED ON AN**
28 **APPLICATION FORM, THE FORM SHALL REQUIRE THE FOLLOWING:**

29 **(1) THE NAME AND ADDRESS OF AT LEAST ONE PERSON IN**
30 **RESPONSIBLE CHARGE OF LAND SURVEYING OR PROPERTY LINE SURVEYING**
31 **SERVICES PERFORMED OR OFFERED TO BE PERFORMED THROUGH THE**
32 **CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY; AND**

1 **(2) EVIDENCE ACCEPTABLE TO THE BOARD THAT A PERSON IN**
2 **RESPONSIBLE CHARGE IS AN EMPLOYEE, OWNER, DIRECTOR, OFFICER,**
3 **MEMBER, OR PARTNER, AS APPLICABLE, OF THE ENTITY SEEKING A PERMIT.**

4 15-406.

5 (a) Unless a permit is renewed for a 2-year term as provided in this section,
6 the permit expires on the first June 30 that comes:

7 (1) after the effective date of the permit; and

8 (2) in an odd-numbered year.

9 (b) At least 1 month before a permit expires, the Board shall mail to the
10 permit holder, at the last known address of the holder:

11 (1) a renewal application form; and

12 (2) a notice that states:

13 (i) the date on which the current permit expires;

14 (ii) the date by which the Board must receive the renewal
15 application for the renewal to be issued and mailed before the permit expires; and

16 (iii) the amount of the permit fee.

17 (c) Before a permit expires, the permit holder periodically may renew it for
18 an additional 2-year term, if the holder:

19 (1) submits to the Board a renewal application on the form that the
20 Board provides; and

21 (2) pays to the Board a permit fee set by the Board.

22 **(d) THE RENEWAL APPLICATION FORM SHALL REQUIRE THE SAME**
23 **INFORMATION REQUIRED ON THE ORIGINAL APPLICATION FORM UNDER**
24 **§ 15-403(B) OF THIS SUBTITLE.**

25 **(E)** The Board shall renew the permit of each permit holder who meets the
26 requirements of this section.

27 15-407.

1 **WITHIN 1 MONTH AFTER THE EFFECTIVE DATE OF THE CHANGE OR**
 2 **OCCURRENCE, A PERMIT HOLDER SHALL NOTIFY THE BOARD IN WRITING IF**
 3 **THERE HAS BEEN A CHANGE IN:**

4 **(1) THE IDENTITY OF THE PERSON IN RESPONSIBLE CHARGE OF**
 5 **LAND SURVEYING OR PROPERTY LINE SURVEYING SERVICES PERFORMED OR**
 6 **OFFERED TO BE PERFORMED THROUGH THE CORPORATION, PARTNERSHIP, OR**
 7 **LIMITED LIABILITY COMPANY; OR**

8 **(2) THE NAME OF THE CORPORATION, PARTNERSHIP, OR LIMITED**
 9 **LIABILITY COMPANY.**

10 **15-408.**

11 **(A) SUBJECT TO THE HEARING PROVISIONS OF § 15-409 OF THIS**
 12 **SUBTITLE, THE BOARD, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS**
 13 **MEMBERS THEN SERVING, MAY DENY A PERMIT TO ANY APPLICANT, REPRIMAND**
 14 **A PERMIT HOLDER, OR SUSPEND OR REVOKE A PERMIT IF:**

15 **(1) THE APPLICANT OR PERMIT HOLDER FRAUDULENTLY OR**
 16 **DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A PERMIT; OR**

17 **(2) THE PERMIT HOLDER FRAUDULENTLY OR DECEPTIVELY USES**
 18 **A PERMIT; OR.**

19 ~~**(3) THE APPLICANT OR PERMIT HOLDER FAILS TO MEET OR**~~
 20 ~~**CONTINUE TO MEET THE QUALIFICATIONS OR REQUIREMENTS SET FORTH IN**~~
 21 ~~**THIS SUBTITLE.**~~

22 ~~**(B) (1) INSTEAD OF OR IN ADDITION TO REPRIMANDING THE PERMIT**~~
 23 ~~**HOLDER OR DENYING, SUSPENDING, OR REVOKING A PERMIT UNDER**~~
 24 ~~**SUBSECTION (A) OF THIS SECTION, THE BOARD MAY IMPOSE A PENALTY NOT**~~
 25 ~~**EXCEEDING \$5,000 FOR EACH VIOLATION.**~~

26 **(B) (1) IN ADDITION TO A SANCTION IMPOSED UNDER SUBSECTION**
 27 **(A) OF THIS SECTION, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING**
 28 **\$5,000 FOR EACH:**

29 **(I) VIOLATION FOR WHICH A DENIAL, REPRIMAND,**
 30 **SUSPENSION, OR REVOCATION WAS IMPOSED UNDER SUBSECTION (A) OF THIS**
 31 **SECTION; AND**

32 **(II) FAILURE TO MEET OR CONTINUE TO MEET THE**
 33 **QUALIFICATIONS OR REQUIREMENTS SET FORTH IN THIS SUBTITLE.**

1 **(2) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED**
2 **UNDER THIS SUBSECTION, THE BOARD SHALL CONSIDER:**

3 **(I) THE SERIOUSNESS OF THE VIOLATION;**

4 **(II) THE HARM CAUSED BY THE VIOLATION;**

5 **(III) THE GOOD FAITH OF THE PERMIT HOLDER OR THE**
6 **APPLICANT; AND**

7 **(IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE PERMIT**
8 **HOLDER OR THE APPLICANT.**

9 **(C) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER**
10 **SUBSECTION (B) OF THIS SECTION INTO THE GENERAL FUND OF THE STATE.**

11 **15-409.**

12 **(A) EXCEPT AS OTHERWISE PROVIDED IN § 10-226 OF THE STATE**
13 **GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION UNDER**
14 **§ 15-408 OF THIS SUBTITLE, IT SHALL GIVE THE PERSON AGAINST WHOM THE**
15 **ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE**
16 **BOARD.**

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

20 **(C) AT LEAST 30 DAYS BEFORE THE HEARING, THE HEARING NOTICE**
21 **AND A COPY OF THE COMPLAINT SHALL BE:**

22 **(1) SERVED PERSONALLY ON THE APPLICANT OR ON A PERSON IN**
23 **RESPONSIBLE CHARGE OF LAND SURVEYING OR PROPERTY LINE SURVEYING**
24 **PRACTICED THROUGH THE ENTITY HOLDING THE PERMIT OR A PERSON**
25 **DESIGNATED AS A RESIDENT AGENT TO RECEIVE PROCESS ON BEHALF OF THE**
26 **ENTITY; OR**

27 **(2) MAILED TO THE LAST KNOWN BUSINESS ADDRESS OF THE**
28 **ENTITY HOLDING THE PERMIT.**

29 **(D) IF, AFTER DUE NOTICE, THE PERSON AGAINST WHOM THE ACTION IS**
30 **CONTEMPLATED FAILS OR REFUSES TO APPEAR, THE BOARD MAY HEAR AND**
31 **DETERMINE THE MATTER.**

1 **15-410.**

2 (A) (1) FOR THE LIMITED PURPOSE SET FORTH IN PARAGRAPH (2) OF
3 THIS SUBSECTION, A PERMIT SHALL REMAIN IN EFFECT AND DOES NOT EXPIRE
4 BY OPERATION OF LAW WHILE THE PERMIT HOLDER IS UNDER INVESTIGATION
5 BY THE BOARD OR AWAITING A HEARING OR DISPOSITION ON CHARGES
6 SUBJECT TO DISCIPLINARY ACTION UNDER THIS SUBTITLE.

7 (2) AN EXTENSION OF A PERMIT TERM UNDER THIS SUBSECTION
8 IS EFFECTIVE ONLY FOR THE PURPOSE OF RETAINING THE JURISDICTION OF
9 THE BOARD OVER THE PERMIT HOLDER DURING THE COURSE OF DISCIPLINARY
10 PROCEEDINGS AND DOES NOT PREVENT THE PERMIT FROM EXPIRING FOR ANY
11 OTHER PURPOSE.

12 (B) UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER, A
13 PERMIT HOLDER MAY NOT SURRENDER A PERMIT WHILE THE HOLDER IS UNDER
14 INVESTIGATION OR AWAITING A HEARING OR DISPOSITION ON CHARGES
15 SUBJECT TO DISCIPLINARY ACTION UNDER THIS SUBTITLE.

16 **15-411.**

17 A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY WHOSE
18 PERMIT HAS BEEN SUSPENDED OR REVOKED UNDER § 15-408 OF THIS
19 SUBTITLE MAY NOT OFFER OR PROVIDE LAND SURVEYING OR PROPERTY LINE
20 SURVEYING SERVICES UNTIL THE SUSPENSION IS LIFTED OR THE PERMIT IS
21 REINSTATED.

22 **15-412.**

23 (A) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE BOARD MAY
24 REINSTATE:

25 (1) A PERMIT THAT HAS BEEN REVOKED; OR

26 (2) BEFORE FULFILLMENT OF THE CONDITIONS OF THE
27 SUSPENSION, A PERMIT THAT HAS BEEN SUSPENDED.

28 (B) A PERMIT MAY BE REINSTATED UNDER THIS SECTION ONLY IF:

29 (1) THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY
30 COMPANY WHOSE PERMIT HAS BEEN REVOKED OR SUSPENDED SUBMITS A
31 WRITTEN REQUEST TO THE BOARD; AND

1 **(2) THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY**
2 **COMPANY PAYS TO THE BOARD A REINSTATEMENT FEE SET BY THE BOARD.**

3 **(C) THE BOARD, BY AN AFFIRMATIVE VOTE OF A MAJORITY OF ITS**
4 **MEMBERS THEN SERVING, SHALL VOTE ON THE REQUEST FOR REINSTATEMENT**
5 **OR LIFTING OF THE SUSPENSION WITHIN 60 DAYS OF RECEIPT OF THE WRITTEN**
6 **REQUEST.**

7 **15-413.**

8 **THE BOARD MAY REINSTATE THE PERMIT OF A CORPORATION,**
9 **PARTNERSHIP, OR LIMITED LIABILITY COMPANY THAT HAS FAILED TO RENEW**
10 **THE PERMIT FOR ANY REASON IF THE CORPORATION, PARTNERSHIP, OR**
11 **LIMITED LIABILITY COMPANY:**

12 **(1) OTHERWISE IS ENTITLED TO A PERMIT; AND**

13 **(2) PAYS TO THE BOARD A REINSTATEMENT FEE SET BY THE**
14 **BOARD.**

15 **15-414.**

16 **AFTER THE BOARD REINSTATES A PERMIT, THE PERMIT HOLDER SHALL**
17 **CONTINUE TO COMPLY WITH ALL APPLICABLE REQUIREMENTS SET FORTH IN**
18 **THIS SUBTITLE.**

19 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
20 **October 1, 2013.**

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.