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**By: Senators Blount and Collins**

Introduced and read first time: February 1, 1996

Assigned to: Economic and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 7, 1996

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CHAPTER \_\_\_\_

1 AN ACT concerning

2 **Design Professional Boards - Imposition of Monetary Penalties**

3 FOR the purpose of authorizing the State Board of Architects, the StateBoard of  
4 Examiners of Landscape Architects, the State Board for Professional Engineers,  
5 and the State Board for Professional Land Surveyors to impose certain monetary  
6 penalties on certain persons; clarifying that certain design professional boards must  
7 pay certain penalties into the General Fund of the State; and generally relating to  
8 the authority of the State Board of Architects, the State Board of Examiners of  
9 Landscape Architects, the State Board for Professional Engineers, and the State  
10 Board for Professional Land Surveyors to impose monetary penalties.

11 BY repealing and reenacting, with amendments,  
12 Article - Business Occupations and Professions  
13 Section 3-311, 3-605, 9-310, 9-605, 14-317, 14-508, 15-318(b), and 15-610  
14 Annotated Code of Maryland  
15 (1995 Replacement Volume and 1995 Supplement)

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

18 **Article - Business Occupations and Professions**

19 3-311.

20 (a) (1) Subject to the hearing provisions of § 3-313 of this subtitle, the Board,  
21 on the affirmative vote of a majority of its authorized membership, maydeny a license to  
22 any applicant, reprimand any licensee, or suspend or revoke a license if:

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1 (i) the applicant or licensee fraudulently or deceptively obtains or  
2 renews or attempts to obtain or renew a license or permit for the applicant or licensee or  
3 for another;

4 (ii) the applicant or licensee fraudulently or deceptively uses a license;

5 (iii) the applicant or licensee is guilty of any fraud, gross negligence,  
6 incompetence, or misconduct while practicing architecture;

7 (iv) the applicant or licensee knowingly violates any provision of the  
8 code of ethics adopted by the Board;

9 (v) the applicant or licensee knowingly violates any provision of this  
10 title; or

11 (vi) the applicant or licensee aids or abets an unauthorized person to  
12 practice architecture.

13 (2) (I) Instead of or in addition to suspending or revoking a license under  
14 this subsection, the Board may impose a penalty [of] NOT EXCEEDING \$1,000 FOR  
15 EACH VIOLATION.

16 (II) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED  
17 UNDER THIS SUBSECTION, THE BOARD SHALL CONSIDER:

18 1. THE SERIOUSNESS OF THE VIOLATION;

19 2. THE HARM CAUSED BY THE VIOLATION;

20 3. THE GOOD FAITH OF THE LICENSEE; AND

21 4. ANY HISTORY OF PREVIOUS VIOLATIONS BY THE  
22 LICENSEE.

23 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS  
24 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

25 (b) (1) Subject to the hearing provisions of § 3-313 of this subtitle, the Board,  
26 on the affirmative vote of a majority of its authorized membership, shall deny a license to  
27 any applicant or revoke a license if:

28 (i) The applicant or licensee pleads guilty or nolo contendere with  
29 respect to, receives probation before judgment with respect to, or is convicted of:

30 1. A crime involving moral turpitude; or

31 2. A violation of any election law of the State; or

32 (ii) During the course of an official investigation by an authorized  
33 public official or public body and regardless of whether the matter is prosecuted, the  
34 applicant or licensee has admitted, in writing or under oath, to:

35 1. A crime involving moral turpitude; or

36 2. A violation of any election law of the State.

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1 (2) (I) [In] INSTEAD OF OR IN addition to revoking a license under this  
2 subsection, the Board may impose a penalty [of] NOT EXCEEDING \$1,000.

3 (II) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED  
4 UNDER THIS SUBSECTION, THE 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 LICENSEE; AND
- 8 4. ANY HISTORY OF PREVIOUS VIOLATIONS BY THE  
9 LICENSEE.

10 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS  
11 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

12 3-605.

13 (A) A person who violates § 3-601, § 3-602, § 3-603, or § 3-604 of this subtitle is  
14 guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$3,000 or  
15 imprisonment not exceeding 1 year or both.

16 (B) (1) THE BOARD MAY IMPOSE ON A PERSON WHO VIOLATES § 3-601, §  
17 3-602, § 3-603, OR § 3-604 OF THIS SUBTITLE A PENALTY NOT EXCEEDING \$1,000 FOR  
18 EACH VIOLATION.

19 (2) IN SETTING THE AMOUNT OF THE PENALTY, THE BOARD SHALL  
20 CONSIDER:

- 21 (I) THE SERIOUSNESS OF THE VIOLATION;
- 22 (II) THE HARM CAUSED BY THE VIOLATION;
- 23 (III) THE GOOD FAITH OF THE VIOLATOR;
- 24 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;  
25 AND
- 26 (V) ANY OTHER RELEVANT FACTORS.

27 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS  
28 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

29 9-310.

30 (A) Subject to the hearing provisions of § 9-312 of this subtitle, the Board, on the  
31 affirmative vote of a majority of its members then serving, may deny a license to any  
32 applicant, reprimand any licensee, or suspend or revoke a license if:

- 33 (1) the applicant or licensee fraudulently or deceptively obtains or attempts  
34 to obtain a license for the applicant or licensee or for another;
- 35 (2) the applicant or licensee fraudulently or deceptively uses a license;

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1 (3) the applicant or licensee pleads guilty or nolo contendere with respect  
2 to, receives probation before judgment with respect to, or is convicted of:

3 (i) a crime involving moral turpitude; or

4 (ii) a violation of any election law of the State;

5 (4) during the course of an official investigation by an authorized public  
6 official or public body and regardless of whether the matter is prosecuted, the applicant  
7 or licensee has admitted, in writing or under oath, to:

8 (i) a crime involving moral turpitude; or

9 (ii) a violation of any election law of the State;

10 (5) the applicant or licensee is guilty of gross negligence, incompetence, or  
11 misconduct while practicing landscape architecture;

12 (6) the applicant or licensee has had a license to practice landscape  
13 architecture in another state revoked or suspended by the other state for a cause that  
14 would justify revocation or suspension under this title, except for the failure to pay a  
15 license or [registration] LICENSE renewal fee;

16 (7) the applicant or licensee knowingly violates any provision of the code of  
17 ethics adopted by the Board; or

18 (8) the applicant or licensee knowingly violates any provision of this title.

19 (B) (1) INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING A  
20 LICENSE, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING \$1,000 FOR EACH  
21 VIOLATION.

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

24 (I) THE SERIOUSNESS OF THE VIOLATION;

25 (II) THE HARM CAUSED BY THE VIOLATION;

26 (III) THE GOOD FAITH OF THE LICENSEE; AND

27 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE LICENSEE.

28 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS  
29 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

30 9-605.

31 (A) A person who violates any provision of this title is guilty of a misdemeanor and  
32 on conviction is subject to a fine not exceeding \$3,000 or imprisonment not exceeding 1  
33 year or both.

34 (B) (I) THE BOARD MAY IMPOSE ON A PERSON WHO VIOLATES ANY  
35 PROVISION OF THIS TITLE A CIVIL PENALTY NOT EXCEEDING \$1,000 FOR EACH  
36 VIOLATION.

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1 (2) IN SETTING THE AMOUNT OF THE PENALTY, THE BOARD SHALL  
2 CONSIDER:

- 3 (I) THE SERIOUSNESS OF THE VIOLATION;
- 4 (II) THE HARM CAUSED BY THE VIOLATION;
- 5 (III) THE GOOD FAITH OF THE VIOLATOR;
- 6 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;
- 7 AND
- 8 (V) ANY OTHER RELEVANT FACTORS.

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

11 14-317.

12 (A) Subject to the hearing provisions of § 14-319 of this subtitle, the Board, on the  
13 affirmative vote of a majority of its members then serving, may deny a license to any  
14 applicant, reprimand any licensee, or suspend or revoke a license if:

15 (1) the applicant or licensee fraudulently or deceptively obtains or attempts  
16 to obtain a license for the applicant or licensee or for another;

17 (2) the applicant or licensee fraudulently or deceptively uses a license;

18 (3) the applicant or licensee pleads guilty or nolo contendere with respect  
19 to, receives probation before judgment with respect to, or is convicted of:

20 (i) a crime involving moral turpitude; or

21 (ii) a violation of any election law of the State;

22 (4) during the course of an official investigation by an authorized public  
23 official or public body and regardless of whether the matter is prosecuted, the applicant  
24 or licensee has admitted, in writing or under oath, to:

25 (i) a crime involving moral turpitude; or

26 (ii) a violation of any election law of the State;

27 (5) the applicant or licensee is guilty of gross negligence, incompetence, or  
28 misconduct while practicing engineering;

29 (6) the applicant or licensee has had a license to practice engineering in  
30 another state revoked or suspended by the other state for a cause that would justify  
31 revocation or suspension under this title, except for the failure to pay a license or  
32 [registration] LICENSE renewal fee;

33 (7) the applicant or licensee knowingly violates any provision of the Code of  
34 Ethics adopted by the Board; or

35 (8) the applicant or licensee knowingly violates any provision of this title.

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1 (B) (1) INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING A  
2 LICENSE, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING \$1,000 FOR EACH  
3 VIOLATION.

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

- 6 (I) THE SERIOUSNESS OF THE VIOLATION;
- 7 (II) THE HARM CAUSED BY THE VIOLATION;
- 8 (III) THE GOOD FAITH OF THE LICENSEE; AND
- 9 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE LICENSEE.

10 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS  
11 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

12 14-508.

13 (A) A person who violates any provision of this title is guilty of misdemeanor and  
14 on conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding 6  
15 months or both.

16 (B) (1) THE BOARD MAY IMPOSE ON A PERSON WHO VIOLATES ANY  
17 PROVISION OF THIS TITLE A CIVIL PENALTY NOT EXCEEDING \$1,000 FOR EACH  
18 VIOLATION.

19 (2) IN SETTING THE AMOUNT OF THE PENALTY, THE BOARD SHALL  
20 CONSIDER:

- 21 (I) THE SERIOUSNESS OF THE VIOLATION;
- 22 (II) THE HARM CAUSED BY THE VIOLATION;
- 23 (III) THE GOOD FAITH OF THE VIOLATOR;
- 24 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;
- 25 AND
- 26 (V) ANY OTHER RELEVANT FACTORS.

27 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS  
28 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

29 15-318.

30 (b) (1) Instead of or in addition to suspending or revoking a license, the Board  
31 may impose a penalty not exceeding \$1,000 for each violation.

32 (2) To determine the amount of the penalty imposed under this subsection,  
33 the Board shall consider:

- 34 (i) the seriousness of the violation;
- 35 (ii) the harm caused by the violation;

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1 (iii) the good faith of the licensee; and

2 (iv) any history of previous violations by the licensee.

3 ~~{(3) The Board shall pay any penalty collected under this subsection into the~~  
4 ~~General Fund of the State.}~~

5 15-610.

6 (A) A person who violates any provision of this title is guilty of misdemeanor and  
7 on conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding 6  
8 months or both.

9 (B) (1) THE BOARD MAY IMPOSE ON A PERSON WHO VIOLATES ANY  
10 PROVISION OF THIS TITLE A CIVIL PENALTY NOT EXCEEDING \$1,000 FOR EACH  
11 VIOLATION.

12 (2) IN SETTING THE AMOUNT OF A CIVIL PENALTY, THE BOARD SHALL  
13 CONSIDER:

14 (I) THE SERIOUSNESS OF THE VIOLATION;

15 (II) THE HARM CAUSED BY THE VIOLATION;

16 (III) THE GOOD FAITH OF THE VIOLATOR;

17 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;

18 AND

19 (V) ANY OTHER RELEVANT FACTORS.

20 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS  
21 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 1996.