

ENROLLED BILL

-- *Economic Matters/Education, Health, and Environmental Affairs* --

Introduced by Delegates Krebs and Feldman, Feldman, Doory, Haddaway, Jameson, Krysiak, McHale, Miller, Minnick, Moe, Parrott, Trueschler, Vaughn, Walkup, and Wood

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **State Board of Public Accountancy Fund**

3 FOR the purpose of establishing the State Board of Public Accountancy Fund as a
4 special, nonlapsing fund in the Department of Labor, Licensing, and Regulation;
5 requiring that the Fund be used for certain purposes; providing for an audit of
6 the Fund; requiring the Secretary of Labor, Licensing, and Regulation, or a
7 designee of the Secretary, to administer the Fund; requiring the Secretary, in
8 consultation with the State Board of Public Accountancy, to annually calculate
9 certain costs; authorizing the State Board of Public Accountancy to set certain
10 fees, based on certain calculations, beginning on a certain date; requiring the
11 Board to publish a certain fee schedule; repealing a provision of law requiring
12 the Board to pay certain money into the General Fund of the State; requiring
13 the Board to pay certain fees to the Comptroller beginning on a certain date;
14 requiring the Comptroller to distribute certain fees to the Fund; ~~requiring any~~
15 ~~unspent portion of the Fund in excess of a certain amount to revert to the~~

1 ~~General Fund of the State at the end of each fiscal year beginning on a certain~~
2 ~~date~~; prohibiting certain fees from increasing by more than a certain amount
3 each year; altering, establishing, and specifying the use of certain fees; defining
4 certain terms; requiring that certain fees in effect on a certain date shall remain
5 in full force and effect until certain other fees are adopted and made effective;
6 providing for the delayed effective date of this Act; and generally relating to the
7 State Board of Public Accountancy Fund.

8 BY repealing and reenacting, with amendments,
9 Article - Business Occupations and Professions
10 Section 2-101, 2-206, 2-304, 2-308(b)(3), 2-309(a), 2-311(b)(2)(iii) and (c)(2),
11 2-312(e), 2-313(a), (c), and (d), 2-314, 2-319(b), 2-320(a)(5), 2-321(b)(1)
12 and (e), 2-404(a)(2), 2-405(a)(2), 2-407(b)(2) and (c)(2), 2-414(b), and
13 2-416(d)(3)
14 Annotated Code of Maryland
15 (2004 Replacement Volume and 2005 Supplement)

16 BY repealing
17 Article - Business Occupations and Professions
18 Section 2-209
19 Annotated Code of Maryland
20 (2004 Replacement Volume and 2005 Supplement)

21 BY adding to
22 Article - Business Occupations and Professions
23 Section 2-209
24 Annotated Code of Maryland
25 (2004 Replacement Volume and 2005 Supplement)

26 BY adding to
27 Article - Business Regulation
28 Section 2-106.5 and 2-106.6
29 Annotated Code of Maryland
30 (2004 Replacement Volume and 2005 Supplement)

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

33 **Article - Business Occupations and Professions**

34 2-101.

35 (a) In this title the following words have the meanings indicated.

36 (b) "Board" means the State Board of Public Accountancy.

1 (c) "License" means, unless the context requires otherwise, a license issued by
2 the Board to practice certified public accountancy.

3 (D) "LICENSE FEE" MEANS THE FEE PAID IN CONNECTION WITH THE
4 ISSUANCE OR RENEWAL OF A LICENSE.

5 [(d)] (E) "Licensed certified public accountant" means, unless the context
6 requires otherwise, an individual licensed by the Board to practice certified public
7 accountancy.

8 [(e)] (F) "Permit" means, unless the context requires otherwise, a permit
9 issued by the Board to allow a partnership or corporation to operate a business
10 through which an individual may practice certified public accountancy.

11 (G) "PERMIT FEE" MEANS THE FEE PAID IN CONNECTION WITH THE ISSUANCE
12 OR RENEWAL OF A PERMIT OR THE ISSUANCE OF A LIMITED PERMIT.

13 [(f)] (H) "Practice certified public accountancy" means to perform any of the
14 following accountancy services:

15 (1) conducting an audit of financial statements; or

16 (2) providing a written certificate or opinion on the correctness of the
17 information or on the fairness of the presentation of the information in:

18 (i) a financial statement;

19 (ii) a report;

20 (iii) a schedule; or

21 (iv) an exhibit.

22 2-206.

23 (a) On request of any person and payment of a VERIFICATION fee [of \$10] SET
24 BY THE BOARD, the Board shall certify the licensing or permit status and
25 qualifications of any person who is the subject of the request.

26 (b) Each certification under this section:

27 (1) shall include a statement of the licensing or permit status of the
28 person who is the subject of the request; and

29 (2) may include:

30 (i) information about the examination results and other
31 qualifications of that person;

32 (ii) information about the dates of issuance and renewal of the
33 license or permit of that person;

1 (iii) information about any disciplinary action taken against that
2 person; and

3 (iv) if authorized by that person, information about any complaint
4 against that person.

5 [(c) The Board shall collect a fee of \$10 for each certification under this
6 section.]

7 [2-209.

8 The Board shall pay all money collected under this title into the General Fund of
9 the State.]

10 2-209.

11 (A) (1) BEGINNING ON JULY 1, 2008, THE BOARD MAY SET BY REGULATION
12 REASONABLE FEES FOR ITS SERVICES.

13 (2) THE FEES SHALL BE:

14 (I) SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COST OF
15 MAINTAINING THE BOARD; AND

16 (II) BASED ON THE CALCULATIONS PERFORMED BY THE
17 SECRETARY OF LABOR, LICENSING, AND REGULATION UNDER § 2-106.6 OF THE
18 BUSINESS REGULATION ARTICLE.

19 (B) THE BOARD SHALL PUBLISH THE FEE SCHEDULE SET BY THE BOARD.

20 (C) (1) BEGINNING ON JULY 1, 2007, THE BOARD SHALL PAY ALL FEES
21 COLLECTED UNDER THIS TITLE TO THE COMPTROLLER.

22 (2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE STATE
23 BOARD OF PUBLIC ACCOUNTANCY FUND ESTABLISHED IN § 2-106.5 OF THE BUSINESS
24 REGULATION ARTICLE.

25 ~~(D) (1) AT THE END OF EACH FISCAL YEAR BEGINNING ON JUNE 30, 2008,~~
26 ~~ANY UNSPENT PORTION OF THE FUND IN EXCESS OF 10% OF THAT YEAR'S~~
27 ~~DOCUMENTED DIRECT AND INDIRECT COSTS ATTRIBUTABLE TO THE BOARD SHALL~~
28 ~~REVERT TO THE GENERAL FUND OF THE STATE.~~

29 ~~(2) THE REVERSION OF FUNDS PROVIDED FOR IN PARAGRAPH (1) OF~~
30 ~~THIS SUBSECTION SHALL OCCUR ON OR BEFORE OCTOBER 1 OF THE FOLLOWING~~
31 ~~FISCAL YEAR TO ALLOW THE DEPARTMENT TO FULLY ACCOUNT FOR THE BOARD'S~~
32 ~~DIRECT AND INDIRECT COSTS.~~

1 2-304.

2 An applicant for a license shall:

3 (1) submit to the Board an application on the form that the Board
4 provides; and

5 (2) pay to the Board or the Board's designee:

6 (I) A NONREFUNDABLE APPLICATION FEE SET BY THE BOARD;
7 AND

8 (II) an examination fee set by the Board in an amount not to exceed
9 the cost of the required examination.

10 2-308.

11 (b) The Board may grant a waiver under this section only if the applicant:

12 (3) pays to the Board [an application fee of \$50]:

13 (I) A NONREFUNDABLE APPLICATION FEE SET BY THE BOARD;
14 AND

15 (II) A LICENSE FEE SET BY THE BOARD; and

16 2-309.

17 (a) If an applicant qualifies for a license under this subtitle, the Board shall
18 send the applicant a notice that states that:

19 (1) the applicant has qualified for a license; and

20 (2) on receipt of a [\$15] license fee SET BY THE BOARD, the Board will
21 issue a license to the applicant.

22 2-311.

23 (b) At least 1 month before a license expires, the Board shall mail to the
24 licensee, at the last known address of the licensee:

25 (2) a notice that states:

26 (iii) the amount of the [renewal] LICENSE fee.

27 (c) Before a license expires, the licensee periodically may renew it for an
28 additional 2-year term, if the licensee:

29 (2) pays to the Board a [renewal] LICENSE fee [not exceeding \$40, as]
30 set by the Board; and

1 2-312.

2 (e) (1) The Board may enter into written agreements with qualified persons
3 wishing to conduct approved programs.

4 (2) A person seeking approval by the Board for this purpose shall:

5 (i) submit to the Board an application on the form that the Board
6 provides; and

7 (ii) pay [an application fee , not exceeding \$200, as] A CONTINUING
8 EDUCATION PROVIDER FEE set by the Board.

9 (3) Agreements entered into under this section shall expire on April 30 of
10 each even-numbered year.

11 2-313.

12 (a) The Board shall place a licensee on inactive status and issue an inactive
13 status certificate to the licensee, if the licensee:

14 (1) submits to the Board an application for inactive status on the form
15 that the Board provides;

16 (2) pays to the Board an inactive status [application fee not exceeding
17 \$20, as] FEE set by the Board; and

18 (3) except for the continuing education requirements set under § 2-312
19 of this subtitle, qualifies for an active license.

20 (c) (1) Unless a licensee on inactive status renews it as provided in this
21 section, the licensee loses that status on the first December 31 that comes:

22 (i) after the inactive status certificate is issued to the licensee; and

23 (ii) in an even-numbered year.

24 (2) At least 1 month before the inactive status of a licensee expires, the
25 Board shall mail to the licensee, at the last known address of the licensee:

26 (i) a renewal application form; and

27 (ii) a notice that states:

28 1. the date on which the inactive status expires;

29 2. the date by which the Board must receive the renewal
30 application for the renewal to be mailed before the inactive status expires; and

31 3. the amount of the [renewal] INACTIVE STATUS fee.

1 (3) Before an inactive status expires, the licensee periodically may renew
2 it for an additional 2-year term, if the licensee:

3 (i) otherwise is entitled to be placed on inactive status;

4 (ii) pays to the Board [a renewal fee not exceeding \$20, as set by
5 the Board] AN INACTIVE STATUS FEE SET BY THE BOARD; and

6 (iii) submits to the Board a renewal application on the form that the
7 Board provides.

8 (4) After an inactive status expires, the former licensee may reapply for
9 inactive status without meeting the continuing education requirements to qualify for
10 an active license under § 2-312 of this subtitle, only if the former licensee:

11 (i) otherwise is entitled to be placed on inactive status;

12 (ii) pays to the Board [a reapplication fee not exceeding \$40, as] AN
13 INACTIVE STATUS FEE set by the Board; and

14 (iii) reapplies to the Board for inactive status within 2 years after
15 initial expiration of inactive status on a form that the Board provides.

16 (5) The Board shall renew the inactive status of each licensee or grant
17 the reapplication for inactive status of each former licensee who meets the
18 requirements of this subsection.

19 (d) The Board shall reactivate the license of a licensee who is on inactive
20 status, if the licensee:

21 (1) complies with each continuing education requirement that the Board
22 sets for this purpose;

23 (2) submits to the Board an application for reactivation; and

24 (3) pays to the Board a reactivation fee that is equal to the license
25 [renewal] fee set by the Board under § 2-311 of this subtitle.

26 2-314.

27 In accordance with its regulations, the Board may reinstate the license of an
28 individual who has failed to renew the license for any reason if the individual:

29 (1) otherwise is entitled to be licensed;

30 (2) complies with each continuing education requirement that the Board
31 sets for this purpose; and

32 (3) pays to the Board[:

33 (i) all past due renewal fees; and

1 (ii) a reinstatement fee [not exceeding \$60, as] set by the Board.

2 2-319.

3 (b) A license may be reinstated under this section only if:

4 (1) the individual whose license has been revoked or suspended submits
5 a written request to the Board;

6 (2) the Board holds a hearing on the request; [and]

7 (3) the Board, by an affirmative vote of a majority of its members, votes
8 to reinstate the license; AND

9 (4) THE INDIVIDUAL PAYS TO THE BOARD A REINSTATEMENT FEE SET
10 BY THE BOARD.

11 2-320.

12 (a) The Board may issue a limited license for the practice of certified public
13 accountancy on a specific job to any applicant who:

14 (5) pays to the Board [an application fee of \$25] A LICENSE FEE SET BY
15 THE BOARD.

16 2-321.

17 (b) An individual actively licensed as a certified public accountant in another
18 state may practice certified public accountancy in the State upon notifying the Board
19 of the individual's intent to practice under this section, if:

20 (1) the individual:

21 (i) verifies that the individual's principal place of business is
22 located outside the State; and

23 (ii) pays to the Board a notification fee [of \$50] SET BY THE BOARD;
24 and

25 (e) An individual who meets the requirements of this section may renew the
26 right to practice under this section by notifying the Board and paying a [renewal fee
27 of \$50] LICENSE FEE SET BY THE BOARD.

28 2-404.

29 (a) An applicant for a permit shall:

30 (2) pay to the Board [an] A NONREFUNDABLE application fee [of \$25]
31 SET BY THE BOARD.

1 2-405.

2 (a) If an applicant qualifies for a permit under this subtitle, the Board shall
3 send the applicant a notice that states that:

4 (2) on receipt of a [\$25] permit fee SET BY THE BOARD, the Board will
5 issue a permit to the applicant.

6 2-407.

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

9 (2) a notice that states:

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

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

13 (iii) the amount of the [renewal] PERMIT fee.

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

16 (2) pays to the Board a [renewal fee not exceeding \$80, as] PERMIT FEE
17 set by the Board; and

18 2-414.

19 (b) A permit may be reinstated under this section only if:

20 (1) the partnership, limited liability company, or corporation whose
21 permit has been revoked or suspended submits a written request to the Board;

22 (2) the Board holds a hearing on the request; [and]

23 (3) the Board, by an affirmative vote of a majority of its members, votes
24 to reinstate the permit; AND

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

27 2-416.

28 (d) In order to qualify for a limited permit under this section a corporation,
29 limited liability company, or partnership shall:

30 (3) pay to the Board [an application fee of \$25] A PERMIT FEE SET BY
31 THE BOARD.

1

Article - Business Regulation

2 2-106.5.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (2) "BOARD" MEANS THE STATE BOARD OF PUBLIC ACCOUNTANCY.

6 (3) "FUND" MEANS THE STATE BOARD OF PUBLIC ACCOUNTANCY FUND.

7 (B) (1) THERE IS A STATE BOARD OF PUBLIC ACCOUNTANCY FUND IN THE
8 DEPARTMENT.

9 (2) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT
10 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

11 (C) THE FUND CONSISTS OF FEES COLLECTED BY THE BOARD AND
12 DISTRIBUTED TO THE FUND UNDER § 2-209 OF THE BUSINESS OCCUPATIONS AND
13 PROFESSIONS ARTICLE.

14 (D) THE FUND SHALL BE USED TO COVER THE ACTUAL DOCUMENTED DIRECT
15 AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY DUTIES
16 OF THE BOARD.

17 (E) THE SECRETARY OR A DESIGNEE OF THE SECRETARY SHALL ADMINISTER
18 THE FUND.

19 (F) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND
20 TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT
21 ARTICLE.

22 2-106.6.

23 (A) IN THIS SECTION, "BOARD" MEANS THE STATE BOARD OF PUBLIC
24 ACCOUNTANCY.

25 (B) IN CONSULTATION WITH THE BOARD, THE SECRETARY SHALL ANNUALLY
26 CALCULATE THE DIRECT AND INDIRECT COSTS ATTRIBUTABLE TO THE BOARD.

27 (C) BEGINNING ON JULY 1, 2008, THE BOARD SHALL ESTABLISH FEES BASED
28 ON THE CALCULATIONS PROVIDED BY THE SECRETARY UNDER THIS SECTION.

29 (D) EACH FEE ESTABLISHED BY THE BOARD MAY NOT BE INCREASED
30 ANNUALLY BY MORE THAN 12.5% OF THE EXISTING AND CORRESPONDING FEE OF
31 THE BOARD.

32 SECTION 2. AND BE IT FURTHER ENACTED, That the fees set forth in Title
33 2, Subtitles 2, 3, and 4 of the Business Occupations and Professions Article in effect on
34 June 30, 2007, shall remain in full force and effect until the fees authorized to be set

1 by the State Board of Public Accountancy in accordance with this Act are adopted and
2 made effective.

3 SECTION 3. AND BE IT FURTHER ENACTED, That, except as provided in
4 Section 2 of this Act, this Act shall take effect July 1, 2007.