

SENATE BILL 817

Q7, C2, Q3

8lr1269
CF 8lr3163

By: **Senators Conway, Colburn, Della, Garagiola, Lenett, and Pugh**

Introduced and read first time: February 7, 2008

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Individual Tax Preparers Act**

3 FOR the purpose of creating the State Board of Individual Tax Preparers in the
4 Department of Labor, Licensing, and Regulation; providing for the composition
5 of the Board and the appointment, terms, and expenses of the Board members;
6 authorizing the Board to investigate certain complaints in a certain manner;
7 authorizing the Board to seek a certain injunction under certain circumstances;
8 authorizing the Board or its designee to administer oaths, hold hearings, take
9 testimony, and issue subpoenas under certain circumstances; authorizing the
10 Board to set certain fees for certain purposes; requiring certain individual tax
11 preparers to pay certain fees; requiring the Board to pay certain fees to the
12 State Comptroller; requiring the Comptroller to distribute certain fees to a
13 certain fund; establishing a certain fund; providing for the purpose of the Fund;
14 requiring the Board to administer the Fund; providing that the Fund is a
15 special fund, requiring the State Treasurer to hold the Fund separately, and
16 requiring the Comptroller to account for the Fund; providing for the contents of
17 the Fund; providing for certain uses of the Fund; requiring the Treasurer to
18 invest the money of the Fund in a certain manner and requiring certain
19 investment earnings to be credited to the General Fund of the State; providing
20 that certain expenditures must be made in accordance with the State budget;
21 establishing certain powers and duties of the Board; requiring certain
22 individuals to be registered by the Board as individual tax preparers before
23 performing certain work; establishing certain education and experience
24 requirements for individual tax preparers; establishing certain registration and
25 registration renewal requirements for individual tax preparers; establishing
26 certain examination requirements for individual tax preparers; authorizing the
27 Board to deny a registration to an applicant, refuse to renew a registration,
28 reprimand a registered individual, suspend or revoke a registration, or impose
29 certain penalties under certain circumstances; establishing certain prohibited
30 acts; providing for certain criminal penalties; requiring certain fees and
31 penalties collected by the Board to be used in a certain manner; requiring an

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 individual tax preparer to make certain disclosures prior to rendering certain
2 services; requiring that an evaluation of the Board and the statutes and
3 regulations that relate to the Board be performed on or before a certain date;
4 providing for the staggering of certain terms; requiring the Board to grant a
5 waiver of certain requirements under this Act to certain individuals under
6 certain circumstances; requiring the Governor to include a certain appropriation
7 in the State budget under certain circumstances; defining certain terms; and
8 generally relating to the State Board of Individual Tax Preparers.

9 BY renumbering

10 Article – Business Regulation
11 Section 2–108(a)(23) through (33), respectively
12 to be Section 2–108(a)(24) through (34), respectively
13 Annotated Code of Maryland
14 (2004 Replacement Volume and 2007 Supplement)

15 BY renumbering

16 Article – State Government
17 Section 8–403(b)(32) through (69), respectively
18 to be Section 8–403(b)(33) through (70), respectively
19 Annotated Code of Maryland
20 (2004 Replacement Volume and 2007 Supplement)

21 BY adding to

22 Article – Business Occupations and Professions
23 Section 21–101 through 21–502 to be under the new title “Title 21. Individual
24 Tax Preparers”
25 Annotated Code of Maryland
26 (2004 Replacement Volume and 2007 Supplement)

27 BY adding to

28 Article – Business Regulation
29 Section 2–108(a)(23)
30 Annotated Code of Maryland
31 (2004 Replacement Volume and 2007 Supplement)

32 BY adding to

33 Article – State Government
34 Section 8–403(b)(32)
35 Annotated Code of Maryland
36 (2004 Replacement Volume and 2007 Supplement)

37 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
38 MARYLAND, That Section(s) 2–108(a)(23) through (33), respectively, of Article –
39 Business Regulation of the Annotated Code of Maryland be renumbered to be
40 Section(s) 2–108(a)(24) through (34), respectively.

1 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 8–403(b)(32)
2 through (69), respectively, of Article – State Government of the Annotated Code of
3 Maryland be renumbered to be Section(s) 8–403(b)(33) through (70), respectively.

4 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
5 read as follows:

6 **Article – Business Occupations and Professions**

7 **TITLE 21. INDIVIDUAL TAX PREPARERS.**

8 **SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.**

9 **21-101.**

10 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (B) “BOARD” MEANS THE STATE BOARD OF INDIVIDUAL TAX
13 PREPARERS.

14 (C) “FUND” MEANS THE INDIVIDUAL TAX PREPARERS FUND
15 ESTABLISHED UNDER § 21-208 OF THIS TITLE.

16 (D) “IN GOOD STANDING” MEANS AN INDIVIDUAL HAS NOT ENGAGED IN
17 CONDUCT THAT WOULD JUSTIFY CENSURE, SUSPENSION, OR DISBARMENT
18 FROM PRACTICE.

19 (E) “INDIVIDUAL TAX PREPARER” MEANS AN INDIVIDUAL WHO IS
20 REGISTERED BY THE BOARD TO PROVIDE INDIVIDUAL TAX PREPARATION
21 SERVICES.

22 (F) “PROVIDE INDIVIDUAL TAX PREPARATION SERVICES” MEANS TO
23 PREPARE, ADVISE, OR ASSIST IN THE PREPARATION OF A FEDERAL OR STATE
24 PERSONAL INCOME TAX RETURN OF ANOTHER FOR VALUABLE CONSIDERATION.

25 (G) “REGISTRATION” MEANS, UNLESS THE CONTEXT REQUIRES
26 OTHERWISE, AN AUTHORIZATION ISSUED BY THE BOARD TO PROVIDE
27 INDIVIDUAL TAX PREPARATION SERVICES.

28 **21-102.**

29 (A) THE PURPOSE OF THIS TITLE IS TO ESTABLISH A REGISTRATION
30 PROGRAM TO ENSURE THAT QUALIFIED INDIVIDUALS PROVIDE INDIVIDUAL TAX
31 PREPARATION SERVICES.

1 **(B) THE FOLLOWING INDIVIDUALS ARE EXEMPT FROM THE**
2 **REQUIREMENTS OF THIS TITLE:**

3 **(1) AN INDIVIDUAL IN GOOD STANDING WITH AN ACTIVE LICENSE**
4 **ISSUED BY THE STATE BOARD OF PUBLIC ACCOUNTANCY;**

5 **(2) AN INDIVIDUAL IN GOOD STANDING AND ADMITTED TO**
6 **PRACTICE LAW IN THE STATE;**

7 **(3) AN INDIVIDUAL EMPLOYED BY A LOCAL, STATE, OR FEDERAL**
8 **GOVERNMENTAL AGENCY BUT ONLY IN PERFORMANCE OF OFFICIAL DUTIES;**

9 **(4) AN INDIVIDUAL ENROLLED TO PRACTICE BEFORE THE**
10 **INTERNAL REVENUE SERVICE WHO IS GOVERNED UNDER CIRCULAR 230.**

11 **SUBTITLE 2. STATE BOARD OF INDIVIDUAL TAX PREPARERS.**

12 **21-201.**

13 **THERE IS A STATE BOARD OF INDIVIDUAL TAX PREPARERS IN THE**
14 **DEPARTMENT.**

15 **21-202.**

16 **(A) (1) THE BOARD CONSISTS OF EIGHT MEMBERS OF WHICH:**

17 **(I) SEVEN SHALL HAVE AT LEAST 5 YEARS OF TAX**
18 **PREPARATION EXPERIENCE; AND**

19 **(II) ONE SHALL BE A MEMBER OF A NONPROFIT TAX**
20 **PROGRAM OR NONPROFIT CONSUMER ADVOCATE PROGRAM.**

21 **(2) THE GOVERNOR SHALL APPOINT THE MEMBERS WITH THE**
22 **ADVICE OF THE SECRETARY, THE COMPTROLLER, AND THE ATTORNEY**
23 **GENERAL.**

24 **(3) MEMBERS OF THE FOLLOWING GROUPS SHALL BE**
25 **CONSIDERED FOR MEMBERSHIP ON THE BOARD:**

26 **(I) A MEMBER OF A NONPROFIT TAX PROGRAM OR**
27 **NONPROFIT CONSUMER ADVOCATE PROGRAM;**

1 (II) A COMMERCIAL INDIVIDUAL TAX PREPARER WHO HAS
2 BEEN IN PRACTICE IN THE STATE FOR MORE THAN 10 YEARS AND HAS AT LEAST
3 200 EMPLOYEES;

4 (III) A MEMBER OF THE MARYLAND ASSOCIATION OF
5 CERTIFIED PUBLIC ACCOUNTANTS;

6 (IV) A MEMBER OF THE MARYLAND SOCIETY OF
7 ACCOUNTANTS, INC.;

8 (V) A MEMBER OF THE MARYLAND STATE BAR
9 ASSOCIATION; AND

10 (VI) A MEMBER OF THE NATIONAL ASSOCIATION OF
11 ENROLLED AGENTS.

12 (B) EACH MEMBER OF THE BOARD SHALL BE:

13 (1) A CITIZEN OF THE UNITED STATES; AND

14 (2) A RESIDENT OF THE STATE.

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

18 (D) (1) THE TERM OF A MEMBER IS 4 YEARS AND BEGINS ON JULY 1.

19 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY
20 THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON JUNE 1, 2008.

21 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE
22 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

23 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN
24 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS
25 APPOINTED AND QUALIFIES.

26 (5) EACH MEMBER OF THE BOARD IS ELIGIBLE FOR
27 REAPPOINTMENT BUT MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

28 (E) (1) THE GOVERNOR MAY REMOVE A MEMBER FOR
29 INCOMPETENCE, MISCONDUCT, NEGLIGENCE OF DUTIES, OR OTHER SUFFICIENT
30 CAUSE.

1 **(2) THE GOVERNOR SHALL REMOVE A MEMBER WHO CEASES TO**
2 **MEET THE REQUIREMENTS UNDER WHICH THE MEMBER WAS APPOINTED, AS**
3 **PROVIDED UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION.**

4 **21-203.**

5 **(A) FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR**
6 **AND OTHER OFFICERS AS NECESSARY.**

7 **(B) THE MANNER OF ELECTION AND THE TERM OF AN OFFICER SHALL**
8 **BE AS THE BOARD DETERMINES.**

9 **21-204.**

10 **(A) A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A**
11 **QUORUM.**

12 **(B) THE BOARD SHALL MEET AT LEAST FIVE TIMES A YEAR, WITH AT**
13 **LEAST TWO MEETINGS BEING HELD BETWEEN JANUARY 1 AND APRIL 15.**

14 **(C) EACH MEMBER OF THE BOARD IS ENTITLED TO:**

15 **(1) COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET;**
16 **AND**

17 **(2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD**
18 **STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.**

19 **(D) THE BOARD MAY EMPLOY STAFF IN ACCORDANCE WITH THE STATE**
20 **BUDGET.**

21 **21-205.**

22 **(A) IN ADDITION TO ANY POWERS SET FORTH ELSEWHERE, THE BOARD**
23 **MAY ADOPT:**

24 **(1) ANY BYLAW THAT IS NECESSARY TO DO THE BUSINESS OF THE**
25 **BOARD; AND**

26 **(2) ANY REGULATION TO CARRY OUT THIS TITLE.**

27 **(B) IN ADDITION TO ANY DUTIES SET FORTH ELSEWHERE, THE BOARD**
28 **SHALL:**

1 (1) **ADOPT RULES OF PROFESSIONAL CONDUCT AS APPROPRIATE**
2 **TO ESTABLISH A HIGH STANDARD OF INTEGRITY AND DIGNITY FOR THE**
3 **PRACTICE OF INDIVIDUAL TAX PREPARATION;**

4 (2) **SELECT AND ADMINISTER EXAMINATIONS;**

5 (3) **ESTABLISH FEES;**

6 (4) **MAINTAIN A LIST OF ALL AUTHORIZED INDIVIDUAL TAX**
7 **PREPARERS;**

8 (5) **MAINTAIN A RECORD OF ITS PROCEEDINGS;**

9 (6) **MAINTAIN RECORDS OF ALL COMPLAINTS REGARDING**
10 **INDIVIDUAL TAX PREPARERS IN THE STATE; AND**

11 (7) **REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH**
12 **§ 2-1246 OF THE STATE GOVERNMENT ARTICLE.**

13 **21-206.**

14 (A) **THE BOARD MAY INVESTIGATE A COMPLAINT THAT ALLEGES A**
15 **VIOLATION OF THIS TITLE.**

16 (B) **ON RECEIPT OF THE RESULTS OF AN INVESTIGATION MADE UNDER**
17 **THIS SECTION, THE BOARD SHALL PROMPTLY TAKE ACTION THAT IS**
18 **APPROPRIATE UNDER THIS TITLE TO ENSURE COMPLIANCE WITH THIS TITLE.**

19 (C) (1) **IF THE BOARD CONCLUDES THAT CONDUCT ALLEGED TO BE**
20 **IN VIOLATION OF THIS TITLE WILL RESULT IN HARM TO A RESIDENT OF THE**
21 **STATE, THE BOARD MAY SEEK A PERMANENT OR TEMPORARY INJUNCTION**
22 **WITH RESPECT TO THE CONDUCT FROM THE CIRCUIT COURT OF THE COUNTY IN**
23 **WHICH THE ALLEGED VIOLATION OCCURS.**

24 (2) **IN SEEKING AN INJUNCTION UNDER THIS SUBSECTION, THE**
25 **BOARD IS NOT REQUIRED TO:**

26 (I) **POST BOND;**

27 (II) **ALLEGE OR PROVE THAT AN ADEQUATE REMEDY AT LAW**
28 **DOES NOT EXIST; OR**

1 (III) ALLEGE OR PROVE THAT SUBSTANTIAL OR
2 IRREPARABLE DAMAGE WOULD RESULT FROM THE CONTINUED VIOLATION.

3 (3) A MEMBER OF THE BOARD MAY NOT BE HELD PERSONALLY
4 LIABLE FOR ACTION TAKEN UNDER THIS SUBSECTION IN GOOD FAITH WITH
5 REASONABLE GROUNDS.

6 (D) THE BOARD, OR A HEARING OFFICER DESIGNATED BY THE BOARD,
7 MAY ADMINISTER OATHS, HOLD HEARINGS, AND TAKE TESTIMONY ABOUT ALL
8 MATTERS WITHIN THE JURISDICTION OF THE BOARD.

9 (E) (1) THE BOARD OR ITS DESIGNEE MAY ISSUE A SUBPOENA FOR
10 THE ATTENDANCE OF A WITNESS TO TESTIFY OR THE PRODUCTION OF
11 EVIDENCE IN CONNECTION WITH:

12 (I) A DISCIPLINARY ACTION BROUGHT UNDER THIS TITLE;
13 OR

14 (II) A PROCEEDING BROUGHT FOR AN ALLEGED VIOLATION
15 OF THIS TITLE.

16 (2) IF AN INDIVIDUAL FAILS TO COMPLY WITH A SUBPOENA
17 ISSUED UNDER THIS SUBSECTION, ON PETITION OF THE BOARD, A COURT OF
18 COMPETENT JURISDICTION MAY COMPEL COMPLIANCE WITH THE SUBPOENA.

19 **21-207.**

20 (A) THE BOARD MAY SET REASONABLE FEES FOR THE REGISTRATION
21 AND RENEWAL OF REGISTRATION OF INDIVIDUAL TAX PREPARERS.

22 (B) EACH INDIVIDUAL TAX PREPARER THAT REGISTERS UNDER THIS
23 TITLE SHALL PAY TO THE BOARD:

24 (1) A REGISTRATION FEE AT THE TIME OF REGISTRATION; OR

25 (2) A RENEWAL FEE AT THE TIME OF RENEWAL OF
26 REGISTRATION.

27 (C) (1) THE BOARD SHALL PAY ALL FEES COLLECTED UNDER THIS
28 SECTION TO THE STATE COMPTROLLER.

29 (2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE
30 FUND.

1 **21-208.**

2 (A) **THERE IS AN INDIVIDUAL TAX PREPARERS FUND.**

3 (B) **THE PURPOSE OF THE FUND IS TO APPROXIMATE THE COSTS**
4 **ASSOCIATED WITH THE ADMINISTRATION AND ENFORCEMENT OF THIS TITLE.**

5 (C) **THE BOARD SHALL ADMINISTER THE FUND.**

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

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

10 (E) **THE FUND CONSISTS OF:**

11 (1) **REVENUE DISTRIBUTED TO THE FUND UNDER § 21-207 OF**
12 **THIS TITLE;**

13 (2) **MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**
14 **AND**

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

17 (F) **THE FUND MAY BE USED ONLY FOR COSTS ASSOCIATED WITH THE**
18 **ADMINISTRATION AND ENFORCEMENT OF THIS TITLE.**

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

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

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

25 **21-209.**

26 (A) **ON REQUEST OF ANY PERSON AND PAYMENT OF A REGISTRATION**
27 **FEE SET BY THE BOARD, THE BOARD SHALL CONFIRM THE REGISTRATION**
28 **STATUS AND QUALIFICATIONS OF ANY INDIVIDUAL WHO IS THE SUBJECT OF THE**
29 **REQUEST.**

1 **(B) EACH REGISTRATION UNDER THIS SECTION:**

2 **(1) SHALL INCLUDE A STATEMENT OF THE REGISTRATION STATUS**
3 **OF THE INDIVIDUAL WHO IS THE SUBJECT OF THE REQUEST; AND**

4 **(2) MAY INCLUDE:**

5 **(I) INFORMATION ABOUT THE EXAMINATION RESULTS AND**
6 **OTHER QUALIFICATIONS OF THAT INDIVIDUAL;**

7 **(II) INFORMATION ABOUT THE DATES OF ISSUANCE OF THE**
8 **REGISTRATION OF THAT INDIVIDUAL; AND**

9 **(III) INFORMATION ABOUT ANY DISCIPLINARY ACTION**
10 **TAKEN AGAINST THAT INDIVIDUAL.**

11 **21-210.**

12 **THE BOARD EXERCISES ITS POWERS, DUTIES, AND FUNCTIONS SUBJECT**
13 **TO THE AUTHORITY OF THE SECRETARY.**

14 **SUBTITLE 3. REGISTRATION.**

15 **21-301.**

16 **AN INDIVIDUAL SHALL BE REGISTERED BY THE BOARD BEFORE THE**
17 **INDIVIDUAL MAY PROVIDE INDIVIDUAL TAX PREPARATION SERVICES IN THE**
18 **STATE.**

19 **21-302.**

20 **(A) TO QUALIFY FOR A REGISTRATION, THE APPLICANT SHALL BE AN**
21 **INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION.**

22 **(B) THE APPLICANT SHALL BE OF GOOD CHARACTER AND REPUTATION.**

23 **(C) THE APPLICANT SHALL BE AT LEAST 18 YEARS OLD.**

24 **(D) THE APPLICANT SHALL POSSESS A HIGH SCHOOL DIPLOMA OR HAVE**
25 **PASSED AN EQUIVALENCY EXAMINATION.**

1 (E) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE
2 APPLICANT SHALL PASS AN EXAMINATION GIVEN BY THE BOARD UNDER THIS
3 SUBTITLE.

4 **21-303.**

5 AN APPLICANT FOR A REGISTRATION SHALL:

6 (1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT
7 THE BOARD PROVIDES; AND

8 (2) PAY TO THE BOARD OR THE BOARD'S DESIGNEE AN
9 EXAMINATION FEE SET BY THE BOARD IN AN AMOUNT NOT TO EXCEED THE
10 COST OF THE REQUIRED EXAMINATION.

11 **21-304.**

12 (A) AN APPLICANT WHO OTHERWISE QUALIFIES FOR A REGISTRATION
13 IS ENTITLED TO BE EXAMINED AS PROVIDED IN THIS SECTION.

14 (B) THE BOARD SHALL GIVE EXAMINATIONS TO APPLICANTS AT LEAST
15 TWICE A YEAR, AT THE TIMES AND PLACES THAT THE BOARD DETERMINES.

16 (C) THE BOARD SHALL GIVE EACH QUALIFIED APPLICANT NOTICE OF
17 THE TIME AND PLACE OF EXAMINATION.

18 (D) THE BOARD SHALL ADOPT REGULATIONS THAT ESTABLISH THE
19 PASSING SCORE FOR AN EXAMINATION.

20 (E) (1) THE BOARD SHALL NOTIFY EACH APPLICANT OF THE
21 APPLICANT'S EXAMINATION SCORE.

22 (2) ANY APPLICANT WHO REQUESTS AN APPOINTMENT WITHIN 60
23 DAYS AFTER THE DATE ON WHICH NOTIFICATION IS SENT MAY REVIEW THE
24 APPLICANT'S ANSWERS TO THE EXAMINATION.

25 **21-305.**

26 (A) SUBJECT TO THE PROVISIONS OF THIS SECTION, AN APPLICANT
27 WHO FAILS AN EXAMINATION GIVEN UNDER § 21-304 OF THIS SUBTITLE MAY
28 RETAKE THE EXAMINATION.

29 (B) (1) THE BOARD MAY NOT LIMIT THE NUMBER OF TIMES AN
30 APPLICANT MAY TAKE AN EXAMINATION.

1 **(2) THE BOARD MAY ADOPT REGULATIONS TO SET CONDITIONS**
2 **FOR RETAKING THE EXAMINATION, INCLUDING A REQUIREMENT THAT THE**
3 **APPLICANT:**

4 **(I) WAIT A REASONABLE PERIOD BETWEEN EXAMINATIONS;**
5 **AND**

6 **(II) PREPARE TO RETAKE THE EXAMINATION IN A**
7 **SPECIFIED MANNER.**

8 **(3) THE BOARD SHALL SET FEES FOR REEXAMINATION SO THAT:**

9 **(I) THE FEE FOR REEXAMINATION ON THE ENTIRE**
10 **EXAMINATION DOES NOT EXCEED THE COST OF THE REQUIRED**
11 **REEXAMINATION; AND**

12 **(II) THE FEE FOR REEXAMINATION ON LESS THAN THE**
13 **ENTIRE EXAMINATION IS LESS THAN THE FEE SET FOR THE ENTIRE**
14 **EXAMINATION.**

15 **21-306.**

16 **(A) IF AN APPLICANT QUALIFIES FOR A REGISTRATION UNDER THIS**
17 **SUBTITLE, THE BOARD SHALL SEND THE APPLICANT A NOTICE THAT STATES**
18 **THAT:**

19 **(1) THE APPLICANT HAS QUALIFIED FOR A REGISTRATION; AND**

20 **(2) ON RECEIPT OF A REGISTRATION FEE SET BY THE BOARD,**
21 **THE BOARD WILL ISSUE A REGISTRATION TO THE APPLICANT.**

22 **(B) ON PAYMENT OF THE REGISTRATION FEE, THE BOARD SHALL ISSUE**
23 **A REGISTRATION TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS**
24 **SUBTITLE.**

25 **21-307.**

26 **A REGISTRATION AUTHORIZES, WHILE THE REGISTRATION IS IN EFFECT,**
27 **THE INDIVIDUAL TO PROVIDE INDIVIDUAL TAX PREPARATION SERVICES.**

28 **21-308.**

1 (A) UNLESS A REGISTRATION IS RENEWED FOR A 2-YEAR TERM AS
2 PROVIDED IN THIS SECTION, THE REGISTRATION EXPIRES ON THE SECOND
3 DECEMBER 31 THAT COMES AFTER THE EFFECTIVE DATE OF THE
4 REGISTRATION.

5 (B) AT LEAST 1 MONTH BEFORE A REGISTRATION EXPIRES, THE BOARD
6 SHALL MAIL TO THE INDIVIDUAL, AT THE LAST KNOWN ADDRESS OF THE
7 INDIVIDUAL:

8 (1) A RENEWAL APPLICATION FORM; AND

9 (2) A NOTICE THAT STATES:

10 (I) THE DATE ON WHICH THE CURRENT REGISTRATION
11 EXPIRES;

12 (II) THE DATE BY WHICH THE BOARD MUST RECEIVE THE
13 RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE
14 THE REGISTRATION EXPIRES; AND

15 (III) THE AMOUNT OF THE RENEWAL FEE.

16 (C) BEFORE A REGISTRATION EXPIRES, THE INDIVIDUAL
17 PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL 2-YEAR TERM IF THE
18 INDIVIDUAL:

19 (1) OTHERWISE IS ENTITLED TO BE REGISTERED;

20 (2) PAYS TO THE BOARD A RENEWAL FEE, AS SET BY THE BOARD;
21 AND

22 (3) SUBMITS TO THE BOARD:

23 (I) A RENEWAL APPLICATION ON THE FORM THAT THE
24 BOARD PROVIDES; AND

25 (II) SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE
26 CONTINUING EDUCATION REQUIREMENTS SET UNDER THIS SUBTITLE FOR
27 REGISTRATION RENEWAL.

28 (D) THE BOARD SHALL RENEW THE REGISTRATION OF EACH
29 INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION.

1 **(E) THE SECRETARY MAY DETERMINE THAT REGISTRATIONS ISSUED**
2 **UNDER THIS SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.**

3 **21-309.**

4 **(A) (1) THE BOARD SHALL ADOPT REGULATIONS THAT CREATE, IN**
5 **ACCORDANCE WITH THIS SECTION, CONTINUING EDUCATION REQUIREMENTS AS**
6 **A CONDITION TO THE RENEWAL OF A REGISTRATION ISSUED UNDER THIS**
7 **SUBTITLE.**

8 **(2) AN INDIVIDUAL SHALL COMPLETE AT LEAST 16 HOURS OF**
9 **CONTINUING EDUCATION ACTIVITIES EVERY 2 YEARS.**

10 **(B) THE CONTINUING EDUCATION REQUIREMENTS SHALL:**

11 **(1) ENSURE REASONABLE KNOWLEDGE ABOUT THE CURRENT**
12 **TRENDS IN FEDERAL AND STATE TAX PREPARATION SERVICES;**

13 **(2) ENSURE THAT THE PROGRAMS APPROVED FOR COMPLIANCE**
14 **WITH THE CONTINUING EDUCATION REQUIREMENTS ARE AVAILABLE AT**
15 **REASONABLE INTERVALS THROUGHOUT THE STATE; AND**

16 **(3) PROVIDE AN INDIVIDUAL WITH ALTERNATIVE WAYS BY WHICH**
17 **TO QUALIFY THROUGH A VARIETY OF PROGRAMS, WHICH MAY INCLUDE:**

18 **(I) PROFESSIONAL DEVELOPMENT PROGRAMS;**

19 **(II) TECHNICAL SESSIONS OF PROFESSIONAL SOCIETIES OR**
20 **CHAPTERS;**

21 **(III) COLLEGE COURSES APPROVED BY THE BOARD;**

22 **(IV) SEMINARS PROVIDED BY GOVERNMENTAL UNITS; AND**

23 **(V) OTHER SEMINARS OR SYMPOSIUMS RELATED TO TAX**
24 **PREPARATION SERVICES.**

25 **(C) THE BOARD MAY APPOINT A CONTINUING EDUCATION COMMITTEE**
26 **TO HELP THE BOARD IN CARRYING OUT THIS SECTION.**

27 **(D) (1) THE REGULATIONS ADOPTED UNDER THIS SECTION SHALL**
28 **PROVIDE A SYSTEM FOR REPORTING AND RECORDING THE PROGRAM HOURS**
29 **EARNED BY THE INDIVIDUAL.**

1 **(2) THE BOARD MAY NOT REQUIRE AN INDIVIDUAL TO SUBMIT**
2 **SCORES OR GRADES EARNED DURING PARTICIPATION BY THE INDIVIDUAL IN A**
3 **PROGRAM.**

4 **(E) (1) THE BOARD MAY ENTER INTO WRITTEN AGREEMENTS WITH**
5 **QUALIFIED PERSONS WISHING TO CONDUCT APPROVED PROGRAMS.**

6 **(2) A PERSON SEEKING APPROVAL BY THE BOARD FOR THIS**
7 **PURPOSE SHALL:**

8 **(I) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM**
9 **THAT THE BOARD PROVIDES; AND**

10 **(II) PAY AN APPLICATION FEE, AS SET BY THE BOARD.**

11 **21-310.**

12 **THE BOARD SHALL ADOPT REGULATIONS FOR THE REINSTATEMENT OF**
13 **THE REGISTRATION OF AN INDIVIDUAL WHO HAS FAILED TO RENEW A**
14 **REGISTRATION FOR ANY REASON IF THE INDIVIDUAL:**

15 **(1) OTHERWISE IS ENTITLED TO BE REGISTERED;**

16 **(2) COMPLIES WITH THE CONTINUING EDUCATION REQUIREMENT**
17 **THAT THE BOARD SETS FOR THIS PURPOSE; AND**

18 **(3) PAYS TO THE BOARD:**

19 **(I) ALL PAST DUE RENEWAL FEES; AND**

20 **(II) A REINSTATEMENT FEE, AS SET BY THE BOARD.**

21 **21-311.**

22 **(A) SUBJECT TO THE HEARING PROVISIONS OF § 21-312 OF THIS**
23 **SUBTITLE, THE BOARD, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS**
24 **MEMBERS THEN SERVING, MAY DENY A REGISTRATION TO ANY APPLICANT,**
25 **REPRIMAND ANY REGISTERED INDIVIDUAL, OR SUSPEND OR REVOKE A**
26 **REGISTRATION IF THE APPLICANT OR REGISTERED INDIVIDUAL:**

27 **(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO**
28 **OBTAIN A REGISTRATION FOR THE APPLICANT OR REGISTERED INDIVIDUAL OR**
29 **FOR ANOTHER;**

1 (2) **FRAUDULENTLY OR DECEPTIVELY USES A REGISTRATION;**

2 (3) **UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE,**
3 **IS CONVICTED OF A FELONY OR A MISDEMEANOR, EITHER OF WHICH IS**
4 **DIRECTLY RELATED TO THE FITNESS AND QUALIFICATION OF THE APPLICANT**
5 **OR REGISTERED INDIVIDUAL TO PROVIDE INDIVIDUAL TAX PREPARATION**
6 **SERVICES;**

7 (4) **IS GUILTY OF NEGLIGENCE, INCOMPETENCE, OR MISCONDUCT**
8 **WHILE PROVIDING INDIVIDUAL TAX PREPARATION SERVICES;**

9 (5) **VIOLATES ANY REGULATION ADOPTED UNDER THIS TITLE; OR**

10 (6) **VIOLATES ANY PROVISION OF THIS TITLE.**

11 **(B) (1) IN ADDITION TO REPRIMANDING OR SUSPENDING OR**
12 **REVOKING A REGISTRATION UNDER THIS SUBSECTION, THE BOARD MAY**
13 **IMPOSE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.**

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

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

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

18 **(III) THE GOOD FAITH OF THE REGISTERED INDIVIDUAL; AND**

19 **(IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE**
20 **REGISTERED INDIVIDUAL.**

21 **(3) THE BOARD SHALL USE A PENALTY COLLECTED UNDER THIS**
22 **SUBSECTION TO PROVIDE FOR THE ENFORCEMENT OF THIS SECTION.**

23 **21-312.**

24 **(A) EXCEPT AS OTHERWISE PROVIDED IN § 10-226 OF THE STATE**
25 **GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION UNDER**
26 **§ 21-311 OF THIS SUBTITLE, IT SHALL GIVE THE INDIVIDUAL AGAINST WHOM**
27 **THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE**
28 **BOARD.**

1 (I) **THE INDIVIDUAL TAX PREPARER’S NAME, ADDRESS, AND**
2 **TELEPHONE NUMBER;**

3 (II) **THE INDIVIDUAL TAX PREPARER’S EDUCATION AND**
4 **TRAINING, INCLUDING EXAMINATIONS TAKEN AND SUCCESSFULLY PASSED;**

5 (III) **SERVICES THAT THE INDIVIDUAL TAX PREPARER IS**
6 **QUALIFIED TO PROVIDE;**

7 (IV) **THAT THE INDIVIDUAL TAX PREPARER IS NOT A**
8 **CERTIFIED PUBLIC ACCOUNTANT, AN ENROLLED AGENT, OR A TAX ATTORNEY;**
9 **AND**

10 (V) **ANY OTHER INFORMATION THAT THE BOARD REQUIRES.**

11 (2) **A DISCLOSURE REQUIRED UNDER THIS SUBSECTION SHALL**
12 **BE PROVIDED TO A CUSTOMER:**

13 (I) **AT AN INITIAL MEETING BETWEEN THE INDIVIDUAL TAX**
14 **PREPARER AND THE CUSTOMER; AND**

15 (II) **IF THE INDIVIDUAL TAX PREPARER MAINTAINS A**
16 **WEBSITE, ON THE WEBSITE.**

17 (C) **AN INDIVIDUAL TAX PREPARER MAY NOT:**

18 (1) **FAIL TO SIGN A CUSTOMER’S INDIVIDUAL TAX RETURN;**

19 (2) **OBTAIN THE CUSTOMER’S SIGNATURE ON AN INDIVIDUAL TAX**
20 **RETURN OR OTHER AUTHORIZING DOCUMENT PRIOR TO THE COMPLETION OF**
21 **THE INDIVIDUAL TAX PREPARATION SERVICES; OR**

22 (3) **DISCLOSE INFORMATION RECEIVED FOR THE PURPOSES OF**
23 **PREPARING A CUSTOMER’S FEDERAL OR STATE INCOME TAX RETURN, UNLESS:**

24 (I) **CONSENTED TO IN WRITING BY THE CUSTOMER;**

25 (II) **EXPRESSLY AUTHORIZED BY LAW;**

26 (III) **NECESSARY FOR THE PREPARATION OF THE TAX**
27 **RETURN; OR**

28 (IV) **IN ACCORDANCE WITH A COURT ORDER.**

1 **21-404.**

2 (A) A VIOLATION OF THIS TITLE IS AN UNFAIR OR DECEPTIVE TRADE
3 PRACTICE WITHIN THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW
4 ARTICLE AND IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS
5 CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

6 (B) IN ADDITION TO THE REMEDIES PROVIDED IN TITLE 13 OF THE
7 COMMERCIAL LAW ARTICLE, AN INDIVIDUAL WHO IS AGGRIEVED BY A
8 VIOLATION OF THIS TITLE MAY BRING AN ACTION AGAINST A PERSON WHO
9 VIOLATES THIS TITLE TO RECOVER:

10 (1) \$500 FOR EACH VIOLATION; AND

11 (2) ACTUAL DAMAGES SUSTAINED AS A RESULT OF THE
12 VIOLATION.

13 **SUBTITLE 5. SHORT TITLE; TERMINATION OF TITLE.**

14 **21-501.**

15 THIS TITLE MAY BE CITED AS THE "MARYLAND INDIVIDUAL TAX
16 PREPARERS ACT".

17 **21-502.**

18 SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF
19 THE MARYLAND PROGRAM EVALUATION ACT, THIS TITLE AND ALL
20 REGULATIONS ADOPTED UNDER THIS TITLE SHALL TERMINATE AND BE OF NO
21 EFFECT AFTER JULY 1, 2016.

22 **Article - Business Regulation**

23 **2-108.**

24 (a) The following units are in the Department:

25 **(23) THE STATE BOARD OF INDIVIDUAL TAX PREPARERS.**

26 **Article - State Government**

27 **8-403.**

28 (b) Except as otherwise provided in subsection (a) of this section, on or before
29 the evaluation date for the following governmental activities or units, an evaluation

1 shall be made of the following governmental activities or units and the statutes and
2 regulations that relate to the governmental activities or units:

3 **(32) INDIVIDUAL TAX PREPARERS, STATE BOARD OF (§ 21-201 OF**
4 **THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE: JULY 1, 2015);**

5 SECTION 4. AND BE IT FURTHER ENACTED, That notwithstanding
6 § 21-202(d)(1) of the Business Occupations and Professions Article as enacted by
7 Section 3 of this Act, the terms of the initial members of the State Board of Individual
8 Tax Preparers shall expire as follows:

9 (1) three members in 2011;

10 (2) three members in 2012; and

11 (3) two members in 2013.

12 SECTION 5. AND BE IT FURTHER ENACTED, That an individual who
13 provides tax preparation in the State has 2 years after the effective date of this Act to
14 meet the requirements of Title 21 of the Business Occupations and Professions Article,
15 as enacted by Section 3 of this Act.

16 SECTION 6. AND BE IT FURTHER ENACTED, That the Board shall grant a
17 waiver of the examination requirements for registration to any individual who:

18 (1) has obtained at least 10 consecutive years of individual tax
19 preparation experience;

20 (2) has completed at least 8 hours of annual continuing education; and

21 (3) is in good standing with the Internal Revenue Service, Department
22 of Labor, Licensing, and Regulation, Office of the Comptroller, and Office of the
23 Attorney General.

24 SECTION 7. AND BE IT FURTHER ENACTED, That beginning in fiscal year
25 2010, and for each fiscal year thereafter, if the fund balance of the Individual Tax
26 Preparers Fund created under § 21-208 of the Business Occupations and Professions
27 Article, as enacted under Section 3 of this Act, is insufficient to cover the costs of the
28 administration and enforcement of Title 21 of the Business and Occupations Article
29 relating to the State Board of Individual Tax Preparers, the Governor shall include a
30 general fund appropriation in the State budget sufficient to cover the difference.

31 SECTION 8. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 June 1, 2008.