

CHAPTER 623

(Senate Bill 817)

AN ACT concerning

Maryland Individual Tax Preparers Act

FOR the purpose of creating the State Board of Individual Tax Preparers in the Department of Labor, Licensing, and Regulation; providing for the composition of the Board and the appointment, terms, and expenses of the Board members; authorizing the Board to investigate certain complaints in a certain manner; authorizing the Board to seek a certain injunction under certain circumstances; authorizing the Board or its designee to administer oaths, hold hearings, take testimony, and issue subpoenas under certain circumstances; authorizing the Board to set certain fees for certain purposes; requiring certain individual tax preparers to pay certain fees; requiring the Board to pay certain fees to the State Comptroller; requiring the Comptroller to distribute certain fees to a certain fund; establishing a certain fund; providing for the purpose of the Fund; requiring the Board to administer the Fund; providing that the Fund is a special fund, requiring the State Treasurer to hold the Fund separately, and requiring the Comptroller to account for the Fund; providing for the contents of the Fund; providing for certain uses of the Fund; requiring the Treasurer to invest the money of the Fund in a certain manner and requiring certain investment earnings to be credited to the General Fund of the State; providing that certain expenditures must be made in accordance with the State budget; establishing certain powers and duties of the Board; requiring certain individuals to be registered by the Board as individual tax preparers before performing certain work; establishing certain education and experience requirements for individual tax preparers; establishing certain registration and registration renewal requirements for individual tax preparers; establishing certain examination requirements for individual tax preparers; authorizing the Board to deny a registration to an applicant, refuse to renew a registration, reprimand a registered individual, suspend or revoke a registration, or impose certain penalties under certain circumstances; establishing certain prohibited acts; providing for certain criminal penalties; requiring certain fees and penalties collected by the Board to be used in a certain manner; requiring an individual tax preparer to make certain disclosures prior to rendering certain services; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; providing for the staggering of certain terms; requiring the Board, in conjunction with relevant trade associations, to develop and implement a certain public awareness campaign; requiring the Board to grant a waiver of certain requirements under this Act to certain individuals under certain circumstances; requiring the Governor to include a certain appropriation in the

State budget under certain circumstances; defining certain terms; and generally relating to the State Board of Individual Tax Preparers.

BY renumbering

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

BY renumbering

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

BY adding to

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

BY adding to

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

BY adding to

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

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

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

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

Article – Business Occupations and Professions

TITLE 21. INDIVIDUAL TAX PREPARERS.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

21-101.

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

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

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

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

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

(F) “PROVIDE INDIVIDUAL TAX PREPARATION SERVICES” MEANS TO PREPARE, ADVISE, OR ASSIST IN THE PREPARATION OF, OR ASSUME FINAL RESPONSIBILITY FOR ANOTHER PERSON’S PREPARATION OF A FEDERAL OR STATE ~~PERSONAL~~ INCOME TAX RETURN OF ANOTHER FOR VALUABLE CONSIDERATION.

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

21-102.

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

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

(1) AN INDIVIDUAL IN GOOD STANDING WITH AN ACTIVE LICENSE ISSUED BY THE STATE BOARD OF PUBLIC ACCOUNTANCY OR A LICENSING AUTHORITY IN ANOTHER STATE;

(2) AN INDIVIDUAL IN GOOD STANDING AND ADMITTED TO PRACTICE LAW IN THE STATE OR IN ANOTHER STATE;

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

(4) AN INDIVIDUAL ENROLLED TO PRACTICE BEFORE THE INTERNAL REVENUE SERVICE WHO IS GOVERNED UNDER CIRCULAR 230; AND

(5) AN INDIVIDUAL SERVING AS AN EMPLOYEE OF OR ASSISTANT TO AN INDIVIDUAL TAX PREPARER OR AN INDIVIDUAL EXEMPTED UNDER THIS SUBSECTION IN THE PERFORMANCE OF OFFICIAL DUTIES FOR THE INDIVIDUAL TAX PREPARER OR THE INDIVIDUAL EXEMPTED UNDER THIS SUBSECTION.

SUBTITLE 2. STATE BOARD OF INDIVIDUAL TAX PREPARERS.

21-201.

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

21-202.

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

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

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

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

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

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

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

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

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

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

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

(B) EACH MEMBER OF THE BOARD SHALL BE:

(1) A CITIZEN OF THE UNITED STATES; AND

(2) A RESIDENT OF THE STATE.

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

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

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

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

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

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

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

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

21-203.

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

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

21-204.

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

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

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

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

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

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

21-205.

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

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

(2) ANY REGULATION TO CARRY OUT THIS TITLE.

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

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

(2) SELECT AND ADMINISTER EXAMINATIONS;

(3) ESTABLISH FEES;

(4) MAINTAIN A LIST OF ALL AUTHORIZED INDIVIDUAL TAX PREPARERS REGISTERED BY THE BOARD;

(5) MAINTAIN A RECORD OF ITS PROCEEDINGS;

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

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

21-206.

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

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

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

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

(I) POST BOND;

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

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

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

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

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

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

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

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

21-207.

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

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

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

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

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

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

21-208.

(A) THERE IS AN INDIVIDUAL TAX PREPARERS FUND.

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

(C) THE BOARD SHALL ADMINISTER THE FUND.

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

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

(E) THE FUND CONSISTS OF:

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

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

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

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

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

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

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

21-209.

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

(B) EACH REGISTRATION UNDER THIS SECTION:

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

(2) MAY INCLUDE:

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

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

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

21-210.

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

SUBTITLE 3. REGISTRATION.

21-301.

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

21-302.

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

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

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

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

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

21-303.

AN APPLICANT FOR A REGISTRATION SHALL:

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

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

21-304.

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

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

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

(D) (1) THE BOARD SHALL GIVE THE EXAMINATION PREPARED BY THE INTERNAL REVENUE SERVICE OR AN EQUIVALENT EXAMINATION BY AN INDEPENDENT NATIONAL OR STATE REGULATORY AUTHORITY AS DETERMINED BY THE BOARD.

(2) THE EXAMINATION GIVEN UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE LESS STRINGENT THAN THE INDIVIDUALS SECTION OF THE SPECIAL ENROLLMENT EXAMINATION FOR ENROLLED AGENTS.

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

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

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

21-305.

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

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

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

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

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

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

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

(II) THE FEE FOR REEXAMINATION ON LESS THAN THE ENTIRE EXAMINATION IS LESS THAN THE FEE SET FOR THE ENTIRE EXAMINATION.

21-306.

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

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

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

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

21-307.

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

21-308.

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

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

(1) A RENEWAL APPLICATION FORM; AND

(2) A NOTICE THAT STATES:

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

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

(III) THE AMOUNT OF THE RENEWAL FEE.

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

(1) OTHERWISE IS ENTITLED TO BE REGISTERED;

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

AND

(3) SUBMITS TO THE BOARD:

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

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

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

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

21-309.

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

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

(B) THE CONTINUING EDUCATION REQUIREMENTS SHALL:

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

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

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

(I) PROFESSIONAL DEVELOPMENT PROGRAMS;

(II) TECHNICAL SESSIONS OF PROFESSIONAL SOCIETIES OR CHAPTERS;

(III) COLLEGE COURSES APPROVED BY THE BOARD;

(IV) SEMINARS PROVIDED BY GOVERNMENTAL UNITS; AND

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

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

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

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

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

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

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

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

21-310.

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

(1) OTHERWISE IS ENTITLED TO BE REGISTERED;

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

(3) PAYS TO THE BOARD:

(I) ALL PAST DUE RENEWAL FEES; AND

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

21-311.

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

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

(2) FRAUDULENTLY OR DECEPTIVELY USES A REGISTRATION;

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

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

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

(6) VIOLATES ANY PROVISION OF THIS TITLE.

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

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

(I) THE SERIOUSNESS OF THE VIOLATION;

(II) THE HARM CAUSED BY THE VIOLATION;

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

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

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

21-312.

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

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

(C) IF, AFTER DUE NOTICE, THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED FAILS OR REFUSES TO APPEAR, THE BOARD MAY HEAR AND DETERMINE THE MATTER.

21-313.

AN INDIVIDUAL AGGRIEVED BY A FINAL DECISION OF THE BOARD IN A CONTESTED CASE, AS DEFINED IN § 10-202 OF THE STATE GOVERNMENT ARTICLE, MAY TAKE AN APPEAL AS ALLOWED IN §§ 10-222 AND 10-223 OF THE STATE GOVERNMENT ARTICLE.

SUBTITLE 4. PROHIBITED ACTS; PENALTIES.

21-401.

EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON MAY NOT PROVIDE, ATTEMPT TO PROVIDE, OR OFFER TO PROVIDE INDIVIDUAL TAX PREPARATION SERVICES IN THE STATE UNLESS REGISTERED BY THE BOARD.

21-402.

UNLESS AUTHORIZED UNDER THIS TITLE TO PROVIDE INDIVIDUAL TAX PREPARATION SERVICES, AN INDIVIDUAL MAY NOT REPRESENT TO THE PUBLIC, BY USE OF A TITLE, INCLUDING “REGISTERED INDIVIDUAL TAX PREPARER” OR “INDIVIDUAL TAX PREPARER”, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL IS AUTHORIZED TO PROVIDE INDIVIDUAL TAX PREPARATION SERVICES IN THE STATE.

21-403.

(A) AN INDIVIDUAL TAX PREPARER SHALL MAINTAIN FOR A LENGTH OF TIME SPECIFIED BY THE BOARD THAT IS NOT MORE STRINGENT THAN A LENGTH

OF TIME SPECIFIED UNDER FEDERAL LAW ALL RECORDS OF PERSONAL INCOME TAX RETURNS PREPARED BY THE INDIVIDUAL TAX PREPARER.

(B) (1) PRIOR TO RENDERING INDIVIDUAL TAX PREPARATION SERVICES, AN INDIVIDUAL TAX PREPARER SHALL DISCLOSE TO THE CUSTOMER, IN WRITING:

(I) THE INDIVIDUAL TAX PREPARER'S NAME, ADDRESS, AND TELEPHONE NUMBER;

~~**(II) THE INDIVIDUAL TAX PREPARER'S EDUCATION AND TRAINING, INCLUDING EXAMINATIONS TAKEN AND SUCCESSFULLY PASSED;**~~

(II) THAT THE INDIVIDUAL TAX PREPARER IS NOT A CERTIFIED PUBLIC ACCOUNTANT, AN ENROLLED AGENT, OR A TAX ATTORNEY;

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

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

(IV) THE INDIVIDUAL TAX PREPARER'S EDUCATION AND TRAINING, INCLUDING EXAMINATIONS TAKEN AND SUCCESSFULLY PASSED; AND

(V) ANY OTHER INFORMATION THAT THE BOARD REQUIRES.

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

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

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

(C) AN INDIVIDUAL TAX PREPARER MAY NOT:

(1) FAIL TO SIGN A CUSTOMER'S INDIVIDUAL TAX RETURN;

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

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

- (I) CONSENTED TO IN WRITING BY THE CUSTOMER;**
- (II) EXPRESSLY AUTHORIZED BY LAW;**
- (III) NECESSARY FOR THE PREPARATION OF THE TAX RETURN; OR**
- (IV) IN ACCORDANCE WITH A COURT ORDER.**

21-404.

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

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

- (1) \$500 FOR EACH VIOLATION; AND**
- (2) ACTUAL DAMAGES SUSTAINED AS A RESULT OF THE VIOLATION.**

SUBTITLE 5. SHORT TITLE; TERMINATION OF TITLE.

21-501.

THIS TITLE MAY BE CITED AS THE “MARYLAND INDIVIDUAL TAX PREPARERS ACT”.

21-502.

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

Article – Business Regulation

2-108.

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

(23) THE STATE BOARD OF INDIVIDUAL TAX PREPARERS.

Article - State Government

8-403.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

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

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

- (1) three members in 2011;
- (2) three members in 2012; and
- (3) two members in 2013.

SECTION 5. AND BE IT FURTHER ENACTED, That ~~an~~:

(a) An individual who provides tax preparation in the State has 2 years after the effective date of this Act to meet the requirements of Title 21 of the Business Occupations and Professions Article, as enacted by Section 3 of this Act.

(b) The State Board of Individual Tax Preparers, in conjunction with relevant trade associations, shall develop and implement a public awareness campaign to inform the public and relevant professionals of the registration requirements of this Act.

SECTION 6. AND BE IT FURTHER ENACTED, That the ~~Board~~ State Board of Individual Tax Preparers shall grant a waiver of the examination requirements for registration to any individual who:

- (1) has obtained at least ~~10~~ 15 consecutive years of individual tax preparation experience;
- (2) has completed at least 8 hours of annual continuing education; and
- (3) is in good standing with the Internal Revenue Service, Department of Labor, Licensing, and Regulation, Office of the Comptroller, and Office of the Attorney General.

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

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

Approved by the Governor, May 22, 2008.