

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL 987
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in lines 2 and 3, strike “- Wetland Permits and Authorizations” and substitute “- Tidal Wetlands Licenses”; in line 4, after “of” insert “exempting certain licensed marine contractors from certain home improvement contractor licensing requirements; requiring the Department of the Environment to make certain notifications regarding certain wetlands license applications and delineations on or before a certain length of time; requiring the Department to grant, deny, or condition certain tidal wetlands licenses on or before a certain length of time under certain circumstances; requiring the Department to issue a certain public notice and provide an opportunity to submit certain comments or request a certain hearing under certain circumstances; establishing a Marine Contractors Licensing Board; providing for the membership of the Board;”; in line 5, strike “Department of the Environment” and substitute “Board”; strike beginning with “authorizing” in line 6 down through “duties” in line 7 and substitute “establishing certain powers and duties of the Board”; in line 8, after “the” insert “Board to recommend certain regulations for adoption by the”; in the same line, strike “to adopt certain regulations and” and substitute “of the Environment and to”; in line 9, strike “roster” and substitute “record”; in lines 13, 14, 16, 17, 18, 24, 28, and 30, in each instance, strike “Secretary” and substitute “Board”; in line 19, strike “providing that a license is void under certain circumstances;”; in line 23, after “to” insert “adopt regulations to”; in line 24, after “of” insert “certain”; in line 26, strike “the” and substitute “a”; in line 27, strike “a certain fee” and substitute “certain fees”; and in line 29, strike “a firm” and substitute “an entity”.

On page 2, in line 2, strike “Secretary” and substitute “Board”; in line 3, after “deny,” insert “refuse to renew,”; in line 6, after “law;” insert “establishing a civil penalty for certain violations; requiring certain penalties that are collected to be paid into the Wetlands and Waterways Program Fund for administration of the Board;”;

(Over)

strike beginning with “requiring” in line 6 down through “association;” in line 17; in line 18, strike “or consult”; in line 19, after “circumstances;” insert “providing that certain property owners are not required to hire a licensed marine contractor under certain circumstances;”; in the same line, after “establishing” insert “a”; in the same line, strike “administrative fines” and substitute “fine”; in lines 19 and 20, strike “or consult”; in line 20, after “required;” insert “establishing a certain notification requirement applicable to the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays; providing for certain processing times for certain tidal wetlands license applications;”; strike beginning with “and” in line 21 down through “term” in line 22 and substitute “; requiring all marine contractors performing certain services to register with the Department and pay a certain fee on or before a certain date; prohibiting a marine contractor that fails to register from performing or soliciting to perform certain services after a certain date; requiring the Department, for certain initial recommendations of appointments to the Board, to select marine contractors from a certain list”; and strike beginning with the first “and” in line 23 down through “process” in line 24.

AMENDMENT NO. 2

On page 2, after line 24, insert:

“BY repealing and reenacting, with amendments,

Article - Business Regulation

Section 8-301

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article - Environment

Section 16-101(h) through (n) and 16-202

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)”;

in line 26, strike “Business Occupations and Professions” and substitute “Environment”; in line 27, strike “22-101 through 22-401” and substitute “16-101(h) and 16-106; and 17-101 through 17-403”; and in the same line, strike “22.” and substitute “17.”; in line 30, strike “2004” and substitute “2007”.

On pages 2 and 3, strike in their entirety the lines beginning with line 31 on page 2 through line 2 on page 3.

AMENDMENT NO. 3

On page 3, after line 4, insert:

“Article – Business Regulation

8–301.

(a) Except as otherwise provided in this title, a person must have a contractor license whenever the person acts as a contractor in the State.

(b) Except as otherwise provided in this title, a person must have a subcontractor license or contractor license whenever the person acts as a subcontractor in the State.

(c) Except as otherwise provided in this title, a person must have a salesperson license or contractor license whenever the person sells a home improvement in the State.

(d) This section does not apply to:

(1) an individual who works for a contractor or subcontractor for a salary or wages but who is not a salesperson for the contractor;

(Over)

(2) a clerical employee, retail clerk, or other employee of a licensed contractor who is not a salesperson, as to a transaction on the premises of the licensed contractor;

(3) a solicitor for a contractor who calls an owner by telephone only;

(4) an architect, electrician, plumber, heating, ventilation, air-conditioning, or refrigeration contractor, or other person who:

(i) is required by State or local law to meet standards of competency or experience before engaging in an occupation or profession;

(ii) currently is licensed in that occupation or profession under State or local law; and

(iii) is:

1. acting only within the scope of that occupation or profession; or

2. installing a central heating or air-conditioning system;

(5) a security systems technician licensed under Title 18 of the Business Occupations and Professions Article; [or]

(6) A MARINE CONTRACTOR LICENSED UNDER TITLE 17, SUBTITLE 3 OF THE ENVIRONMENT ARTICLE; OR

[(6)] (7) a person who is selling a home improvement to be performed by a person described in item (4) of this subsection.

Article – Environment

16–101.

(H) “LICENSED MARINE CONTRACTOR” HAS THE MEANING STATED IN TITLE 17, SUBTITLE 3 OF THIS ARTICLE.

[(h)] (I) (1) “Pier” means any pier, wharf, dock, walkway, bulkhead, breakwater, piles, or other similar structure.

(2) “Pier” does not include any structure on pilings or stilts that was originally constructed beyond the landward boundaries of State or private wetlands.

[(i)] (J) “Person” means any natural person, partnership, joint-stock company, unincorporated association or society, the federal government, the State, any unit of the State, a political subdivision, or other corporation of any type.

[(j)] (K) (1) “Private wetlands” means any land not considered “State wetland” bordering on or lying beneath tidal waters, which is subject to regular or periodic tidal action and supports aquatic growth.

(2) “Private wetlands” includes wetlands, transferred by the State by a valid grant, lease, patent, or grant confirmed by Article 5 of the Maryland Declaration of Rights, to the extent of the interest transferred.

[(k)] (L) (1) “Public notice” means the public notice and public informational hearing procedures established in § 5–204(b) through (e) of this article.

(2) “Public notice” does not mean notice as provided for in § 16–303 of this title.

(Over)

~~[(l)]~~ **(M)** “Regular or periodic tidal action” means the rise and fall of the sea produced by the attraction of the sun and moon uninfluenced by wind or any other circumstance.

~~[(m)]~~ **(N)** “Secretary” means the Secretary of the Environment.

~~[(n)]~~ **(O)** “State wetlands” means any land under the navigable waters of the State below the mean high tide, affected by the regular rise and fall of the tide. Wetlands of this category which have been transferred by the State by valid grant, lease, patent or grant confirmed by Article 5 of the Maryland Declaration of Rights shall be considered “private wetland” to the extent of the interest transferred.

16-106.

(A) (1) A PERSON THAT UNDERTAKES OR AUTHORIZES AN ACTIVITY THAT REQUIRES A LICENSE OR PERMIT UNDER THIS TITLE SHALL:

(I) HIRE A LICENSED MARINE CONTRACTOR TO DO THE WORK; OR

(II) BE A LICENSED MARINE CONTRACTOR.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A HOMEOWNER SHALL BE EXEMPT FROM THE REQUIREMENT TO BE OR TO HIRE A LICENSED MARINE CONTRACTOR UNDER SUBSECTION (A) OF THIS SECTION IF:

(I) THE HOMEOWNER PERFORMS MARINE CONTRACTOR SERVICES ON THE HOMEOWNER’S PROPERTY; AND

(II) THE HOMEOWNER OBTAINS THE NECESSARY TIDAL WETLANDS LICENSES OR PERMITS REQUIRED UNDER THIS TITLE.

(B) (1) A PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION OR ANY REGULATION ADOPTED UNDER THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

(2) EACH DAY THAT A PERSON CONDUCTS MARINE CONTRACTOR SERVICES WITHOUT A LICENSE CONSTITUTES A SEPARATE OFFENSE.

(C) (1) IN ADDITION TO ANY OTHER SANCTION UNDER THIS SECTION, A CIVIL ACTION MAY BE BROUGHT AGAINST A PERSON FOR A VIOLATION OF SUBSECTION (A) OF THIS SECTION OR ANY REGULATION ADOPTED UNDER THIS SECTION.

(2) A PERSON MAY BE LIABLE FOR A CIVIL PENALTY UNDER THIS SUBSECTION NOT TO EXCEED \$10,000 FOR EACH VIOLATION.

(D) ANY PENALTIES COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE WETLANDS AND WATERWAYS PROGRAM FUND ESTABLISHED UNDER § 5-203.1 OF THIS ARTICLE, FOR THE ADMINISTRATION OF THE MARINE CONTRACTORS LICENSING BOARD ESTABLISHED UNDER TITLE 17 OF THIS ARTICLE.

(E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ADMINISTER AND ENFORCE THE PROVISIONS OF THIS SECTION.

(a) A person may not dredge or fill on State wetlands without a license.

(b) TO APPLY FOR A LICENSE, THE APPLICANT SHALL SUBMIT A DELINEATION OF THE AFFECTED TIDAL WETLANDS AND ALL OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

(c) (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, WITHIN 45 DAYS FROM RECEIPT OF THE APPLICATION, THE DEPARTMENT SHALL NOTIFY THE APPLICANT WHETHER THE APPLICATION IS COMPLETE AND WHETHER THE DELINEATION IS CORRECT.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IF THE DEPARTMENT FAILS TO NOTIFY THE APPLICANT ABOUT THE APPLICATION OR DELINEATION WITHIN 45 DAYS, THE DELINEATION SHALL BE TREATED BY THE DEPARTMENT AS CORRECT, AND THE APPLICATION SHALL BE TREATED AS COMPLETE.

(3) UPON WRITTEN NOTICE TO THE APPLICANT, THE DEPARTMENT MAY PROVIDE FOR AN EXTENSION OF THE DEADLINE UNDER THIS SUBSECTION IF THE FOLLOWING EXTENUATING CIRCUMSTANCES PREVENT CONSIDERATION OF THE APPLICATION:

(i) INCLEMENT WEATHER CONDITIONS;

(ii) A REVIEW IS REQUIRED BY A FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCY; OR

(iii) A REQUEST IS MADE BY AN APPLICANT.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ONCE THE APPLICATION IS COMPLETE IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, THE DEPARTMENT SHALL GRANT, DENY, OR CONDITION A LICENSE WITHIN 45 DAYS IF:

(I) THE APPLICATION IS NOT SUBJECT TO PUBLIC NOTICE AND HEARING REQUIREMENTS UNDER SUBSECTION (G) OF THIS SECTION; OR

(II) THE APPLICATION DOES NOT REQUIRE AN ACTION BY THE BOARD.

(2) UPON WRITTEN NOTICE TO THE APPLICANT, THE DEPARTMENT MAY PROVIDE FOR A 30-DAY EXTENSION OF THE DEADLINE UNDER THIS SUBSECTION FOR THE FOLLOWING EXTENUATING CIRCUMSTANCES:

(I) A REVIEW IS REQUIRED BY A FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCY; OR

(II) A REQUEST IS MADE BY AN APPLICANT.

(E) (1) ONCE THE APPLICATION IS COMPLETE UNDER SUBSECTION (C) OF THIS SECTION, THE DEPARTMENT SHALL ISSUE PUBLIC NOTICE OF AN OPPORTUNITY TO SUBMIT WRITTEN COMMENTS OR TO REQUEST A HEARING IN ACCORDANCE WITH § 5-204(B) THROUGH (E) OF THIS ARTICLE.

(2) A HEARING REQUESTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE HELD WITHIN 45 DAYS OF THE HEARING REQUEST, UNLESS EXTENUATING CIRCUMSTANCES JUSTIFY AN EXTENSION OF TIME.

(Over)

(3) THE HEARING THAT MAY BE REQUESTED UNDER THIS SUBSECTION IS NOT A CONTESTED CASE HEARING UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

[(b)] (F) The Secretary shall assist the Board in determining whether to issue a license to dredge or fill State wetlands. The Secretary shall submit a report indicating whether the license should be granted and, if so, the terms, conditions, and consideration required after consultation with any interested federal, State, and local unit, and after issuing public notice, holding any requested hearing, and taking any evidence the Secretary thinks advisable.

[(c)] (G) (1) Upon receipt of a report by the Secretary, the Board shall decide if issuance of the license is in the best interest of the State, taking into account the varying ecological, economic, developmental, recreational, and aesthetic values each application presents. If the Board decides to issue the license, the issuance of the license shall be for consideration and on terms and conditions the Board determines. Every license shall be in writing.

(2) With respect to an application for a license to fill or construct a shore erosion control structure other than riprap on State wetlands, the Board may issue the license without public notice if the fill area is less than 300 feet in length parallel to the fast land as close to the fast land as structurally feasible but not more than 10 feet channelward of the mean high water line and if after a site visit the report of the Secretary recommends that the license be granted. The Board may issue a license without public notice where an emergency exists caused by act of God, natural disaster, catastrophe, or other similar natural event when the health, safety, or welfare of the citizens of the State would be jeopardized by a delay caused by time requirements for public notice. However, the license may be granted by the Board only with the concurrence of the Secretary. The Secretary shall provide prompt public notice of the emergency license issuance and the opportunity to submit written

comments or to request a hearing to determine whether the emergency license shall be revoked or made permanent. If a hearing is requested, the hearing shall be scheduled within 30 days of the emergency issuance of the license.

(3) If the report of the Secretary recommends that a license be granted, the Board may issue the license without public notice:

(i) To fill or construct a shore erosion control structure of riprap on State wetlands if the fill area is less than 500 feet in length parallel to the fast land as close to the fast land as structurally feasible but not more than 10 feet channelward of the mean high water line;

(ii) To repair or replace a bulkhead for the purpose of shore erosion control where the bulkhead is presently functional, but is deteriorating or damaged, provided that the repair or replacement structure does not extend more than 18 inches channelward of the existing structure. Repair or replacement may include riprap placed along the base of the bulkhead, provided that the riprap shall not extend more than 10 feet channelward of the bulkhead;

(iii) To fill near shore shallow water bottom extending no more than 35 feet channelward of the mean high water line provided the fill area is less than 500 feet in length parallel to the fast land for the purpose of shore erosion control by landscaping and wetland plant establishment;

(iv) To construct or repair a private noncommercial boat ramp provided the ramp does not exceed 12 feet in width and extend more than 30 feet channelward of the mean high water line; or

(v) To maintenance dredge a mooring, private or commercial boat ramp, mobile boat hoist slip, or marine railway when no more than 100 cubic yards of material nor an area greater than 1,500 square feet need to be dredged.

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(4) With respect to the maintenance dredging of projects in State wetlands for which a license is to be issued, the license may include provision for periodic maintenance dredging if recommended by the report of the Secretary provided that the maintenance dredging be effected:

(i) Within the area, depth, and in conformity with other limitations contained in the license;

(ii) That no more than 500 cubic yards of material be dredged at each maintenance dredging to restore licensed works;

(iii) That the material from maintenance dredging be deposited upon the designated or other upland site approved by the Secretary; and

(iv) That the Secretary be notified and approve of each maintenance dredging operation.

(5) The provisions for periodic maintenance dredging under paragraph (4) of this subsection shall be effective for no more than 6 years beyond the date of issuance of the license.

(6) If the licensee desires to continue maintenance dredging beyond the expiration date authorized in paragraph (5) of this subsection, the licensee must obtain a new license by submitting an application to the Board for review in accordance with the procedures of this section.

[(d)] (H) The provisions of this section do not apply to any operation for:

(1) Dredging and filling being conducted as of July 1, 1970, as authorized under the terms of an appropriate permit or license granted under the provisions of existing State and federal law;

(2) Dredging of seafood products by any licensed operator, harvesting of seaweed, or mosquito control and abatement as approved by the Department of Agriculture;

(3) Improvement of wildlife habitat or agricultural drainage ditches as approved by an appropriate unit;

(4) Routine maintenance or repair of existing bulkheads, provided that there is no addition or channelward encroachment; or

(5) Aquaculture activities occurring in Aquaculture Enterprise Zones established under Title 4, Subtitle 11A of the Natural Resources Article under an aquaculture lease issued by the Department of Natural Resources.

[(e)] (I) (1) The Board may not approve a license or an amendment to a license authorizing the dredge material deposited in the Hart–Miller Island Dredged Material Containment Facility to exceed an elevation of:

(i) 44 feet above the mean low water mark in the north cell; and

(ii) 28 feet above the mean low water mark in the south cell.

(2) On or after January 1, 2010, the Board may not approve a license or an amendment to a license authorizing the deposit of dredge material at the Hart–Miller Dredged Material Containment Facility.”.

AMENDMENT NO. 4

On page 3, strike line 5 in its entirety; in line 6, strike “**22.**” and substitute “**17.**”; in line 8, strike “**22-101.**” and substitute “**17-101.**”; in line 11, strike “**DEPARTMENT**” and substitute “**BOARD**”; in the same line, strike “**DEPARTMENT OF THE ENVIRONMENT**” and substitute “**MARINE CONTRACTORS LICENSING**”

BOARD"; in line 12, strike "FIRM" and substitute "ENTITY"; in the same line, after "A" insert "PROFESSIONAL"; in line 15, strike "SECRETARY" and substitute "BOARD"; in the same line, after "TO" insert "AN INDIVIDUAL OR ENTITY TO"; in line 16, strike "PROVIDE" and substitute "PERFORM"; strike beginning with "A" in line 17 down through "STATE" in line 19 and substitute "AN INDIVIDUAL OR ENTITY THAT HAS RECEIVED A LICENSE FROM THE BOARD TO PERFORM MARINE CONTRACTOR SERVICES"; in line 20, strike "THE"; in line 21, after "INSTALLATION," insert "ALTERATION,"; in the same line, strike "SALE,"; in lines 21 and 22, strike "OF STRUCTURES" and substitute "ACTIVITIES"; in line 22, strike "THE STATE'S" and substitute ", ON, OVER, OR UNDER STATE OR PRIVATE"; in the same line, strike "AND NONTIDAL"; strike beginning with the last comma in line 22 down through "WHARFS" in line 26; in line 27, strike "THE" and substitute ":

(I) DREDGING AND FILLING;

(II) THE CONSTRUCTION, DEMOLITION, INSTALLATION, ALTERATION, REPAIR, OR SALVAGE OF STRUCTURES, INCLUDING BOATHOUSES, BOAT OR OTHER PERSONAL WATERCRAFT LIFTS OR RAMPS, SLIPS, DOCKS, FLOATING PLATFORMS, MOORINGS, PIERS, PIER ACCESS STRUCTURES, PILINGS, WETLAND OBSERVATION PLATFORMS, WETLAND WALKWAYS, AND WHARFS; AND

(III) THE;

in line 28, after "INSTALLATION," insert "ALTERATION,"; in the same line, strike "SALE,"; in line 29, strike "MECHANISMS" and substitute "MEASURES"; in line 30, strike "AND"; and in line 31, after "SILLS" insert ", MARSH ESTABLISHMENTS, AND BEACH NOURISHMENT OR OTHER SIMILAR PROJECTS".

AMENDMENT NO. 5

On page 4, strike line 1 in its entirety; in line 2, strike “**SECRETARY**” and substitute “**MARINE CONTRACTORS LICENSING BOARD**”; in line 3, strike “**22-201.**” and substitute “**17-201.**”; in line 4, before “**SUBJECT**” insert:

“(A) THERE IS A MARINE CONTRACTORS LICENSING BOARD.

(B)”;

in the same line, strike “**SECRETARY**” and substitute “**BOARD**”; in line 5, strike “**PERSONS**” and substitute “**INDIVIDUALS AND ENTITIES**”; and after line 6, insert:

“17-202.

(A) (1) THE BOARD CONSISTS OF SEVEN MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE OF THE SECRETARY, AND WITH THE ADVICE AND CONSENT OF THE SENATE.

(2) OF THE SEVEN MEMBERS:

(I) ONE SHALL BE EMPLOYED BY THE DEPARTMENT;

(II) ONE SHALL BE EMPLOYED BY THE DEPARTMENT OF NATURAL RESOURCES;

(III) THREE SHALL BE LICENSED MARINE CONTRACTORS AND SHALL INCLUDE:

1. ONE FROM ANNE ARUNDEL, CALVERT, CHARLES, PRINCE GEORGE’S, OR ST. MARY’S COUNTIES;

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2. ONE FROM BALTIMORE CITY, OR BALTIMORE, CECIL, HARFORD, KENT, OR QUEEN ANNE'S COUNTIES; AND

3. ONE FROM CAROLINE, DORCHESTER, SOMERSET, TALBOT, WICOMICO, OR WORCESTER COUNTIES; AND

(IV) TWO SHALL BE PRIVATE CITIZENS, APPOINTED AT LARGE, WHO REPRESENT DIVERSE INTERESTS, AND SHALL INCLUDE:

1. ONE FROM BALTIMORE CITY, OR ANNE ARUNDEL, BALTIMORE, CALVERT, CHARLES, HARFORD, PRINCE GEORGE'S, OR ST. MARY'S COUNTIES; AND

2. ONE FROM CAROLINE, CECIL, DORCHESTER, KENT, QUEEN ANNE'S, SOMERSET, TALBOT, WICOMICO, OR WORCESTER COUNTIES.

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

(C) (1) THE TERM OF A MEMBER OF THE BOARD IS 3 YEARS.

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

(3) 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.

(D) THE GOVERNOR MAY REMOVE A MEMBER FROM THE BOARD FOR INCOMPETENCE, MISCONDUCT, NEGLIGENCE OF DUTY, OR OTHER SUFFICIENT CAUSE.

17-203.

(A) FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR, VICE CHAIR, AND SECRETARY ANNUALLY.

(B) THE BOARD SHALL DETERMINE THE MANNER OF THE ELECTION OF OFFICERS.

17-204.

(A) THE BOARD SHALL MEET AT LEAST TWICE A YEAR, AT THE TIMES AND PLACES THAT THE BOARD DETERMINES.

(B) EACH MEMBER OF THE BOARD IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

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

AMENDMENT NO. 6

On page 4, in line 7, strike “**22-202.**” and substitute “**17-205.**”; strike beginning with “**IN**” in line 8 down through “**SECRETARY**” in line 9 and substitute “**THE BOARD**”; in line 10, strike “**ADOPT**” and substitute “**RECOMMEND**”; in the same line, after “**REGULATIONS**” insert “**FOR ADOPTION BY THE SECRETARY**”; in the same line, after “**OUT**” insert “**THE PROVISIONS OF**”; in the same line, after the semicolon insert “**AND**”; strike beginning with “**USE**” in line 11 down through “**MAKE**” in line 13 and substitute “**MAKE**”; strike beginning with “**IN**” in line 15 down through “**SECRETARY**” in line 16 and substitute “**THE BOARD**”; strike beginning with “**ADOPT**” in line 17 down through “**AND**” in line 18 and substitute “**CARRY OUT THE PROVISIONS OF THIS TITLE;**”

(2) COLLECT AND ACCOUNT FOR THE FEES PROVIDED FOR UNDER THIS TITLE; AND”;

in line 19, strike “**(2) KEEP**” and substitute “**(3) KEEP**”; in the same line, strike “**ROSTER**” and substitute “**CURRENT RECORD**”; in the same line, strike “**THE**” and substitute “**ALL**”; in lines 19 and 20, strike “**FIRMS WITH LICENSES**” and substitute “**ENTITIES LICENSED**”; in line 20, strike “**ON THE ROSTER**”; in line 21, strike “**THE**” and substitute “**THE**”; in the same line, strike “**FIRMS**” and substitute “**ENTITIES THAT ARE**”; in line 22, strike “**THE LICENSE**” and substitute “**THE**”; in the same line, after “**DATES**” insert “**OF THE LICENSES**”; in line 23, strike “**ANY**” and substitute “**ANY**”; in the same line, strike “**SECRETARY**” and substitute “**BOARD**”; and after line 24, insert:

17-206.

(A) (1) THE BOARD SHALL SET REASONABLE FEES FOR THE ISSUANCE AND RENEWAL OF LICENSES AND OTHER SERVICES THAT THE BOARD PROVIDES.

(2) THE FEES IMPOSED BY THE BOARD SHALL BE SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COSTS OF MAINTAINING THE BOARD.

(B) THE BOARD SHALL PAY ALL FUNDS COLLECTED UNDER THIS TITLE INTO THE WETLANDS AND WATERWAYS PROGRAM FUND UNDER § 5-203.1 OF THIS ARTICLE FOR THE ADMINISTRATION OF THE BOARD.

AMENDMENT NO. 7

On page 4, in line 25, strike “MARINE CONTRACTOR LICENSES” and substitute “**LICENSING**”; and in line 26, strike “22-301.” and substitute “**17-301.**”.

On page 5, in line 1, strike “A” and substitute “**EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A**”; in the same line, strike “SECRETARY” and substitute “**BOARD**”; and in line 2, strike “FIRM” and substitute “**ENTITY THAT IS**”; in line 4, strike “PROVIDE” and substitute “**PERFORM**”; in line 5, strike “SOLICIT” and substitute “**SOLICIT**”; in the same line, strike “PROVIDE” and substitute “**PERFORM**”; in line 7, strike “A FIRM” and substitute “**AN ENTITY**”; after line 7, insert:

“(C) AN INDIVIDUAL WHO IS EMPLOYED BY AN AGENCY OF THE FEDERAL GOVERNMENT OR THE STATE MAY PERFORM MARINE CONTRACTOR SERVICES WHILE IN THE PERFORMANCE OF THE DUTIES OF THEIR EMPLOYMENT WITHOUT HAVING TO OBTAIN A LICENSE FROM THE BOARD UNDER THIS TITLE.”;

in line 8, strike “22-302.” and substitute “**17-302.**”; in line 10, after “SECTION” insert “**AND ANY REGULATIONS ADOPTED UNDER THIS SECTION**”; in lines 11 and 14, in each instance, strike “A FIRM” and substitute “**AN ENTITY**”; in lines 11, 12, and 13, in each instance, strike “FIRM” and substitute “**ENTITY**”; in lines 16 and 21, in each instance, strike “HAVE” and substitute “**HAVE**”; in line 17, after “CONTRACTOR” insert “**OR DEMONSTRATE SIMILAR CONTRACTOR EXPERIENCE**”; in line 18, strike “PASS” and substitute “**PASS**”; strike beginning with “SECRETARY” in line 19 down

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through “ASSOCIATION” in line 20 and substitute “BOARD”; in line 21, after “NUMBER;” insert “AND”; strike beginning with “BE” in line 22 down through “CARRY” in line 24 and substitute “CARRY”; in line 25, strike “COMMERCIAL” and substitute “COMMERCIAL”; and in line 27, strike “WORKERS” and substitute “WORKERS”.

AMENDMENT NO. 8

On page 5, in line 29, strike “~~22-303.~~” and substitute “17-303.”.

On page 6, in line 1, strike “AN” and substitute “TO APPLY FOR A LICENSE, AN”; and in the same line, strike “FOR A LICENSE”; in lines 2, 3, 6, 14, and 20, in each instance, strike “SECRETARY” and substitute “BOARD”; in lines 2 and 4, in each instance, strike “SUBMIT” and substitute “SUBMIT”; in line 6, strike “PAY” and substitute “PAY”; in the same line, after the second “THE” insert “REQUIRED APPLICATION”; strike beginning with “REQUIRED” in line 6 down through “SECTION” in line 7 and substitute “SET BY THE BOARD”; in lines 8 and 19, in each instance, strike “A FIRM” and substitute “AN ENTITY”; in line 10, strike “FIRM’S” and substitute “ENTITY’S”; strike beginning with “AN” in line 11 down through “(C)” in line 13; in lines 15, 16, 17, and 27, in each instance, strike the first “THE” and substitute “THE”; in line 21, strike “A” and substitute “A”; in the same line, strike “FIRM’S” and substitute “ENTITY’S”; in line 22, strike “FOR” and substitute “FOR”; and in the same line, strike “FIRM” and substitute “ENTITY”.

On page 7, in line 1, strike “ANY” and substitute “ALL”; in the same line, strike “NAME” and substitute “NAMES”; and in line 2, strike “CONDUCTING THE BUSINESS OF MARINE CONTRACTING” and substitute “PERFORMING MARINE CONTRACTOR SERVICES”; in line 4, strike “AS” and substitute “AS”; in lines 4, 8, 15, 21, 26, 29, and 30, in each instance, strike “SECRETARY” and substitute “BOARD”; in line 6, strike “AN” and substitute “AN”; in line 7, strike “IF” and substitute “IF”; in lines 7 and 13, in each instance, strike “A FIRM” and substitute “AN ENTITY”; in lines 7 and 16, in

each instance, strike “FIRM” and substitute “ENTITY”; in lines 8, 11, and 17, strike “(D)”, “(E)”, and “(F)”, respectively, and substitute “(C)”, “(D)”, and “(E)”, respectively; in line 10, strike “§ 22-401” and substitute “§ 17-403”; in line 11, strike “APPLICATION” and substitute “INDIVIDUAL SHALL SIGN THE APPLICATION”; in line 12, strike “SHALL BE SIGNED,”; in the same line, strike “, BY THE INDIVIDUAL”; strike beginning with the second “THE” in line 13 down through “AS” in line 14; in line 15, after “MEMBER” insert “OF THE ENTITY SHALL SIGN THE APPLICATION FORM UNDER OATH”; in line 18, strike “§ 22-302(C)(5)” and substitute “§ 17-302(C)(4)”; in lines 20 and 25, strike “22-304.” and “22-305.”, respectively, and substitute “17-304.” and “17-305.”, respectively; in line 27, strike “EACH” and substitute “ANY”; in line 28, strike “SUBTITLE” and substitute “TITLE AND ANY REGULATION ADOPTED UNDER THIS TITLE”.

On page 8, in lines 1, 3, 4, 5, and 7, in each instance, strike the first “THE” and substitute “THE”; in line 2, strike “THE” and substitute “THE”; in lines 4, 8, and 15, in each instance, strike “A FIRM” and substitute “AN ENTITY”; strike in their entirety lines 9 through 13, inclusive; and in lines 14 and 22, strike “22-306.” and “22-307.”, respectively, and substitute “17-306.” and “17-307.”, respectively; in lines 16 and 21, in each instance, strike “FIRM” and substitute “ENTITY”; in line 17, strike “EMPLOY” and substitute “EMPLOY”; in line 20, strike “REPRESENT” and substitute “REPRESENT”; and in line 24, strike “INCLUDE” and substitute “INCLUDE”.

On page 9, in line 1, strike “PROMINENTLY” and substitute “PROMINENTLY”; in line 4, strike “22-308” and substitute “17-308”; in line 5, strike “BY REGULATION, THE” and substitute “THE”; in the same line, after “SHALL” insert “ADOPT REGULATIONS TO”; in line 7, strike “THE” and substitute “A”; in the same line, after “SETS” insert “, IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION”; in lines 8 and 27, in each instance, strike “SECRETARY” and substitute “BOARD”; in line 8, strike “1 MONTH” and substitute “2 MONTHS”; in line 9, strike “MAIL” and substitute “SEND”; in the same line, strike “AT” and substitute “, BY FIRST-CLASS”.

(Over)

MAIL OR ELECTRONICALLY, TO"; in lines 11 and 12, in each instance, strike "A" and substitute "A"; in lines 13 and 17, in each instance, strike the first "THE" and substitute "THE"; in line 14, strike "THAT THE SECRETARY" and substitute "THE DATE BY WHICH THE BOARD"; in line 15, strike "AT LEAST 15 DAYS BEFORE THE LICENSE EXPIRATION DATE"; in line 18, strike "A" and substitute "BEFORE A LICENSE EXPIRES, THE"; in line 20, strike "IS" and substitute "IS"; in line 21, strike "(I) PAYS TO THE SECRETARY A" and substitute "PAYS TO THE BOARD:"

(I) THE REQUIRED;

in the same line, strike "OF \$300" and substitute "SET BY THE BOARD"; in line 22, strike "PAYS TO THE SECRETARY ANY" and substitute "ANY"; in the same line, after "FEES;" insert "AND"; in line 23, strike "SUBMITS" and substitute "SUBMITS"; strike beginning with "SECRETARY" in line 23 down through "AND" in line 25 and substitute "BOARD:"

(I) SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE CONTINUING EDUCATION REQUIREMENTS ESTABLISHED UNDER SUBSECTION (E) OF THIS SECTION;

(II) SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE INSURANCE REQUIREMENTS ESTABLISHED UNDER § 17-302 OF THIS SUBTITLE;

(III) SATISFACTORY EVIDENCE OF THE RESOLUTION OF ANY LICENSE VIOLATIONS, SUSPENSIONS, DENIALS, REVOCATIONS, OR OTHER BOARD ACTIONS TAKEN UNDER THIS TITLE; AND;

in line 26, strike "(4) SUBMITS TO THE SECRETARY A" and substitute "**(IV) A**"; and after line 27, insert:

“(E) (1) A LICENSEE SHALL COMPLETE 12 HOURS OF CONTINUING EDUCATION INSTRUCTION COVERING MARINE CONTRACTOR SUBJECT MATTER APPROVED BY THE BOARD.

(2) (I) THE BOARD SHALL APPROVE THE SUBSTANCE AND FORM OF A CONTINUING EDUCATION COURSE IF THE COURSE IS:

1. OFFERED BY A QUALIFIED INSTRUCTOR; OR
2. CONDUCTED BY AN EDUCATIONAL INSTITUTION APPROVED BY THE BOARD.

(II) THE LICENSEE IS RESPONSIBLE FOR THE COST OF ANY CONTINUING EDUCATION COURSE.”.

On page 10, in line 1, strike “(E)” and substitute “(F)”; in lines 1 and 5, in each instance, strike “SECRETARY” and substitute “BOARD”; in line 3, strike “22-309.” and substitute “17-309.”; and in line 4, strike “THAT IS A FIRM”; in line 6, strike “THE ADDITION OF A BRANCH OFFICE” and substitute “IF THE LICENSEE IS AN INDIVIDUAL OR ENTITY, ANY CHANGE IN THE ADDRESS OR TELEPHONE NUMBER OF AN EXISTING OFFICE OR PRINCIPAL PLACE OF BUSINESS”; strike beginning with “ANY” in line 7 down through “OFFICE” in line 8 and substitute “IF THE LICENSEE IS AN ENTITY, THE ADDITION OF A BRANCH OFFICE”; in line 9, strike “22-310.” and substitute “17-310.”; in line 12, strike “(B)” and substitute “(C)”; in lines 12, 15, 16, and 22, in each instance, strike “SECRETARY” and substitute “BOARD”; in line 13, after “DENY,” insert “REFUSE TO RENEW,”; in line 14, strike “VIOLATES” and substitute “:

(1) VIOLATES”;

(Over)

in the same line, after “TITLE” insert “OR ANY REGULATION ADOPTED UNDER THIS TITLE;”

(2) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A LICENSE FOR THE LICENSEE OR FOR ANOTHER PERSON;

(3) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

(4) COMMITS ANY GROSS NEGLIGENCE, INCOMPETENCE, OR MISCONDUCT WHILE PRACTICING MARINE CONTRACTOR SERVICES;

(5) FAILS TO COMPLY WITH THE TERMS OF A TIDAL WETLANDS AUTHORIZATION ISSUED UNDER § 16-202 OR § 16-307 OF THIS ARTICLE;

(6) VIOLATES ANY PROVISION OF, OR REGULATIONS ADOPTED UNDER, § 16-202 OR § 16-307 OF THIS ARTICLE; OR

(7) IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA, AS DEFINED UNDER § 8-1802 OF THE NATURAL RESOURCES ARTICLE, FAILS TO COMPLY WITH:

(I) THE TERMS OF A STATE OR LOCAL PERMIT, LICENSE, OR APPROVAL; OR

(II) ANY STATE OR LOCAL LAW, AN APPROVED PLAN, OR OTHER LEGAL REQUIREMENT”;

in line 15, after “(B)” insert “THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS, ESTABLISHED UNDER TITLE 8, SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE, SHALL NOTIFY THE”

BOARD OF ANY LICENSED MARINE CONTRACTOR OR APPLICANT FOR A LICENSE THAT FAILS TO COMPLY WITH ANY REQUIREMENT UNDER SUBSECTION (A)(7) OF THIS SECTION.

(C)”;

strike beginning with “**HOLD**” in line 18 down through “**ARTICLE**” in line 19 and substitute “**THE OPPORTUNITY FOR A HEARING BEFORE THE BOARD**”; after line 19, insert:

“(2) THE BOARD SHALL PROVIDE NOTICE AND HOLD A HEARING IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

(3) AT LEAST 30 DAYS BEFORE THE HEARING, THE HEARING NOTICE SHALL BE:

(I) SERVED PERSONALLY ON THE INDIVIDUAL; OR

(II) SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES POSTAL SERVICE, TO THE LAST KNOWN ADDRESS OF THE INDIVIDUAL OR ENTITY.”;

in line 20, strike “**(2)**” and substitute “**(4)**”; after line 22, insert:

“(D) EXCEPT AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD MAY TAKE AN APPEAL AS AUTHORIZED UNDER §§ 10-222 AND 10-223 OF THE STATE GOVERNMENT ARTICLE.”;

and in line 23, strike “**(C)**” and substitute “**(E)**”.

(Over)

AMENDMENT NO. 9

On page 10, after line 27, insert:

“17-401.

AN INDIVIDUAL OR ENTITY MAY NOT CONDUCT, ATTEMPT TO CONDUCT, OR OFFER TO CONDUCT MARINE CONTRACTOR SERVICES UNLESS THE INDIVIDUAL OR ENTITY IS LICENSED BY THE BOARD.

17-402.

UNLESS AUTHORIZED TO PERFORM MARINE CONTRACTOR SERVICES UNDER THIS TITLE, AN INDIVIDUAL OR ENTITY MAY NOT REPRESENT TO THE PUBLIC BY TITLE, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL OR ENTITY IS AUTHORIZED TO PERFORM MARINE CONTRACTOR SERVICES IN THE STATE.”;

in line 28, strike “22-401.” and substitute “17-403.”; in line 29, before “A” insert “(A)”; in the same line, strike “KNOWINGLY”; in the same line, after “TITLE” insert “OR ANY REGULATION ADOPTED UNDER THIS TITLE”; in line 31, strike “\$1,000” and substitute “\$10,000”; and after line 31, insert:

“(2) EACH DAY THAT A PERSON CONDUCTS MARINE CONTRACTOR SERVICES WITHOUT A LICENSE CONSTITUTES A SEPARATE OFFENSE.

(B) (1) IN ADDITION TO ANY OTHER SANCTION UNDER THIS SUBTITLE, A CIVIL ACTION MAY BE BROUGHT AGAINST A PERSON FOR A VIOLATION OF THIS TITLE, OR ANY REGULATION ADOPTED UNDER THIS TITLE.

(2) A PERSON MAY BE LIABLE FOR A CIVIL PENALTY UNDER THIS SUBSECTION NOT TO EXCEED \$10,000 FOR EACH VIOLATION.

(C) ANY PENALTIES COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE WETLANDS AND WATERWAYS PROGRAM FUND, ESTABLISHED UNDER § 5-203.1 OF THIS ARTICLE, TO BE USED FOR THE ADMINISTRATION OF THE BOARD.

On pages 11 through 19, strike in their entirety the lines beginning with line 1 on page 11 through line 25 on page 19, inclusive.

AMENDMENT NO. 10

On page 19, after line 25, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) On or before December 31, 2010, all marine contractors performing marine contractor services in the State or soliciting to perform marine contractor services in the State shall:

(i) Register with the Department of the Environment; and

(ii) Pay a \$300 registration fee.

(2) The registration required under paragraph (1) of this subsection shall expire on December 31, 2011, unless extended by an action of the Board.

(b) After December 31, 2010, any marine contractor that fails to register with the Department may not perform or solicit to perform marine contractor services in the State and shall be subject to the penalties established in § 17-403 of the Environment Article, as enacted by Section 1 of this Act.

(Over)

(c) For the initial three licensed marine contractor members required to be appointed to the Marine Contractors Licensing Board in accordance with § 17-202 of the Environment Article, as enacted by Section 1 of this Act, the Department shall select marine contractors from the list of the registrants compiled under subsection (a) of this section for recommendation to the Governor for appointment to the Board.”;

and in line 26, strike “2.” and substitute “3.”.