

HOUSE BILL 987

M3, C2
SB 1017/09 – EHE

0lr2369
CF SB 382

By: **Delegates George, Beidle, Carr, V. Clagett, Frush, Holmes, Hucker, Lafferty, Niemann, Norman, Serafini, Shewell, Sossi, and Stein**

Introduced and read first time: February 12, 2010

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Marine Contractors – Licensure and Regulation – Wetland Permits and**
3 **Authorizations**

4 FOR the purpose of requiring certain persons to be licensed as marine contractors by
5 the Department of the Environment before performing certain work in this
6 State; authorizing the Secretary of the Environment to exercise certain powers
7 to carry out the Secretary's duties with respect to the licensing and regulation of
8 marine contractors; requiring the Secretary to adopt certain regulations and
9 keep a certain roster containing certain information relating to licensed marine
10 contractors; providing that an applicant for a marine contractor's license must
11 meet certain criteria; requiring an applicant for a marine contractor's license to
12 submit certain documents and pay a certain fee; requiring that the application
13 form provided by the Secretary require certain information from the applicant;
14 requiring that the application form provided by the Secretary contain a certain
15 statement; requiring the applicant to sign the application form under oath;
16 prohibiting the Secretary from issuing a license under certain circumstances;
17 requiring the Secretary to issue a license of a certain duration to certain
18 applicants; requiring the Secretary to include certain information on the license;
19 providing that a license is void under certain circumstances; providing that
20 while a license is in effect, it authorizes the licensee to take certain actions;
21 requiring a licensed marine contractor to include the contractor's license
22 number in certain advertising and to display it on certain equipment; requiring
23 the Secretary to stagger the terms of licenses; providing for the expiration and
24 renewal of licenses; requiring the Secretary to mail a renewal form and notice
25 containing certain information to the applicant at a certain address by a certain
26 time; authorizing a licensed marine contractor to renew the license under
27 certain circumstances, including payment of a certain fee; requiring the
28 Secretary to renew the license of a licensed marine contractor under certain
29 circumstances; requiring a licensee that is a firm to provide written notice to the
30 Secretary under certain circumstances; authorizing the Secretary to deny,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 suspend, or revoke the license under certain circumstances; requiring the
2 Secretary to follow certain notice procedures and hold a certain hearing before
3 taking final action to deny, revoke, or suspend the license; providing that acts or
4 omissions by certain parties may be attributed to certain applicants or
5 licensees; providing for certain penalties for knowingly violating certain
6 provisions of law; requiring the Department to grant, deny, or condition certain
7 nontidal wetlands permits on or before a certain length of time under certain
8 circumstances; exempting a certain project from a certain permit application
9 fee; requiring a flat application fee for certain wetlands permits or
10 authorizations under certain circumstances; providing licensed marine
11 contractors with immunity from civil suit under certain circumstances;
12 requiring the Department to provide certain information on the Department's
13 website and make a final decision on a certain permit application by a certain
14 time under certain circumstances; requiring the Department to exempt licensed
15 marine contractors from certain permitting requirements for certain projects;
16 requiring the Department to adopt by regulation certain criteria to identify the
17 projects qualifying for exemption in consultation with a certain association;
18 requiring a person to hire or consult a licensed marine contractor under certain
19 circumstances; establishing certain administrative fines for failing to hire or
20 consult a licensee as required; requiring the Department to adopt certain
21 regulations for certain purposes; defining certain terms and altering the
22 definition of a certain term; and generally relating to the licensure and
23 regulation of marine contractors and the wetlands permitting and authorization
24 process.

25 BY adding to
26 Article – Business Occupations and Professions
27 Section 22–101 through 22–401 to be under the new title “Title 22. Marine
28 Contractors”
29 Annotated Code of Maryland
30 (2004 Replacement Volume and 2009 Supplement)

31 BY repealing and reenacting, with amendments,
32 Article – Environment
33 Section 1–607(b), 5–101, 5–203.1(a)(3), (b), (d), and (e), and 16–101
34 Annotated Code of Maryland
35 (2007 Replacement Volume and 2009 Supplement)

36 BY repealing and reenacting, without amendments,
37 Article – Environment
38 Section 5–203.1(a)(1)
39 Annotated Code of Maryland
40 (2007 Replacement Volume and 2009 Supplement)

41 BY adding to
42 Article – Environment
43 Section 5–203.1(d), 16–106, 16–107, and 16–108

1 Annotated Code of Maryland
2 (2007 Replacement Volume and 2009 Supplement)

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

5 **Article – Business Occupations and Professions**

6 **TITLE 22. MARINE CONTRACTORS.**

7 **SUBTITLE 1. DEFINITIONS.**

8 **22-101.**

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

11 (B) “DEPARTMENT” MEANS THE DEPARTMENT OF THE ENVIRONMENT.

12 (C) “FIRM” MEANS A BUSINESS WITH ITS PRINCIPAL OFFICE IN THE
13 STATE THAT EMPLOYS MORE THAN ONE INDIVIDUAL TO PROVIDE MARINE
14 CONTRACTOR SERVICES IN THE STATE.

15 (D) “LICENSE” MEANS A LICENSE ISSUED BY THE SECRETARY TO
16 PROVIDE MARINE CONTRACTOR SERVICES IN THE STATE.

17 (E) “LICENSED MARINE CONTRACTOR” MEANS A PERSON WHO IS
18 LICENSED BY THE SECRETARY TO PROVIDE MARINE CONTRACTOR SERVICES IN
19 THE STATE.

20 (F) (1) “MARINE CONTRACTOR SERVICES” MEANS THE
21 CONSTRUCTION, DEMOLITION, INSTALLATION, REPAIR, SALE, OR SALVAGE OF
22 STRUCTURES LOCATED IN THE STATE’S TIDAL AND NONTIDAL WETLANDS,
23 INCLUDING BOATHOUSES, BOAT OR OTHER PERSONAL WATERCRAFT LIFTS OR
24 RAMPS, DOCKS, FLOATING PLATFORMS, MOORINGS, PIERS, PIER ACCESS
25 STRUCTURES, PILINGS, WETLAND OBSERVATION PLATFORMS, WETLAND
26 WALKWAYS, AND WHARFS.

27 (2) “MARINE CONTRACTOR SERVICES” INCLUDES THE
28 CONSTRUCTION, DEMOLITION, INSTALLATION, REPAIR, SALE, OR SALVAGE OF
29 STABILIZATION AND EROSION CONTROL MECHANISMS, INCLUDING
30 REVETMENTS, BREAKWATERS, BULKHEADS, GROINS, JETTIES, AND STONE
31 SILLS.

1 (G) "SECRETARY" MEANS THE SECRETARY OF THE ENVIRONMENT.

2 SUBTITLE 2. SECRETARY.

3 22-201.

4 SUBJECT TO THE PROVISIONS OF THIS TITLE, THE SECRETARY IS
5 RESPONSIBLE FOR THE LICENSING AND REGULATION OF PERSONS THAT
6 PROVIDE MARINE CONTRACTOR SERVICES IN THE STATE.

7 22-202.

8 (A) IN ADDITION TO ANY POWERS SET FORTH ELSEWHERE, THE
9 SECRETARY MAY:

10 (1) ADOPT REGULATIONS TO CARRY OUT THIS TITLE;

11 (2) USE ANY MEMBER OF THE DEPARTMENT, AS NECESSARY, TO
12 CARRY OUT AND ENFORCE THIS TITLE; AND

13 (3) MAKE INQUIRIES AND CONDUCT AN INVESTIGATION
14 REGARDING ANY APPLICANT FOR A LICENSE.

15 (B) IN ADDITION TO ANY DUTIES SET FORTH ELSEWHERE, THE
16 SECRETARY SHALL:

17 (1) ADOPT REGULATIONS THAT SET STANDARDS FOR THE
18 LICENSING OF A PERSON AS A MARINE CONTRACTOR; AND

19 (2) KEEP A ROSTER OF THE INDIVIDUALS AND FIRMS WITH
20 LICENSES UNDER THIS TITLE, INCLUDING ON THE ROSTER:

21 (I) THE NAMES OF INDIVIDUALS AND FIRMS LICENSED;

22 (II) THE LICENSE ISSUANCE AND EXPIRATION DATES; AND

23 (III) ANY OTHER INFORMATION THAT THE SECRETARY
24 CONSIDERS APPROPRIATE.

25 SUBTITLE 3. MARINE CONTRACTOR LICENSES.

26 22-301.

1 **(A) A PERSON SHALL BE LICENSED BY THE SECRETARY AS A MARINE**
2 **CONTRACTOR OR BE EMPLOYED BY AN INDIVIDUAL OR FIRM LICENSED AS A**
3 **MARINE CONTRACTOR BEFORE THE PERSON MAY:**

4 **(1) PROVIDE MARINE CONTRACTOR SERVICES IN THE STATE; OR**

5 **(2) SOLICIT TO PROVIDE MARINE CONTRACTOR SERVICES IN THE**
6 **STATE.**

7 **(B) AN INDIVIDUAL OR A FIRM MAY QUALIFY FOR A LICENSE.**

8 **22-302.**

9 **(A) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL MEET THE**
10 **REQUIREMENTS OF THIS SECTION.**

11 **(B) IF THE APPLICANT IS A FIRM, THE FIRM SHALL APPOINT A MEMBER**
12 **OF THE FIRM AS THE REPRESENTATIVE MEMBER TO MAKE THE APPLICATION ON**
13 **BEHALF OF THE FIRM.**

14 **(C) AN INDIVIDUAL APPLICANT OR, IF THE APPLICANT IS A FIRM, THE**
15 **REPRESENTATIVE MEMBER SHALL:**

16 **(1) HAVE AT LEAST 2 YEARS OF EXPERIENCE AS A FULL-TIME**
17 **MARINE CONTRACTOR;**

18 **(2) PASS A WRITTEN MARINE CONTRACTOR TEST RECOGNIZED BY**
19 **THE SECRETARY AND PREPARED IN CONSULTATION WITH THE MARYLAND**
20 **MARINE CONTRACTORS ASSOCIATION;**

21 **(3) HAVE A FEDERAL TAX IDENTIFICATION NUMBER;**

22 **(4) BE REGISTERED AND IN GOOD STANDING WITH THE**
23 **MARYLAND HOME IMPROVEMENT COMMISSION; AND**

24 **(5) CARRY:**

25 **(I) COMMERCIAL GENERAL LIABILITY INSURANCE WITH A**
26 **\$300,000 TOTAL AGGREGATE MINIMUM; AND**

27 **(II) WORKERS' COMPENSATION INSURANCE, UNLESS**
28 **EXEMPT BY LAW.**

29 **22-303.**

1 **(A) (1) AN APPLICANT FOR A LICENSE SHALL:**

2 **(I) SUBMIT TO THE SECRETARY AN APPLICATION ON THE**
3 **FORM THAT THE SECRETARY PROVIDES;**

4 **(II) SUBMIT THE DOCUMENTS REQUIRED UNDER THIS**
5 **SECTION; AND**

6 **(III) PAY TO THE SECRETARY THE FEE REQUIRED UNDER**
7 **SUBSECTION (B) OF THIS SECTION.**

8 **(2) IF THE APPLICANT IS A FIRM, THE REPRESENTATIVE MEMBER**
9 **SHALL COMPLETE THE APPLICATION FORM AND OTHERWISE BE RESPONSIBLE**
10 **FOR THE FIRM'S COMPLIANCE WITH THIS SECTION.**

11 **(B) AN APPLICANT FOR A LICENSE SHALL PAY TO THE SECRETARY AN**
12 **APPLICATION FEE OF \$500.**

13 **(C) (1) IF THE APPLICANT IS AN INDIVIDUAL, THE APPLICATION**
14 **FORM PROVIDED BY THE SECRETARY SHALL REQUIRE:**

15 **(I) THE NAME OF THE APPLICANT;**

16 **(II) THE ADDRESS OF THE APPLICANT; AND**

17 **(III) THE CURRENT AND PREVIOUS EMPLOYMENT OF THE**
18 **APPLICANT RELEVANT TO THE FIELD OF MARINE CONTRACTING.**

19 **(2) IF THE APPLICANT IS A FIRM, THE APPLICATION FORM**
20 **PROVIDED BY THE SECRETARY SHALL REQUIRE:**

21 **(I) A LIST OF THE FIRM'S OWNERS; AND**

22 **(II) FOR EACH FIRM OWNER, THE SAME INFORMATION**
23 **REQUIRED REGARDING AN INDIVIDUAL APPLICANT UNDER PARAGRAPH (1) OF**
24 **THIS SUBSECTION.**

25 **(3) FOR ALL APPLICANTS, THE APPLICATION FORM SHALL**
26 **REQUIRE:**

27 **(I) THE ADDRESS OF THE APPLICANT'S PROPOSED**
28 **PRINCIPAL PLACE OF BUSINESS AND OF EACH PROPOSED BRANCH OFFICE;**

1 **(II) ANY TRADE OR FICTITIOUS NAME THAT THE APPLICANT**
2 **INTENDS TO USE WHILE CONDUCTING THE BUSINESS OF MARINE CONTRACTING;**
3 **AND**

4 **(III) AS THE SECRETARY CONSIDERS APPROPRIATE, ANY**
5 **OTHER INFORMATION TO ASSIST IN THE EVALUATION OF:**

6 1. **AN INDIVIDUAL APPLICANT; OR**

7 2. **IF THE APPLICANT IS A FIRM, ANY FIRM MEMBER.**

8 **(D) THE APPLICATION FORM PROVIDED BY THE SECRETARY SHALL**
9 **CONTAIN A STATEMENT ADVISING THE APPLICANT OF THE PENALTIES FOR**
10 **VIOLATION OF THIS TITLE PROVIDED UNDER § 22-401 OF THIS TITLE.**

11 **(E) (1) IF THE APPLICANT IS AN INDIVIDUAL, THE APPLICATION**
12 **FORM SHALL BE SIGNED, UNDER OATH, BY THE INDIVIDUAL.**

13 **(2) IF THE APPLICANT IS A FIRM, THE APPLICATION FORM SHALL**
14 **BE SIGNED, UNDER OATH, BY THE REPRESENTATIVE MEMBER, AS THE**
15 **REPRESENTATIVE MEMBER, AND SHALL PROVIDE PROOF TO THE SECRETARY**
16 **THAT THE REPRESENTATIVE MEMBER IS A MEMBER OF THE FIRM.**

17 **(F) AN APPLICANT FOR A LICENSE SHALL SUBMIT WITH THE**
18 **APPLICATION PROOF OF THE INSURANCE REQUIRED UNDER § 22-302(C)(5) OF**
19 **THIS SUBTITLE.**

20 **22-304.**

21 **THE SECRETARY MAY NOT ISSUE A LICENSE TO AN APPLICANT WHOSE**
22 **TRADE OR FICTITIOUS NAME OR TRADEMARK IS SO SIMILAR TO THAT USED BY**
23 **ANOTHER LICENSEE THAT THE PUBLIC MAY BE CONFUSED OR MISLED BY THE**
24 **SIMILARITY.**

25 **22-305.**

26 **(A) THE SECRETARY SHALL ISSUE A LICENSE THAT IS VALID FOR 2**
27 **YEARS TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS**
28 **SUBTITLE.**

29 **(B) THE SECRETARY SHALL INCLUDE ON EACH LICENSE THAT THE**
30 **SECRETARY ISSUES:**

- 1 (1) THE FULL NAME OF THE LICENSEE;
- 2 (2) THE LICENSE NUMBER;
- 3 (3) THE LOCATION OF THE PRINCIPAL OFFICE AND OF EACH
4 BRANCH OFFICE IF THE LICENSEE IS A FIRM;
- 5 (4) THE DATE OF ISSUANCE OF THE LICENSE;
- 6 (5) THE DATE ON WHICH THE LICENSE EXPIRES; AND
- 7 (6) THE NAME OF THE REPRESENTATIVE MEMBER IF THE
8 LICENSEE IS A FIRM.

9 (C) A LICENSE ISSUED UNDER THIS TITLE IS VOID:

- 10 (1) ON THE LAPSE OF INSURANCE REQUIRED UNDER §
11 22-302(C)(5) OF THIS SUBTITLE; OR
- 12 (2) ON THE ISSUANCE OF THREE VIOLATION NOTICES BY THE
13 DEPARTMENT TO THE LICENSEE.
- 14 22-306.

15 WHILE A LICENSE TO A FIRM IS IN EFFECT, THE LICENSE AUTHORIZES
16 THE FIRM TO:

- 17 (1) EMPLOY AS MARINE CONTRACTORS INDIVIDUALS WHO ARE
18 NOT LICENSED MARINE CONTRACTORS TO PROVIDE MARINE CONTRACTOR
19 SERVICES TO THE PUBLIC ON BEHALF OF THE LICENSEE; AND
- 20 (2) REPRESENT ITSELF TO THE PUBLIC AS A LICENSED MARINE
21 CONTRACTOR FIRM.

22 22-307.

23 A LICENSED MARINE CONTRACTOR SHALL:

- 24 (1) INCLUDE THE CONTRACTOR'S MARINE CONTRACTOR LICENSE
25 NUMBER IN ALL ADVERTISING RELATED TO THE PROVISION OF MARINE
26 CONTRACTOR SERVICES; AND

1 **(2) PROMINENTLY DISPLAY THE CONTRACTOR'S MARINE**
2 **CONTRACTOR LICENSE NUMBER ON ALL LARGE EQUIPMENT USED IN THE**
3 **COURSE OF THE LICENSEE'S WORK AS A MARINE CONTRACTOR.**

4 **22-308.**

5 **(A) BY REGULATION, THE SECRETARY SHALL STAGGER THE TERMS OF**
6 **THE LICENSES.**

7 **(B) THE LICENSE EXPIRES ON THE DATE THE SECRETARY SETS.**

8 **(C) AT LEAST 1 MONTH BEFORE A LICENSE EXPIRES, THE SECRETARY**
9 **SHALL MAIL TO THE LICENSEE AT THE LAST KNOWN ADDRESS OF THE**
10 **LICENSEE:**

11 **(1) A RENEWAL APPLICATION FORM; AND**

12 **(2) A NOTICE THAT STATES:**

13 **(I) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES;**

14 **(II) THAT THE SECRETARY MUST RECEIVE THE RENEWAL**
15 **APPLICATION AT LEAST 15 DAYS BEFORE THE LICENSE EXPIRATION DATE FOR**
16 **THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE LICENSE EXPIRES; AND**

17 **(III) THE AMOUNT OF THE RENEWAL FEE.**

18 **(D) A LICENSEE MAY RENEW THE LICENSE FOR AN ADDITIONAL 2-YEAR**
19 **TERM IF THE LICENSEE:**

20 **(1) IS OTHERWISE ENTITLED TO BE LICENSED;**

21 **(2) (I) PAYS TO THE SECRETARY A RENEWAL FEE OF \$300; AND**

22 **(II) PAYS TO THE SECRETARY ANY OUTSTANDING FEES;**

23 **(3) SUBMITS TO THE SECRETARY PROOF THAT THE LICENSEE HAS**
24 **COMPLETED A MINIMUM OF 16 HOURS OF CONTINUING EDUCATION PROVIDED**
25 **BY A SOURCE APPROVED BY THE SECRETARY; AND**

26 **(4) SUBMITS TO THE SECRETARY A RENEWAL APPLICATION ON**
27 **THE FORM THAT THE SECRETARY PROVIDES.**

1 **(E) THE SECRETARY SHALL RENEW THE LICENSE OF EACH LICENSEE**
2 **WHO MEETS THE REQUIREMENTS OF THIS SECTION.**

3 **22-309.**

4 **WITHIN 5 DAYS AFTER THE CHANGE, A LICENSEE THAT IS A FIRM SHALL**
5 **SUBMIT TO THE SECRETARY WRITTEN NOTICE OF:**

6 **(1) THE ADDITION OF A BRANCH OFFICE; AND**

7 **(2) ANY CHANGE IN THE ADDRESS OR TELEPHONE NUMBER OF AN**
8 **EXISTING OFFICE.**

9 **22-310.**

10 **(A) EXCEPT AS OTHERWISE PROVIDED IN § 10-226 OF THE STATE**
11 **GOVERNMENT ARTICLE, AND SUBJECT TO THE NOTICE AND HEARING**
12 **REQUIREMENTS IN SUBSECTION (B) OF THIS SECTION, THE SECRETARY MAY**
13 **DENY, SUSPEND, OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE**
14 **VIOLATES ANY PROVISION OF THIS TITLE.**

15 **(B) (1) BEFORE THE SECRETARY TAKES ANY FINAL ACTION UNDER**
16 **SUBSECTION (A) OF THIS SECTION, THE SECRETARY SHALL GIVE THE**
17 **APPLICANT OR LICENSEE AGAINST WHOM THE ACTION IS CONTEMPLATED**
18 **NOTICE AND HOLD A HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF**
19 **THE STATE GOVERNMENT ARTICLE.**

20 **(2) IF, AFTER DUE NOTICE, THE APPLICANT OR LICENSEE**
21 **AGAINST WHOM THE ACTION IS CONTEMPLATED FAILS OR REFUSES TO APPEAR,**
22 **THE SECRETARY MAY HEAR AND DETERMINE THE MATTER.**

23 **(C) FOR PURPOSES OF THIS SECTION, AN ACT OR OMISSION OF ANY**
24 **PRINCIPAL, AGENT, OR EMPLOYEE OF AN APPLICANT OR LICENSEE MAY BE**
25 **CONSTRUED TO BE THE ACT OR OMISSION OF THE APPLICANT OR LICENSEE, AS**
26 **WELL AS OF THE PRINCIPAL, AGENT, OR EMPLOYEE.**

27 **SUBTITLE 4. PROHIBITED ACTS; PENALTIES.**

28 **22-401.**

29 **A PERSON WHO KNOWINGLY VIOLATES ANY PROVISION OF THIS TITLE IS**
30 **GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT**
31 **EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.**

Article – Environment

1-607.

(b) (1) This subsection applies to permits which are:

(i) Identified in § 1-601(a) of this subtitle; or

(ii) Issued under Title 5, Subtitle 9 of this article.

(2) The Department shall provide to the applicant:

(i) A notice of completed application; or

(ii) If the Department determines that the application is incomplete, the reasons, in writing, that the application was determined to be incomplete.

(3) (i) For permits identified in § 1-601(a) of this subtitle, the notice of completed application shall include an estimated time for issuance of the tentative determination if requested by the applicant.

(ii) [For] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, FOR** permits issued under Title 5, Subtitle 9 of this article, the notice of completed application shall include an estimate of the date by which the Department will grant, deny, or condition the permit.

(III) FOR PERMITS ISSUED UNDER TITLE 5, SUBTITLE 9 OF THIS ARTICLE, THE DEPARTMENT SHALL GRANT, DENY, OR CONDITION THE PERMIT ON OR BEFORE 60 DAYS AFTER THE DEPARTMENT RECEIVES THE APPLICATION IF:

1. THE APPLICANT IS A LICENSED MARINE CONTRACTOR UNDER TITLE 22, SUBTITLE 3 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE; OR

2. THE APPLICANT DEMONSTRATES TO THE SATISFACTION OF THE DEPARTMENT THAT A LICENSED MARINE CONTRACTOR UNDER TITLE 22, SUBTITLE 3 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE WILL CONDUCT THE ACTIVITY FOR WHICH THE PERMIT IS SOUGHT.

(4) A permit applicant may apply to the Department for a refund of all or a portion of the application fee if:

1 (i) 1. For permits identified in § 1–601(a) of this subtitle,
2 the Department fails to issue a tentative determination regarding the application
3 within the estimated time provided in the notice of completed application; or

4 2. For permits issued under Title 5, Subtitle 9 of this
5 article, the Department fails to grant, deny, or condition a permit within the time
6 periods provided under § 5–906 of this article;

7 (ii) The applicant demonstrates that the delay was caused solely
8 by the Department and was not the result of procedures or requirements outside the
9 control of the Department, including:

10 1. Reviews by federal, local, or other State government
11 agencies;

12 2. Procedures for public participation; or

13 3. The failure of the applicant to submit information to
14 the Department in a timely manner; and

15 (iii) 1. For permits identified in § 1–601(a) of this subtitle,
16 the applicant applies to the Department within 60 days after the estimated time for
17 issuance of a tentative determination; or

18 2. For permits issued under Title 5, Subtitle 9 of this
19 article, the applicant applies to the Department within 60 days after the date by which
20 the Department was to have granted, denied, or conditioned a permit under the time
21 periods provided under § 5–906 of this article.

22 (5) The Secretary, or the Secretary’s designee, shall review the refund
23 request and determine if a refund of any amount is appropriate.

24 (6) If the Secretary denies the refund request, the Department shall
25 provide the applicant a written explanation of the denial and of the procedures and
26 requirements outside the control of the Department on which the denial was based
27 within 60 days.

28 5–101.

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

30 (b) “Administration” means the Water Management Administration.

31 (c) “Appropriate county governing body” means the county commissioners of
32 any nonchartered county or the county council of any chartered county in which a
33 portion of the watershed is located.

1 (d) “County” includes Baltimore City unless otherwise indicated.

2 (e) “Department” means the Department of the Environment.

3 (f) “Director” means the Director of the Water Management Administration.

4 (g) **“LICENSED MARINE CONTRACTOR” MEANS A PERSON WHO IS**
5 **LICENSED TO PROVIDE MARINE CONTRACTOR SERVICES IN THE STATE UNDER**
6 **TITLE 22, SUBTITLE 3 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS**
7 **ARTICLE.**

8 (H) “Person” includes the federal government, the State, any county,
9 municipal corporation, or other political subdivision of the State, or any of their units,
10 or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or
11 representative of any kind, or any partnership, firm, association, public or private
12 corporation, or any other entity.

13 [(h)] (I) (1) “Pollution” means every contamination or other alteration of
14 the physical, chemical, or biological properties of any waters of the State.

15 (2) “Pollution” includes change in temperature, taste, color, turbidity,
16 or odor of the waters of the State or the discharge or deposit of any organic matter,
17 harmful organism, or liquid, gaseous, solid, radioactive, or other substance into any
18 waters of the State as will render the waters of the State harmful, detrimental, or
19 injurious to public health, safety, or welfare, domestic, commercial, industrial,
20 agricultural, recreational, other legitimate beneficial uses, or livestock, wild animals,
21 birds or fish or other aquatic life.

22 [(i)] (J) “Public water system” has the meaning stated in § 9–401 of this
23 article.

24 [(j)] (K) “Secretary” means the Secretary of the Environment.

25 [(k)] (L) “Water management strategy area” means an area designated by
26 the Department in which a specific water resource problem has been identified and for
27 which the Department has adopted specific water use restrictions or criteria for permit
28 approval in order to protect the water resource or existing water users.

29 [(l)] (M) “Waters of the State” includes:

30 (1) Both surface and underground waters within the boundaries of the
31 State subject to its jurisdiction;

32 (2) That portion of the Atlantic Ocean within the boundaries of the
33 State;

1 (3) The Chesapeake Bay and its tributaries;

2 (4) All ponds, lakes, rivers, streams, public ditches, tax ditches, and
3 public drainage systems within the State, other than those designed and used to
4 collect, convey, or dispose of sanitary sewage; and

5 (5) The floodplain of free-flowing waters determined by the
6 Department on the basis of the 100-year flood frequency.

7 5-203.1.

8 (a) (1) In this section the following words have the meanings indicated.

9 (3) "Minor project" means a project that:

10 (i) Proposes to permanently impact less than 5,000 square feet
11 of wetlands or waterways, including the 100-year floodplain; [and]

12 (II) HAS NOT BEEN DESIGNATED BY THE DEPARTMENT FOR
13 EXCLUSION UNDER § 16-106 OF THIS ARTICLE; AND

14 [(ii)] (III) Does not meet the definition of a major project.

15 (b) (1) Except as provided under [paragraph] PARAGRAPHS (2) AND (3)
16 of this subsection, all applications for wetlands and waterways authorizations issued
17 by the Department under §§ 5-503, 5-906, 16-202, 16-302, and 16-307 of this article
18 or wetlands licenses issued by the Board of Public Works under § 16-202 of this article
19 shall be accompanied by an application fee as follows:

20 (i) For an application for a minor project or general
21 permit.....\$750;

22 (ii) For an application for a minor modification \$500;

23 (iii) For an application for a major project or major modification
24 with a proposed permanent impact of:

25 1. Less than 1/4 acre.....\$1,500;

26 2. At least 1/4 acre, but less than 1/2
27 acre.....\$3,000;

28 3. At least 1/2 acre, but less than 3/4
29 acre.....\$4,500;

1 4. At least 3/4 acre, but less than 1
2 acre.....\$6,000; and

3 5. 1 acre or more.....the impact
4 area in acres multiplied by \$7,500.

5 (2) The following are exempt from the application fees established
6 under paragraph (1) of this subsection:

7 (i) Regulated activities conducted by the State, a municipal
8 corporation, county, bicounty or multicounty agency under Article 28 or Article 29 of
9 the Code, or a unit of the State, a municipal corporation, or a county;

10 (ii) Performance of agricultural best management practices
11 contained in a soil conservation and water quality plan approved by the appropriate
12 soil conservation district;

13 (iii) Performance of forestry best management practices
14 contained in an erosion and sediment control plan:

- 15 1. Prepared by a registered forester; and
 - 16 2. Approved by the appropriate soil conservation district;
- 17 [and]

18 (iv) Stream restoration, vegetative shoreline stabilization,
19 wetland creation, or other project in which the primary effect is to enhance the State's
20 wetland or water resources; AND

21 **(v) PERFORMANCE OF A PROJECT THAT THE DEPARTMENT**
22 **HAS DESIGNATED FOR EXEMPTION UNDER § 16-106 OF THIS ARTICLE.**

23 **(3) IF AN APPLICANT FOR A WETLANDS AND WATERWAYS**
24 **AUTHORIZATION ISSUED BY THE DEPARTMENT UNDER §§ 5-906, 16-202,**
25 **16-302, AND 16-307 OF THIS ARTICLE OR WETLANDS LICENSE ISSUED BY THE**
26 **BOARD OF PUBLIC WORKS UNDER § 16-202 OF THIS ARTICLE IS A LICENSED**
27 **MARINE CONTRACTOR, THE DEPARTMENT SHALL CHARGE A SINGLE, FLAT**
28 **APPLICATION FEE OF \$750, DUE ONLY IF AND AT THE TIME THE DEPARTMENT**
29 **APPROVES THE APPLICATION.**

30 **(4)** For purposes of this subsection, a mining activity undertaken on
31 affected land as identified in a permit issued under Title 15 of this article shall be:

- 32 (i) Deemed to be a minor project; and

1 (ii) Subject to the appropriate application fee under paragraph
2 (1)(i) and (ii) of this subsection.

3 ~~[(4)] (5)~~ Except as provided in paragraph ~~[(5)] (6)~~ of this subsection,
4 the fees imposed under this subsection may not be modified prior to January 1, 2012.

5 ~~[(5)] (6)~~ (i) The Department may adjust the fees established
6 under paragraph (1) of this subsection to reflect changes in the consumer price index
7 for all “urban consumers” for the expenditure category “All items not seasonally
8 adjusted”, and for all regions.

9 (ii) The Annual Consumer Price Index for the period ending
10 each December, as published by the Bureau of Labor Statistics of the U.S. Department
11 of Labor, shall be used to adjust the fees established under paragraph (1) of this
12 subsection.

13 **(D) A LICENSED MARINE CONTRACTOR SHALL BE IMMUNE FROM CIVIL**
14 **LIABILITY ARISING FROM A PROJECT TO STABILIZE NATURAL SHORELINE IF**
15 **THE PROJECT WAS ISSUED A PERMIT UNDER § 5-906 OF THIS TITLE.**

16 ~~[(d)] (E)~~ On or before December 31 of each year, in accordance with §
17 2-1246 of the State Government Article, the Department shall prepare and submit an
18 annual report to the House Environmental Matters Committee, the House
19 Appropriations Committee, the Senate Education, Health, and Environmental Affairs
20 Committee, and the Senate Budget and Taxation Committee on the Wetlands and
21 Waterways Program Fund, including an accounting of financial receipts deposited into
22 the Fund and expenditures from the Fund.

23 ~~[(e)] (F)~~ The Department shall:

24 (1) Prioritize the use of the Wetlands and Waterways Program Fund
25 to improve the level of service to the regulated community; and

26 (2) Identify and implement measures that will reduce delays and
27 duplication in the administration of the wetlands and waterways permit process,
28 including the processing of applications for wetlands and waterways permits in
29 accordance with § 1-607 of this article.

30 16-101.

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

32 (b) “Board” means the Board of Public Works.

33 (c) “County” includes Baltimore City unless otherwise indicated.

1 (d) “Department” means the Department of the Environment.

2 (e) “Dredging” means the removal or displacement by any means of soil,
3 sand, gravel, shells, or other material, whether or not of intrinsic value, from any
4 State or private wetlands.

5 (f) (1) “Filling” means:

6 (i) The displacement of navigable water by the depositing into
7 State or private wetlands of soil, sand, gravel, shells, or other materials; or

8 (ii) The artificial alteration of navigable water levels by any
9 physical structure, drainage ditch, or otherwise.

10 (2) “Filling” includes storm drain projects which flow directly into tidal
11 waters of the State.

12 (3) “Filling” does not include:

13 (i) Drainage of agricultural land;

14 (ii) In-place replacement or repair of shore erosion control
15 structures using substantially similar materials and construction design; or

16 (iii) Planting of wetlands vegetation when no grading or fill in
17 State or private wetlands is necessary.

18 (g) “Landward boundary of wetlands” means the common boundary between
19 wetlands, as defined in this section, and lands not included within the definitions of
20 wetlands appearing in this section.

21 (h) **“LICENSED MARINE CONTRACTOR” MEANS A PERSON LICENSED AS**
22 **A MARINE CONTRACTOR UNDER TITLE 22, SUBTITLE 3 OF THE BUSINESS**
23 **OCCUPATIONS AND PROFESSIONS ARTICLE.**

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

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

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

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

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

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

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

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

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

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

20 **16–106.**

21 **(A) FOR ALL PERMITS ISSUED UNDER THIS TITLE, IF A PERMIT**
22 **APPLICANT IS A LICENSED MARINE CONTRACTOR, THE DEPARTMENT SHALL:**

23 **(1) PROVIDE A MECHANISM TO TRACK THE STATUS OF THE**
24 **DEPARTMENT’S REVIEW OF THE PERMIT APPLICATION ON THE DEPARTMENT’S**
25 **WEBSITE; AND**

26 **(2) ON OR BEFORE 30 DAYS AFTER RECEIVING THE APPLICATION,**
27 **MAKE A FINAL DECISION ON THE PERMIT APPLICATION.**

28 **(B) (1) THE DEPARTMENT SHALL EXEMPT A LICENSED MARINE**
29 **CONTRACTOR FROM THE PERMITTING REQUIREMENTS UNDER THIS TITLE FOR**
30 **A PROJECT THAT THE DEPARTMENT DESIGNATES FOR EXEMPTION BASED ON**
31 **THE NEGLIGIBLE IMPACT THE PROJECT WILL HAVE ON THE WETLANDS IN**
32 **WHICH THE PROJECT IS LOCATED.**

1 **(2) TO CARRY OUT THE REQUIREMENT IN PARAGRAPH (1) OF**
2 **THIS SUBSECTION, THE DEPARTMENT SHALL ADOPT EVALUATION CRITERIA BY**
3 **REGULATION AFTER CONSULTATION WITH THE MARYLAND MARINE**
4 **CONTRACTORS ASSOCIATION THAT THE DEPARTMENT WILL USE TO**
5 **DETERMINE WHETHER OR NOT A PARTICULAR PROJECT WILL HAVE A**
6 **NEGLIGIBLE IMPACT ON THE WETLANDS IN WHICH THE PROJECT IS LOCATED.**

7 **16-107.**

8 **A LICENSED MARINE CONTRACTOR SHALL BE IMMUNE FROM CIVIL**
9 **LIABILITY ARISING FROM A PROJECT TO STABILIZE NATURAL SHORELINE IF**
10 **THE PROJECT WAS ISSUED A PERMIT BY THE DEPARTMENT UNDER THIS TITLE.**

11 **16-108.**

12 **(A) A PERSON THAT UNDERTAKES OR AUTHORIZES AN ACTIVITY THAT**
13 **REQUIRES A PERMIT UNDER THIS TITLE SHALL:**

14 **(1) HIRE A LICENSED MARINE CONTRACTOR TO DO THE WORK;**
15 **OR**

16 **(2) CONSULT WITH A LICENSED MARINE CONTRACTOR BEFORE**
17 **DOING THE WORK.**

18 **(B) A PERSON THAT VIOLATES SUBSECTION (A) OF THIS SECTION SHALL**
19 **BE SUBJECT TO AN ADMINISTRATIVE FINE NOT EXCEEDING:**

20 **(1) \$500 FOR A FIRST VIOLATION;**

21 **(2) \$1,000 FOR A SECOND VIOLATION; AND**

22 **(3) \$5,000 FOR A THIRD OR SUBSEQUENT VIOLATION, NOT**
23 **EXCEEDING \$25,000 TOTAL.**

24 **(C) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ADMINISTER**
25 **AND ENFORCE THE PROVISIONS OF THIS SECTION.**

26 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
27 **October 1, 2010.**