

SENATE BILL 864

C2

5lr2868

By: **Senator Klausmeier**

Introduced and read first time: February 26, 2015

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration**
3 **Contractors – Cease and Desist Orders – Authority**

4 FOR the purpose of authorizing the State Board of Heating, Ventilation, Air-Conditioning,
5 and Refrigeration Contractors to issue a cease and desist order for violations of
6 certain provisions of law, subject to certain notice and hearing provisions;
7 authorizing a certain aggrieved party to file a certain appeal; and generally relating
8 to the State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration
9 Contractors.

10 BY repealing and reenacting, with amendments,
11 Article – Business Regulation
12 Section 9A-206
13 Annotated Code of Maryland
14 (2010 Replacement Volume and 2014 Supplement)

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

17 **Article – Business Regulation**

18 9A-206.

19 (a) The Board may investigate any complaint that alleges facts that constitute a
20 violation of this title.

21 (b) On receipt of the results of an investigation made under this section, the Board
22 promptly shall take action that is appropriate under this title to ensure compliance with
23 this title.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) (1) If the Board concludes that any conduct alleged to be in violation of this
2 title will result in harm to any citizen of the State, the Board may seek a permanent or
3 temporary injunction with respect to the conduct from the circuit court of any county in
4 which the alleged violation occurs, or in which the violator has its principal place of
5 business.

6 (2) In seeking an injunction under this subsection, the Board is not
7 required to:

8 (i) post bond;

9 (ii) allege or prove that an adequate remedy at law does not exist; or

10 (iii) allege or prove that substantial or irreparable damage would
11 result from the continued violation of the provision.

12 (d) (1) Any 5 members of the Board, or a hearing officer designated by the
13 Board, may administer oaths, hold hearings, and take testimony about all matters within
14 the jurisdiction of the Board.

15 (2) The Board, or its designee, may take testimony of any person by
16 deposition in the same manner as in judicial proceedings in State civil cases.

17 (3) Any party to any hearing before the Board has the right to attendance
18 of witnesses, after making a request to the Board and designating the person sought to be
19 subpoenaed.

20 (4) A member of the Board may not be held personally liable for any action
21 taken under this section.

22 (e) (1) The Board or its designee may issue a subpoena.

23 (2) The Police Department of Baltimore City or the sheriff of a county shall
24 serve a subpoena issued under this subsection.

25 (3) If a person fails to comply with a subpoena issued under this subsection,
26 on petition of the Board, a court of competent jurisdiction may compel compliance with the
27 subpoena.

28 **(F) (1) SUBJECT TO THE NOTICE AND HEARING PROVISIONS OF TITLE 10,**
29 **SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, THE BOARD MAY ISSUE A CEASE**
30 **AND DESIST ORDER FOR A VIOLATION OF ANY PROVISION OF THIS TITLE OR A**
31 **REGULATION ADOPTED UNDER THIS TITLE.**

32 **(2) AFTER A HEARING, IF THE BOARD FINDS THAT A PERSON HAS**
33 **VIOLATED THIS TITLE OR A REGULATION ADOPTED UNDER THIS TITLE, THE BOARD**

1 MAY ORDER THE PERSON TO CEASE AND DESIST FROM THE VIOLATION AND ANY
2 FURTHER SIMILAR VIOLATIONS.

3 (3) ANY PARTY AGGRIEVED BY A DECISION AND ORDER OF THE
4 BOARD UNDER THIS SUBSECTION MAY TAKE AN APPEAL AS PROVIDED UNDER §§
5 10-222 AND 10-223 OF THE STATE GOVERNMENT ARTICLE.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2015.