Article - Business Occupations and Professions

§1–101.

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

(a–1) "Active duty" has the meaning stated in § 9–901 of the State Government Article.

(b) "Clock hour" means a minimum of 50 minutes of actual class time for each 60–minute hour.

(c) "Consumer member" means a nonprofessional member of a regulatory unit who is appointed from the general public.

(d) "County" means a county of the State and, unless expressly provided otherwise, Baltimore City.

(e) "Department" means the Maryland Department of Labor.

(f) "Partnership" includes a partnership registered as a limited liability partnership authorized by Title 9A of the Corporations and Associations Article.

(g) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

(h) "Secretary" means the Secretary of Labor.

(i) "State" means:

(1) a state, possession, territory, or commonwealth of the United States; or

(2) the District of Columbia.

§1–201.

(a) A requirement in this article that a document be under oath means that the document shall be supported by a signed statement made under the penalties of perjury that the contents of the document are true to the best of the knowledge, information, and belief of the individual making the statement.

(b) The oath or affirmation shall be made:

(1) before an individual authorized to administer oaths, who shall certify in writing to have administered the oath or taken the affirmation; or

(2) by a signed statement that:

(i) is in the document or attached to and made part of the document; and

(ii) is made expressly under the penalties for perjury.

(c) If the procedures provided in subsection (b)(2) of this section are used, the affidavit subjects the individual making it to the penalties for perjury to the same extent as an oath or affirmation made before an individual authorized to administer oaths.

§1–202.

Before any license or permit may be issued under this article to an employer to engage in an activity in which the employer may employ a covered employee, as defined in § 9-101 of the Labor and Employment Article, the employer shall file with the issuing authority:

(1) a certificate of compliance with the Maryland Workers' Compensation Act; or

(2) the number of a workers' compensation insurance policy or binder.

§1–203.

(a) This section does not apply in Baltimore City or Prince George's and Worcester counties.

(b) Except as otherwise provided in this article or Title 13, Subtitle 1 and Subtitle 3, Part I and §§ 13–205 and 16–115 of the Local Government Article and Title 17, Subtitle 4, Parts V and VI of the Business Regulation Article, a county, municipal corporation, or other political subdivision of the State may not:

(1) require a local license in that county, municipal corporation, or political subdivision to engage in a business or occupation for which a State license is required under this article; or

(2) impose a local fee or tax to engage in a business or occupation for which a State license is required under this article.

(c) A county, municipal corporation, or other political subdivision of the State may require a local license if necessary for regulatory purposes in the interest of the public health, safety, or morals.

(d) A public local law passed after October 1, 1941 does not repeal any provision of this section unless the public local law expressly refers to and repeals the provision.

§1–204.

(a) Before any license or permit may be issued under this article, the applicant shall certify to the issuing authority that the applicant has paid all undisputed taxes and unemployment insurance contributions payable to the Comptroller or the Maryland Department of Labor or has provided for payment in a manner satisfactory to the unit responsible for collection.

(b) Before any license or permit may be renewed under this article, the issuing authority shall verify through the Office of the Comptroller that the applicant has paid all undisputed taxes and unemployment insurance contributions payable to the Comptroller or the Secretary of Labor or that the applicant has provided for payment in a manner satisfactory to the unit responsible for collection.

§1–205.

(a) This section does not apply to a licensed real estate associate broker or salesperson affiliated with a licensed real estate broker as an independent contractor.

(b) By August 31 of each year, the Department shall provide to the Department of Assessments and Taxation a list of persons issued licenses, certificates, or permits under this article during the previous fiscal year, to assist the Department of Assessments and Taxation in identifying new businesses within the State.

(c) The list provided under this section shall:

(1) be provided free of charge; and

(2) include, for each person on the list:

(i) the name and mailing address of the person; and

(ii) the federal tax identification number of the person or, if the person does not have a federal tax identification number, the Social Security number of the person.

§1–206.

(a) A person who must have a license issued by the Department under this article but does not get the license on time shall pay, in addition to the required license fee, a late fee.

(b) The late fee shall be the sum of:

(1) up to 20% of the required license fee for the calendar month following the calendar month when the required license fee is due; and

(2) up to 4% of the required license fee for each calendar month or part of a month after that.

§1–207.

(a) In this section, "license" means all or any part of permission that:

(1) is required by law to be obtained from a unit;

(2) is not required only for revenue purposes; and

(3) is in any form, including:

(i) an approval;

(ii) a certificate;

(iii) a charter;

(iv) a permit; or

(v) a registration.

(b) This section:

(1) applies only to a fee for an initial license issued for a 2-year term under the provisions of this article;

(2) does not apply to a fee renewal of a license; and

(3) may not affect any other law that requires a unit to prorate a fee on any basis for the issuance or renewal of a license.

(c) (1) For a license issued at any time during the first year of the term of the license, the issuing authority shall charge the full amount of the fee to the license applicant.

(2) For a license issued in the second year of the term of the license, the issuing authority shall charge the license applicant:

(i) one-half of the fee, if issued in the first 6 months of the second year; or

(ii) one-quarter of the fee, if issued in the last 6 months of the second year.

§1–208.

(a) If payment of the fee for the issuance or renewal of a license, issued by the Department or by a unit within the Department, is made by a check or other negotiable instrument that is dishonored, the license for which the fee was paid shall be suspended by operation of law. Except as provided in subsections (b) and (c) of this section, the suspension is effective beginning on the tenth business day after the day on which notice is sent in accordance with subsection (b) of this section until the date that payment of the fee, and any late charge provided for in this article, has been made.

(b) (1) When the Department or a unit within the Department receives notice that a check or other negotiable instrument, given by an applicant in payment of a license issuance or renewal fee, has been dishonored, it shall inform the applicant by regular mail sent to the applicant's last known business address, that the license will be suspended by operation of law if within 10 business days from the date of the notice the applicant fails to make payment of the fee, and any late charge, or fails to present evidence to the Department or unit that the notice of dishonor was in error.

(2) An applicant shall be given a prompt opportunity to make payment of the fee, and any late charge, or to present evidence to the Department or unit that the notice of dishonor was in error.

(c) If a license is suspended under subsection (a) of this section, the license shall be reinstated effective the date that the license was suspended, if within 5 business days after the date of the suspension the applicant:

(1) pays the late fee and any late charge; or

(2) presents evidence to the Department or the unit that the notice of dishonor was in error.

(d) Suspension of a license under this section may not affect any otherwise valid claim under any guaranty fund made by a person who dealt in good faith with a licensee, without knowledge of the suspension.

§1–301.

(a) "Authorized person" means:

(1) a professional engineer who is licensed under Title 14 of this article;

(2) a professional land surveyor who is licensed under Title 15 of this article; or

(3) an authorized representative of the professional engineer or the professional land surveyor who is executing a survey.

(b) If entry is for the purpose of using the horizontal or vertical position data in controlling surveys of land for cadastral purposes or for other private or public engineering purposes, an authorized person may enter on any private land on which there is a marked survey station for which the horizontal or vertical position has been determined:

(1) by or under the direction of the National Geodetic Survey;

(2) as a part of the Maryland coordinate system; or

(3) by or under the direction of any other organization whose survey stations have been established by or in accordance with the requirements of the State agency authorized to administer the Maryland coordinate system.

§1–302.

(a) An authorized person may not unnecessarily damage the property on which a survey station stands.

(b) (1) Prior to entry on the property, an authorized person and the owner of the property shall agree on the amount to be paid for any damage to the property.

(2) On the completion of the work at the survey station, the authorized person shall promptly reimburse the owner of the property for any damage done to the property by the authorized person who entered on the property.

(c) If, prior to entry on the property, the authorized person and the owner of the property have not agreed on the amount to be paid for any damage to the property, the authorized person shall file a surety bond in the circuit court of the county in which the property is located in an amount to be approved by the court, conditioned on the payment of all damages and costs as provided under subsection (d) of this section.

(d) (1) The circuit court shall appoint three appraisers who are residents of the county in which the property is located to determine the amount to be paid for any damage to the property.

(2) The proceedings for the ascertainment of damages shall be in accordance with the provisions of Title 8, Subtitle 3 of the Transportation Article relating to the acquisition of private property for a public purpose.

§1–303.

(a) If the damages awarded under § 1-302(d) of this subtitle do not exceed the amount tendered by the authorized person under § 1-302(b) of this subtitle, the owner of the property shall pay the costs of the proceeding under § 1-302(d) of this subtitle.

(b) If the damages awarded under § 1-302(d) of this subtitle exceed the amount tendered by the authorized person, the authorized person shall pay the costs of the proceeding.

§1–304.

(a) This section applies to any survey station established by or under the direction of:

(1) the National Geodetic Survey;

(2) the State agency administering the Maryland coordinate system;

(3) any other organization whose survey stations have been established by or in accordance with the requirements of the State agency authorized to administer the Maryland coordinate system; or

(4) any other State, municipal, or county agency.

(b) Any person who willfully injures, defaces, or destroys the mark or monument at any survey station described in subsection (a) of this section or offers any obstacles to the proper, reasonable, and legal use of the station is guilty of a misdemeanor and on conviction shall be sentenced to pay a fine not to exceed $250 for each offense and costs, or shall be imprisoned for a term of not less than 6 months, or both.

§2–101.

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

(b) "AICPA" means the American Institute of Certified Public Accountants.

(c) "Attest" means to provide the following services:

(1) an audit or other engagement performed in accordance with the Statements on Auditing Standards issued by AICPA;

(2) a review of a financial statement performed in accordance with the Statements on Standards for Accounting and Review Services issued by AICPA;

(3) a compilation;

(4) any examination, review, or agreed–upon procedures engagement to be performed in accordance with the Statements on Standards for Attestation Engagements issued by AICPA; and

(5) any engagement performed in accordance with the Auditing Standards of the Public Company Accounting Oversight Board.

(d) "Board" means the State Board of Public Accountancy.

(e) "Compilation" means a presentation of information in the form of a financial statement that is performed in accordance with the Statements on Standards for Accounting and Review Services issued by AICPA.

(f) "Home office" is the location specified by a client of a certified public accountant as the address to which a service described in § 2–401(a) of this title is directed.

(g) "License" means, unless the context requires otherwise, a license issued by the Board to practice certified public accountancy.

(h) "License fee" means the fee paid in connection with the issuance or renewal of a license.

(i) "Licensed certified public accountant" means, unless the context requires otherwise, an individual licensed by the Board to practice certified public accountancy.

(j) "NASBA" means the National Association of Boards of Accountancy.

(k) "Permit" means, unless the context requires otherwise, a permit issued by the Board to allow a partnership or corporation to operate a business through which an individual may practice certified public accountancy.

(l) "Permit fee" means the fee paid in connection with the issuance or renewal of a permit.

(m) "Practice certified public accountancy" means to perform any of the following accountancy services:

(1) conducting an audit, review, or compilation of financial statements;

(2) conducting any examination, review, or agreed–upon procedures engagement to be performed in accordance with the Statements on Standards for Attestation Engagements issued by AICPA; or

(3) providing a written certificate or opinion offering positive or negative assurance or full or limited assurance on the correctness of the information or on the fairness of the presentation of the information in:

(i) a financial statement;

(ii) a report;

(iii) a schedule; or

(iv) an exhibit.

(n) "Practice privilege" means the right granted to an individual who is licensed by another state to practice certified public accountancy in this State without a license issued by this State.

(o) "Principal place of business" means the office location designated by the licensee for purposes of substantial equivalency and reciprocity.

§2–102.

(a) If the person does not engage in any activity expressly included in the definition of practice certified public accountancy, this title does not prohibit:

(1) an individual from serving as an employee of or assistant to a licensee or permit holder;

(2) a public official or public employee from performing the duties of the position of that individual; or

(3) a person from providing or offering to the public bookkeeping and accounting services, including:

(i) development or installation of a bookkeeping system;

(ii) recordation or presentation of financial information;

(iii) preparation of:

1. a financial statement;

2. a compilation of a financial statement that:

A. does not reference the Statements on Standards for Accounting and Review Services issued by AICPA; and

B. expressly states that the person has not undergone and is not required to undergo peer review;

3. a report;

4. a schedule; or

5. an exhibit; or

(iv) any similar activity.

(b) This title does not prohibit a licensee or permit holder from:

(1) employing a certified public accountant licensed by another state or a foreign country; or

(2) listing that individual as a certified public accountant, if the individual qualifies for a practice privilege under § 2–321 of this title.

(c) The Board shall adopt regulations that specify the language of the disclosure statement relating to exemption from peer review that is required to be included in a compilation of a financial statement prepared under subsection (a)(3)(iii)2 of this section.

§2–201.

There is a State Board of Public Accountancy in the Department.

§2–202.

(a) (1) The Board consists of 7 members.

(2) Of the 7 members of the Board:

(i) 5 shall be licensed certified public accountants, of whom:

1. 4 shall practice certified public accountancy actively; and

2. 1 shall be a full-time professor of accounting at an accredited college; and

(ii) 2 shall be consumer members.

(3) The Governor shall appoint the members with the advice of the Secretary.

(b) Each member of the Board shall be:

(1) a citizen of the United States; and

(2) a resident of the State.

(c) Each consumer member of the Board:

(1) shall be a member of the general public;

(2) may not be a licensee or otherwise be subject to regulation by the Board;

(3) may not be required to meet the qualifications for the professional members of the Board; and

(4) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Board.

(d) While a member of the Board, a consumer member may not:

(1) have a financial interest in or receive compensation from a person regulated by the Board; or

(2) grade any examination given by or for the Board.

(e) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) (1) The term of a member is 3 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 October 1, 1989.

(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) A member may not serve more than 2 terms consecutively, but following the 2nd term, may serve again after an interval of at least 3 years.

(g) (1) The Governor may remove a member for incompetence or misconduct.

(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.

(3) Except as provided in paragraph (4) of this subsection and subject to paragraph (5) of this subsection, a member shall be considered to have resigned if the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(4) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(5) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§2–203.

(a) From among its members, the Board shall elect:

(1) a chairman; and

(2) (i) a secretary and a treasurer; or

(ii) a secretary-treasurer.

(b) The manner of election of officers and their terms of office shall be as the Board determines.

§2–204.

(a) A majority of the members then serving on the Board is a quorum.

(b) The Board shall determine the times and places of its meetings.

(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 a staff in accordance with the State budget.

§2–205.

In addition to any other remedy authorized under this title, the Board, with the approval of the Attorney General, may sue in the name of the State to enjoin any act that is prohibited under Subtitle 6 of this title.

§2–206.

(a) On request of any person and payment of a verification fee set by the Board, the Board shall certify the licensing or permit status and qualifications of any person who is the subject of the request.

(b) Each certification under this section:

(1) shall include a statement of the licensing or permit status of the person who is the subject of the request; and

(2) may include:

(i) information about the examination results and other qualifications of that person;

(ii) information about the dates of issuance and renewal of the license or permit of that person;

(iii) information about any disciplinary action taken against that person; and

(iv) if authorized by that person, information about any complaint against that person.

§2–207.

(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 practicing certified public accountancy; and

(2) keep a record of its proceedings.

§2–208.

(a) The Board shall maintain a listing of the names and mailing addresses of all licensees and permit holders.

(b) The Board may release its list to the public.

(c) The licensee or permit holder shall designate the mailing address at the time of issuance of the original license or permit and on the renewal of the license or permit.

§2–209.

(a) (1) Beginning on July 1, 2008, the Board may set by regulation reasonable fees for its services.

(2) The fees shall be:

(i) set so as to produce funds to approximate the cost of maintaining the Board; and

(ii) based on the calculations performed by the Secretary of Labor under § 2–106.6 of the Business Regulation Article.

(b) The Board shall publish the fee schedule set by the Board.

(c) (1) Beginning on July 1, 2007, the Board shall pay all fees collected under this title to the Comptroller.

(2) The Comptroller shall distribute the fees to the State Board of Public Accountancy Fund established in § 2–106.5 of the Business Regulation Article.

§2–210.

Any person 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.

§2–211.

The Board exercises its powers, duties, and functions subject to the authority of the Secretary.

§2–301.

Except as provided in § 2–321 of this subtitle, an individual shall be licensed by the Board before the individual may practice certified public accountancy in the State.

§2–302.

(a) To qualify for a license, an 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 meet the educational requirements under § 2-303 of this subtitle.

(e) Except as otherwise provided in this subtitle, the applicant shall pass an examination given by the Board under this subtitle.

(f) The applicant for an initial license shall complete practical work experience that is approved by the Board and that:

(1) is obtained over a period of:

(i) not more than 3 years; and

(ii) 1. not less than 6 months if the applicant applies before October 1, 2000; or

2. not less than 1 year if the applicant applies on or after October 1, 2000;

(2) includes providing any type of service or advice involving the use of accounting, attest, management advisory, financial advisory, tax, or consulting skills;

(3) is performed under the direction of:

(i) a licensed certified public accountant; or

(ii) an appropriately qualified professional as determined by the Board;

(4) is obtained through employment in government, industry, academia, or public practice; and

(5) amounts to:

(i) 1,000 hours if the applicant applies before October 1, 2000; or

(ii) 2,000 hours if the applicant applies on or after October 1, 2000.

§2–303.

(a) (1) In order to take the examination, an applicant shall have satisfactorily completed 120 semester hours or their equivalent, and hold a baccalaureate or higher degree that meets the requirements of this section.

(2) In order to become licensed, in addition to the other qualifications for a license set forth in this subtitle, an applicant shall have satisfactorily completed 150 semester hours or their equivalent, including the attainment of a baccalaureate or higher degree that meets the requirements of this section.

(b) The applicant shall have completed for the degree a curriculum that the Board considers to constitute:

(1) a major in accounting; or

(2) a substantial equivalent to a major in accounting, of which required credits or courses may be taken at any 2– or 4–year regionally accredited institution of higher education.

(c) The degree required under this section shall be awarded by a school, college, university, or other institution that:

(1) is a member of the Association to Advance Collegiate Schools of Business;

(2) is a member of the Accreditation Council for Business Schools and Programs;

(3) is accredited by or is a constituent unit of an institution accredited by:

(i) the Middle States Association of Colleges and Schools; or

(ii) the equivalent regional accrediting association for other regional areas; or

(4) is recognized and approved by the Board.

(d) (1) The Board may use the services of any institution that it considers appropriate to determine what constitutes a substantial equivalent to a major in accounting under subsection (b)(2) of this section.

(2) If the Board uses an institution to determine curriculum equivalencies, the Board may accept as final the determination of that institution.

§2–304.

An applicant for a license 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:

(i) a nonrefundable application fee set by the Board; and

(ii) an examination fee set by the Board in an amount not to exceed the cost of the required examination.

§2–305.

(a) An applicant who meets the educational requirements established by the Board 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 American Institute of Certified Public Accountants or an equivalent examination as determined by the Board.

(2) The Board may use the services of the American Institute of Certified Public Accountants to prepare or grade an examination. If the Board uses the services of the Institute, the Board may accept as final the grades that the Institute determines.

(3) The Board may use the services of any person whom the Board considers appropriate to proctor an examination.

(e) The Board shall adopt regulations that establish the passing score for an examination.

(f) (1) The Board shall mail or electronically transmit to each applicant notice of the applicant's examination score.

(2) Any applicant who requests an appointment within 60 days after the date on which the notice is mailed or electronically transmitted may review the applicant's answers to the examination.

(g) (1) If the Board uses the services of the American Institute of Certified Public Accountants to grade an examination, the Board may mail or electronically transmit the examination answers to the Institute.

(2) If the Board sends out examination answers for grading in accordance with paragraph (1) of this subsection, the Board is not liable for the loss or destruction of any of the examination answers while the answers are out of the possession of the Board.

§2–306.

The Board may adopt regulations that, under the conditions that the Board considers appropriate, allow an applicant who obtains a passing score on any part of an examination to:

(1) be given credit for that part; and

(2) be reexamined only in the remaining parts.

§2–307.

(a) Subject to the provisions of this section, an applicant who fails an examination given under § 2-305 of this subtitle may retake the examination.

(b) (1) Subject to the provisions of this subsection, the Board may not limit the number of times that an applicant may take an examination.

(2) The Board may adopt regulations to set conditions for retaking examinations, including requirements that an applicant:

(i) wait a reasonable period between examinations; and

(ii) prepare for reexamination in a manner specified by the Board.

(c) (1) An applicant for reexamination shall:

(i) submit to the Board an application for reexamination on the form that the Board provides; and

(ii) pay to the Board or the Board's designee a reexamination fee set under this subsection.

(2) 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.

§2–308.

(a) Subject to the provisions of this section, the Board may waive any examination requirement of this subtitle for:

(1) a certified public accountant licensed by another state; or

(2) the holder of a license, certificate, or degree that is issued by another country and is recognized as authority for the holder to practice public accountancy in that country in a manner comparable to practicing certified public accountancy in this State.

(b) The Board may grant a waiver under this section only if the applicant:

(1) is of good character and reputation;

(2) is at least 18 years of age;

(3) pays to the Board:

(i) a nonrefundable application fee set by the Board; and

(ii) a license fee set by the Board; and

(4) provides adequate evidence that the applicant has met educational, examination, and experience requirements that are:

(i) substantially equivalent to those required by the laws of this State;

(ii) substantially equivalent to those required by the laws of the State at the time the applicant was licensed in another state; or

(iii) after passing the Uniform Certified Public Accountancy Examination, has obtained 4 years of practical work experience, as defined in § 2–302(f) of this subtitle, within the last 10 years immediately preceding submission of the application.

(c) (1) For the purposes of this subtitle, "substantial equivalency" means a determination made by the Board or its designee that:

(i) the education, examination, and experience requirements contained in the laws or administrative rules of another jurisdiction are comparable to, or exceed, the education, examination, and experience requirements contained in the Uniform Accountancy Act; or

(ii) an individual's education, examination, and experience are comparable to or exceed the education, examination, and experience requirements contained in the Uniform Accountancy Act.

(2) In determining substantial equivalency, the Board shall take into account an individual's qualifications without regard to the sequence in which the education, examination, or experience requirements are met.

§2–309.

(a) If an applicant qualifies for a license under this subtitle, the Board shall mail or electronically transmit to the applicant a notice that states that:

(1) the applicant has qualified for a license; and

(2) on receipt of a license fee set by the Board, the Board will issue a license to the applicant.

(b) On payment of the license fee, the Board shall issue a license to each applicant who meets the requirements of this subtitle.

§2–311.

(a) (1) This subsection does not apply to a certified public accountant who is on emeritus status under § 2–313.1 of this subtitle.

(2) Unless a license is renewed for a 2–year term as provided in this section, the license expires on the first December 31 that comes:

(i) after the effective date of the license; and

(ii) in an even–numbered year.

(b) (1) At least 1 month before a license expires, the Board shall mail or electronically transmit to the licensee:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current license expires; and

2. the amount of the license fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the licensee, at the last known address of the licensee, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(c) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Board a license fee 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 license renewal.

(d) The Board shall renew the license of each licensee who meets the requirements of this section.

(e) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

§2–312.

(a) (1) The Board shall adopt regulations that set, in accordance with this section, continuing education requirements as a condition to the renewal of licenses under this subtitle.

(2) A continuing education requirement does not apply to the first renewal of a license.

(3) (i) To qualify for any further renewal of a license under this subtitle, a licensee shall complete, for each 2–year license term, at least 80 hours in programs that the Board approves.

(ii) If a licensee completes more than 80 hours during a 2–year license term, the Board shall credit the excess hours to the requirements for the following term.

(4) Except as provided under paragraph (5) of this subsection, a licensee may not be required to take an examination to qualify for license renewal under this section.

(5) On request of a licensee, the Board may allow the licensee to substitute the passage of an examination for a number of program hours. If the Board grants a request under this paragraph, the Board shall determine the number of program hours that the licensee may satisfy by passage of the examination.

(b) The Board shall set continuing education requirements under this section:

(1) to ensure reasonable knowledge about the current practice of accountancy by certified public accountants and, thus, to ensure a high standard of practice in the profession;

(2) to provide for programs in the various specialized areas of accountancy in which certified public accountants practice;

(3) to provide a licensee 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;

(iv) formal, organized, in–firm educational programs of certified public accounting firms;

(v) seminars provided by governmental units; and

(vi) other seminars or symposiums related to the practice of accountancy; and

(4) to ensure that the programs approved for compliance with the continuing education requirements are available at reasonable intervals throughout the State.

(c) (1) The Board may appoint a continuing education committee to help the Board in carrying out this section.

(2) Each member of a continuing education committee shall be a licensed certified public accountant.

(3) A continuing education committee shall have the duties that the Board assigns.

(d) The regulations adopted under this section shall provide for a system for reporting and recording the program hours that each licensee earns. However, the Board may not require a licensee to submit scores or grades earned during participation by the licensee 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 a continuing education provider fee set by the Board.

(3) Agreements entered into under this section shall expire on April 30 of each even–numbered year.

§2–313.

(a) The Board shall place a licensee on inactive status and issue an inactive status certificate to the licensee, if the licensee:

(1) submits to the Board an application for inactive status on the form that the Board provides;

(2) pays to the Board an inactive status fee set by the Board; and

(3) except for the continuing education requirements set under § 2–312 of this subtitle, qualifies for an active license.

(b) A licensee on inactive status may not practice certified public accountancy in the State.

(c) (1) Unless a licensee on inactive status renews it as provided in this section, the licensee loses that status on the first December 31 that comes:

(i) after the inactive status certificate is issued to the licensee; and

(ii) in an even–numbered year.

(2) (i) At least 1 month before the inactive status of a licensee expires, the Board shall mail or electronically transmit to the licensee:

1. a renewal application form; and

2. a notice that states:

A. the date on which the inactive status expires; and

B. the amount of the inactive status fee.

(ii) If an electronic transmission under subparagraph (i) of this paragraph is returned to the Board as undeliverable, the Board shall mail to the licensee, at the last known address of the licensee, the materials required under subparagraph (i) of this paragraph within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(3) Before an inactive status expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(i) otherwise is entitled to be placed on inactive status;

(ii) pays to the Board an inactive status fee set by the Board; and

(iii) submits to the Board a renewal application on the form that the Board provides.

(4) After an inactive status expires, the former licensee may reapply for inactive status without meeting the continuing education requirements to qualify for an active license under § 2–312 of this subtitle, only if the former licensee:

(i) otherwise is entitled to be placed on inactive status;

(ii) pays to the Board an inactive status fee set by the Board; and

(iii) reapplies to the Board for inactive status within 2 years after initial expiration of inactive status on a form that the Board provides.

(5) The Board shall renew the inactive status of each licensee or grant the reapplication for inactive status of each former licensee who meets the requirements of this subsection.

(d) The Board shall reactivate the license of a licensee who is on inactive status, if the licensee:

(1) complies with each continuing education requirement that the Board sets for this purpose;

(2) submits to the Board an application for reactivation; and

(3) pays to the Board a reactivation fee that is equal to the license fee set by the Board under § 2–311 of this subtitle.

§2–313.1.

(a) The Board may place a licensee on emeritus status, if the licensee submits to the Board an application for emeritus status on the form required by the Board.

(b) The Board shall place a licensee on emeritus status if the individual:

(1) has an active or inactive license to practice certified public accountancy under this subtitle;

(2) is not under investigation by the Board for a violation of this title;

(3) is not the subject of a pending disciplinary action related to the practice of certified public accountancy in the State or another state;

(4) (i) 1. has practiced public accountancy in the State for at least 20 years; and

2. is at least 60 years old; or

(ii) has at least 40 years of experience as a certified public accountant; and

(5) attests that:

(i) the individual is retired and is no longer actively practicing public accountancy in the State; and

(ii) the individual will not provide certified public accountancy services unless reinstated in accordance with § 2–314 of this subtitle.

(c) The Board shall review an application submitted under this section within 60 days of receipt of the application.

(d) If the Board approves an application for emeritus status under this section, the Board shall send the licensee:

(1) written notice of the approval; and

(2) a certificate of emeritus status.

(e) A licensee on emeritus status is exempt from:

(1) the continuing education requirements under § 2–312 of this subtitle; and

(2) the reinstatement fee under § 2–314 of this subtitle.

§2–314.

In accordance with its regulations, the Board may reinstate the license of an individual who has failed to renew the license for any reason or is on emeritus status under § 2–313.1 of this subtitle if the individual:

(1) otherwise is entitled to be licensed;

(2) except as provided under § 2–313.1 of this subtitle, complies with each continuing education requirement that the Board sets for this purpose; and

(3) except as provided under § 2–313.1 of this subtitle, pays to the Board a reinstatement fee set by the Board.

§2–315.

(a) (1) Subject to the hearing provisions of § 2–317 of this subtitle, the Board, on the affirmative vote of a majority of its members, may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

(i) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(ii) fraudulently or deceptively uses a license;

(iii) under the laws of the United States or of any state, is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to practice certified public accountancy;

(iv) is guilty of fraud or other dishonesty in the practice of accountancy;

(v) is guilty of gross negligence in the practice of accountancy;

(vi) violates any provision of Subtitle 6 of this title;

(vii) has had the right to practice as a certified public accountant in another state denied, revoked, or suspended;

(viii) has been sanctioned in another state in a matter relating to the practice of public accountancy;

(ix) has had the renewal of the right to practice as a certified public accountant in another state denied for any cause other than failure to pay a renewal fee;

(x) has had the right to practice as a certified public accountant before any unit of the State or federal government revoked or suspended;

(xi) has been sanctioned by any unit of State or federal government, or any regulatory entity established by law, for an act or omission that directly relates to the fitness of the applicant or licensee to practice public accountancy; or

(xii) violates a rule of professional conduct adopted by the Board.

(2) (i) Instead of or in addition to reprimanding the licensee or suspending or revoking a license under this subsection, the Board may impose a penalty not exceeding $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Board shall consider:

1. the seriousness of the violation;

2. the harm caused by the violation;

3. the good faith of the licensee; and

4. any history of previous violations by the licensee.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(b) The Board shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or misdemeanor described in subsection (a)(1)(iii) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to practice certified public accountancy;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

(c) On suspension or revocation of a license, the holder shall surrender to the Board the license certificate of the holder.

(d) At the end of a suspension period, the Board shall return to the licensee the license certificate surrendered under this section.

§2–316.

On its own initiative or on a written complaint made to the Board by any person, the Board may commence proceedings under § 2-315 of this subtitle.

§2–317.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Board takes any final action under § 2-315 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) The Board may administer oaths in connection with any proceeding under this section.

(d) (1) The Board may issue a subpoena for the attendance of a witness to testify or the production of evidence in connection with any proceeding under this section.

(2) If a person fails to comply with a subpoena issued under this subsection, on petition of the Board, a circuit court may compel compliance with the subpoena.

(e) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§2–318.

(a) (1) For the limited purpose set forth in paragraph (2) of this subsection, a license shall remain in effect and may not expire by operation of law while the licensee is under investigation by the Board or awaiting a hearing or disposition on charges subject to disciplinary action under this subtitle.

(2) Any extension of a license term caused under this subsection is effective only for the purpose of retaining the jurisdiction of the Board over the licensee during the course of disciplinary proceedings and does not prevent the license from expiring for any other purpose.

(b) Unless the Board agrees to accept the surrender, a licensee may not surrender a license while the licensee is under investigation or awaiting a hearing or disposition on charges subject to disciplinary action under this subtitle.

§2–319.

(a) Subject to the provisions of this section, the Board may reinstate:

(1) any license that has been revoked; or

(2) before fulfillment of the conditions of the suspension, any license that has been suspended.

(b) A license may be reinstated under this section only if:

(1) the individual whose license has been revoked or suspended submits a written request to the Board;

(2) the Board holds a hearing on the request;

(3) the Board, by an affirmative vote of a majority of its members, votes to reinstate the license; and

(4) the individual pays to the Board a reinstatement fee set by the Board.

§2–321.

(a) In this section, "practice certified public accountancy" includes the practice of public accountancy.

(b) (1) An individual whose principal place of business is outside the State is exempt from the licensing requirement under § 2–301 of this subtitle and shall be considered to have qualifications that are substantially equivalent to a licensee if the individual:

(i) holds a valid license as a certified public accountant from another state; and

(ii) was required to pass the Uniform CPA Examination to qualify for the license in the other state.

(2) An individual who qualifies for an exemption under paragraph (1) of this subsection may exercise all of the privileges of a licensed certified public accountant.

(c) Notwithstanding any other provision of law, an individual who qualifies for a practice privilege under this section may practice certified public accountancy in the State:

(1) by any means, including mail, telephone, or electronic communication; and

(2) without any notice, fee, or other submission to the Board.

(d) As a condition of the practice privilege, an individual who is licensed by another state and qualifies for a practice privilege under this subtitle and any firm that employs the individual to practice in the State shall both consent to:

(1) the personal and subject matter jurisdiction and disciplinary authority of the Board;

(2) complying with State public accountancy laws and regulations adopted by the Board;

(3) the appointment of the State Board of Public Accountancy that issued the individual's license to practice certified public accountancy as the agent upon which process may be served in any action or proceeding by the Board against the individual; and

(4) ceasing to offer or provide services in the State that are subject to this title if the license issued by the state in which the individual's principal place of business is located is no longer valid.

(e) An individual authorized to practice certified public accountancy under this section and under the practice privilege may represent to the public, by use of a title, including "licensed certified public accountant", "certified public accountant", "public accountant", or "auditor", by use of the abbreviation "CPA", by description of services, methods, or procedures, or otherwise, that the individual is authorized to practice certified public accountancy in the State.

(f) A sole practitioner who is practicing in the State under the practice privilege may only perform attest services as defined in § 2–101(c)(1), (4), or (5) of this title, through a firm that holds a permit issued under § 2–401 of this title.

§2–401.

(a) A firm shall hold a permit issued by the Board if the firm:

(1) has an office in this State that performs attest services as defined in § 2–101(c) of this title; or

(2) has an office in this State that uses the title "CPA" or "CPA firm".

(b) A firm that does not have an office in this State may perform attest services as defined in § 2–101(c) of this title for a client in this State without a permit if the firm:

(1) meets the application and peer review requirements under §§ 2–402, 2–402.1, and 2–403 of this subtitle and § 2–4A–02 of this title; and

(2) performs services through an individual with a practice privilege under § 2–321 of this title in the state where the individual with a practice privilege retains a principal place of business.

(c) The Board shall grant or renew a permit to practice as a CPA firm to a partnership, limited liability company, or corporation that demonstrates its qualifications in accordance with this section.

(d) If a firm does not meet the requirements of this section, the firm may perform professional services other than attest services while using the title "CPA" or "CPA firm" in this State without a permit, if the firm:

(1) performs those services through an individual with a practice privilege provided under § 2–321 of this title; and

(2) performs those services in the state where the individual with a practice privilege retains a principal place of business.

§2–402.

(a) To qualify for a permit, a partnership shall meet the requirements of this section.

(b) The partnership shall:

(1) have at least a simple majority of the partners, officers, shareholders, members, or managers, in terms of financial interest and voting rights, be licensed in a state;

(2) (i) have a permanent office in the State from which an individual is licensed to practice certified public accountancy; or

(ii) have at least a simple majority of the partners, officers, shareholders, members, or managers retain a principal place of business in this State;

(3) hold a valid license issued under § 2–301 of this title; and

(4) comply with regulations promulgated by the Board.

(c) An individual who is not licensed to practice certified public accountancy in this State or another state may have an ownership interest in the partnership if:

(1) a simple majority of the ownership of the partnership, in terms of financial interests and voting rights, is held by individuals licensed to practice certified public accountancy in this or another state;

(2) the individual is an active participant in the partnership or its affiliated entities;

(3) the partnership designates, to the Board, a licensee of this State, or a qualified licensee of another state who is responsible for the registration of the partnership; and

(4) the partnership complies with regulations adopted by the Board.

(d) At least 1 general partner and any other partner who practices or intends to practice certified public accountancy in the State shall be licensed by the Board to practice certified public accountancy in the State or qualify for a practice privilege under § 2–321 of this title.

§2–402.1.

(a) To qualify for a permit, a limited liability company shall meet the requirements of this section.

(b) The limited liability company shall:

(1) have at least a simple majority of the officers, shareholders, members, or managers, in terms of financial interest and voting rights, be licensed in a state;

(2) (i) have a permanent office in the State from which an individual is licensed to practice certified public accountancy; or

(ii) have at least a simple majority of the officers, shareholders, members, or managers retain a principal place of business in this State;

(3) hold a valid license issued under § 2–301 of this title; and

(4) comply with regulations adopted by the Board.

(c) An individual who is not licensed to practice certified public accountancy in this State or another state may have an ownership interest in the limited liability company if:

(1) a simple majority of the ownership of the limited liability company, in terms of financial interests and voting rights, is held by individuals licensed to practice certified public accountancy in this or another state; and

(2) the individual is an active participant in the limited liability company or affiliated entities.

§2–403.

(a) To qualify for a permit, a corporation shall meet the requirements of this section.

(b) The corporation shall meet the applicable requirements of the Maryland Professional Service Corporation Act or of the comparable law in another state.

(c) The corporation shall:

(1) have at least a simple majority of the officers, shareholders, members, or managers, in terms of financial interest and voting rights, be licensed in a state;

(2) (i) have a permanent office in the State from which an individual is licensed to practice certified public accountancy; or

(ii) have at least a simple majority of the officers, shareholders, members, or managers retain a principal place of business in this State;

(3) hold a valid license issued under § 2–301 of this title; and

(4) comply with regulations adopted by the Board.

(d) An individual who is not licensed to practice certified public accountancy in this State or another state may have an ownership interest in the corporation if:

(1) a simple majority of the ownership of the corporation, in terms of financial interests and voting rights, is held by individuals licensed to practice certified public accountancy in this or another state;

(2) the individual is an active participant in the corporation or affiliated entities;

(3) the corporation submits to the Board the name of a licensee of this State, or, if applicable, a licensee of another state with a practice privilege in this State who is responsible for the registration of the corporation; and

(4) the corporation complies with any other requirements that the Board imposes.

§2–404.

(a) An applicant for a permit shall:

(1) submit to the Board an application on the form that the Board provides; and

(2) pay to the Board a nonrefundable application fee set by the Board.

(b) In addition to any other information required on an application form, the form shall require:

(1) for a partnership applicant, a list of each partner who practices or who intends to practice certified public accountancy in the State;

(2) for a limited liability company, a list of each member who practices or who intends to practice certified public accountancy in the State; and

(3) for a corporate applicant, a list of all of the shareholders of the corporation.

§2–405.

(a) If an applicant qualifies for a permit under this subtitle, the Board shall mail or electronically transmit to the applicant a notice that states that:

(1) the applicant has qualified for a permit; and

(2) on receipt of a permit fee set by the Board, the Board will issue a permit to the applicant.

(b) On payment of the permit fee, the Board shall issue a permit to each applicant that meets the requirements of this subtitle.

§2–406.

(a) Subject to subsection (b) of this section and while a permit is in effect, it authorizes the holder to:

(1) operate a business through which an individual practices certified public accountancy; and

(2) represent to the public that the business provides the services of a licensed certified public accountant.

(b) A permit authorizes the holder to provide a service that constitutes practicing certified public accountancy only if the service is performed by an individual who is licensed or otherwise authorized under this title to practice.

(c) A firm may use the title "CPA" or "CPA firm" without a permit issued under this section if the firm is performing other professional services that do not require a permit if:

(1) the firm performs those services through an individual with a practice privilege under § 2–321 of this title; and

(2) the firm performs those services in the state where the individual with a practice privilege retains a principal place of business.

§2–407.

(a) Unless a permit is renewed for a 2–year term as provided in this section, the permit expires on the first December 31 that comes:

(1) after the effective date of the permit; and

(2) in an even–numbered year.

(b) (1) At least 1 month before a permit expires, the Board shall mail or electronically transmit to the permit holder:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current permit expires; and

2. the amount of the permit fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the permit holder, at the last known address of the permit holder, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(c) Before a permit expires, the permit holder periodically may renew it for an additional 2–year term, if the holder:

(1) otherwise is entitled to a permit;

(2) pays to the Board a permit fee set by the Board; and

(3) submits to the Board a renewal application on the form that the Board provides.

(d) The Board shall renew the permit of each permit holder who meets the requirements of this section.

§2–408.

(a) Within 1 month after the change or occurrence, a partnership that holds a permit shall give to the Board written notice of:

(1) a change in the name of the partnership;

(2) the admission of any partner who practices or intends to practice certified public accountancy in the State;

(3) the death of any partner who practiced certified public accountancy in the State; and

(4) the withdrawal of any partner who practiced certified public accountancy in the State.

(b) Within 1 month after the change or occurrence, a limited liability company that holds a permit shall give to the Board written notice of:

(1) a change in the name of the limited liability company;

(2) the admission of any member who practices or intends to practice certified public accountancy in the State;

(3) the death of any member who practiced certified public accountancy in the State; and

(4) the withdrawal of any member who practiced certified public accountancy in the State.

(c) Within 1 month after the change or occurrence, a corporation that holds a permit shall give to the Board written notice of:

(1) a change in the name of the corporation;

(2) the death of any stockholder; and

(3) a change in stockholders.

§2–409.

The surviving partner of a partnership that holds a permit may use the partnership name for 1 year after the death of the next to the last partner.

§2–410.

(a) Subject to the hearing provisions of § 2–412 of this subtitle, the Board, on the affirmative vote of a majority of its members, may deny a permit to any applicant, reprimand a permit holder, or suspend or revoke a permit:

(1) for any applicable ground under § 2–315 of this title;

(2) if the applicant or permit holder fraudulently or deceptively obtains or attempts to obtain a permit;

(3) if the applicant or permit holder fraudulently or deceptively uses a permit;

(4) if the applicant or permit holder fails to meet or continue to meet the qualifications or requirements set forth under § 2–402 or § 2–403 of this subtitle; or

(5) if the applicant or permit holder has a partner, member, or corporate officer whose license has been suspended or revoked by the Board.

(b) On suspension or revocation of a permit, the holder shall surrender to the Board the permit certificate of the holder.

(c) At the end of a suspension period, the Board shall return to the permit holder the permit certificate surrendered under this section.

(d) (1) Instead of or in addition to reprimanding the permit holder or suspending or revoking a permit 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 permit holder; and

(iv) any history of previous violations by the permit holder.

(e) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

§2–411.

On its own initiative or on a written complaint made to the Board by any person, the Board may commence proceedings under § 2-410 of this subtitle.

§2–412.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Board takes any final action under § 2-410 of this subtitle, it shall give the person 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) The Board may administer oaths in connection with any proceeding under this section.

(d) (1) The Board may issue a subpoena for the attendance of a witness to testify or the production of evidence in connection with any proceeding under this section.

(2) If a person fails to comply with a subpoena issued under this subsection, on petition of the Board, a circuit court may compel compliance with the subpoena.

(e) If, after due notice, the person against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§2–413.

(a) (1) For the limited purpose set forth in paragraph (2) of this subsection, a permit shall remain in effect and may not expire by operation of law while the permit holder is under investigation by the Board or awaiting a hearing or disposition on charges subject to disciplinary action under this subtitle.

(2) Any extension of a permit term caused under this subsection is effective only for the purpose of retaining the jurisdiction of the Board over the permit holder during the course of disciplinary proceedings and does not prevent the permit from expiring for any other purpose.

(b) Unless the Board agrees to accept the surrender, a permit holder may not surrender a permit while the holder is under investigation or awaiting a hearing or disposition on charges subject to disciplinary action under this subtitle.

§2–414.

(a) Subject to the provisions of this section, the Board may reinstate:

(1) any permit that has been revoked; or

(2) before fulfillment of the conditions of the suspension, any permit that has been suspended.

(b) A permit may be reinstated under this section only if:

(1) the partnership, limited liability company, or corporation whose permit has been revoked or suspended submits a written request to the Board;

(2) the Board holds a hearing on the request;

(3) the Board, by an affirmative vote of a majority of its members, votes to reinstate the permit; and

(4) the partnership, limited liability company, or corporation pays to the Board a reinstatement fee set by the Board.

§2–415.

After the Board issues a permit, the permit holder shall continue to comply with the respective requirements of § 2-402 or § 2-403 of this subtitle.

§2–416.

In accordance with its regulations, the Board may reinstate the permit of a firm that has failed to renew the permit for any reason if the firm:

(1) otherwise is entitled to a permit; and

(2) pays to the Board a reinstatement fee set by the Board.

§2–4A–01.

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

(b) "Engagement review" means a peer review that evaluates whether there is a reasonable basis for expressing limited assurance that:

(1) financial statements with which the individual or firm is associated conform in all material respects with professional standards; and

(2) reports and internal documentation of the work performed by the individual or firm conform with professional standards.

(c) "Fail" means, in connection with a report of a peer reviewer, one or more significant deficiencies in performing or reporting in conformity with professional standards in the individual or the firm being reviewed.

(d) "Peer review" means a study, appraisal, or review of one or more aspects of the professional work of an individual or firm performed by a person licensed as a certified public accountant.

(e) "Report indicating pass with deficiencies" means a report of a peer reviewer that indicates one or more deficiencies in performing or reporting in conformity with professional standards in the individual or firm being reviewed.

(f) "Review" means the analysis of a financial statement that:

(1) is performed in accordance with the Statements on Standards for Accounting and Review Services of the American Institute of Certified Public Accountants; and

(2) provides a licensee with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statement in order for it to be in accordance with generally accepted accounting principles, or, if applicable, with any other comprehensive basis of accounting.

(g) "System review" means a peer review evaluating whether there is reasonable assurance that:

(1) the system of quality control of the individual or firm being reviewed is designed and operated in such a manner as to meet professional standards;

(2) financial statements with which the licensee or firm is associated conform in all material respects with professional standards; and

(3) reports and internal documentation of the work performed by the licensee or firm conform with professional standards.

§2–4A–02.

(a) (1) A licensee or permit holder who performs any of the services described in § 2-4A-04 of this subtitle shall be required to undergo, at least once every 3 years, a peer review.

(2) The Board may modify the peer review requirement for a licensee or permit holder upon a showing of good cause.

(b) A peer review shall be performed and recorded in accordance with standards no less stringent than those set forth in the standards for performing and reporting on peer reviews of the American Institute of Certified Public Accountants.

(c) The Board must approve a peer review program other than the peer review program of the American Institute of Certified Public Accountants prior to its use to satisfy the requirements of this section.

(d) A licensee or permit holder shall affirm under the penalties of perjury on a standard form provided by the Board compliance with the peer review requirement at the time of license or permit renewal.

§2–4A–03.

(a) A licensee or permit holder who provides services requiring peer review on or after October 1, 2005, shall comply with the peer review requirement within 3 years after initiating those services.

(b) A licensee or permit holder who provides services requiring a peer review and who submits a renewal application after October 1, 2008, shall affirm under the penalties of perjury on a standard form provided by the Board completion of the licensee or permit holder's most recent peer review.

(c) If the 3-year period in subsection (a) of this section has not expired prior to the date of the license or permit renewal, and the licensee or permit holder has had no peer review within the last 3 years, the licensee or permit holder must notify the Board in writing within 30 days of the date the peer review is completed.

§2–4A–04.

(a) A system review is required for a licensee or permit holder that performs any of the following services:

(1) engagements governed by the Statements on Auditing Standards of the American Institute of Certified Public Accountants; or

(2) engagements governed by the government auditing standards issued by the U.S. Government Accountability Office;

(3) examinations of prospective financial information under:

(i) the Statements on Standards for Attestation Engagements of the American Institute of Certified Public Accountants; or

(ii) the government auditing standards issued by the U.S. Government Accountability Office; or

(4) audits of issuers not registered with the U.S. Securities and Exchange Commission that are performed under standards of the Public Company Accounting Oversight Board.

(b) An engagement review is required for a licensee or permit holder not required to have a system review that performs any of the following services:

(1) review of historical financial statements in accordance with the Statements on Standards for Accounting and Review Services of the American Institute of Certified Public Accountants;

(2) compilation of historical financial statements with disclosures performed under the Statements on Standards for Accounting and Review Services of the American Institute of Certified Public Accountants;

(3) compilation of historical financial statements that omit substantially all disclosures performed under the Statements on Standards for Accounting and Review Services of the American Institute of Certified Public Accountants; or

(4) engagements performed under the Statements on Standards for Attestation Engagements of the American Institute of Certified Public Accountants other than the examination of prospective financial statements.

§2–4A–05.

(a) Prior to conducting a peer review, an individual must be approved by the Board.

(b) In order to receive approval from the Board, a peer reviewer shall:

(1) have and maintain an active license as a certified public accountant in this or any other state;

(2) possess a level of knowledge of applicable professional standards acceptable to the Board;

(3) possess at least 5 years recent experience in the practice of public accounting;

(4) have received a passing report on the most recent peer review of the prospective peer reviewer; and

(5) complete an appropriate training course as determined by the Board.

(c) In order to serve as a team captain of a system review, a peer reviewer must have and maintain ownership or management of a firm or comparable responsibility.

(d) A peer reviewer shall have no connection to the licensee or permit holder being reviewed that might impair the peer reviewer's independence.

(e) A peer reviewer shall:

(1) prepare a report of findings in accordance with the standards for performing and reporting on peer reviews of the American Institute of Certified Public Accountants; and

(2) maintain the report for a period of 3 years.

(f) A peer reviewer shall provide a copy of the report to the Board only if the licensee or permit holder being reviewed has:

(1) been directed to take corrective action and has failed to satisfy the peer reviewer that such action has been completed in a timely manner;

(2) received a second consecutive report indicating pass with deficiencies; or

(3) received a failing report.

(g) A peer reviewer shall comply with all Board regulations and directives regarding the peer review process.

(h) The Board may revoke its approval of a peer reviewer under this section if the peer reviewer:

(1) violates any provision of this title;

(2) violates any regulation adopted by the Board; or

(3) is sanctioned by any state board of accountancy or any unit of State or federal government.

§2–4A–06.

(a) Upon the receipt of a report from a peer reviewer, the Board shall review the report to determine what disciplinary or corrective action is appropriate.

(b) The Board may require a licensee or permit holder to:

(1) undergo peer review more frequently than once every 3 years; and

(2) complete additional continuing professional education courses.

(c) Prior to taking any final action under subsection (b) of this section, the Board shall give the licensee or permit holder against whom the action is contemplated an opportunity for a hearing before the Board.

(d) If the peer review report reveals evidence that the licensee or permit holder has engaged in conduct that is prohibited under § 2-315 or § 2-410 of this title, the Board may file formal charges against the licensee or permit holder.

§2–501.

(a) (1) The Board may adopt regulations to:

(i) require that each office maintained in the State for the practice of accounting by an individual accountant or partnership or corporate permit holder be registered every 2 years with the Board by the individual, partnership, or corporation; and

(ii) set the procedure to carry out the registration.

(2) The Board may not charge a fee for any registration required under this section.

(b) If a licensee or a permit holder fails to register any office as required by a regulation adopted under subsection (a) of this section, the license or permit shall:

(1) be suspended automatically; and

(2) remain suspended until the licensee or permit holder complies with the registration requirements adopted under this section.

§2–502.

(a) In this section, "accountant's document":

(1) means any of the following documents, if the document is prepared by an accountant in the course of professional service provided to a client:

(i) a memorandum;

(ii) a record;

(iii) a schedule;

(iv) a statement; or

(v) a working paper; and

(2) does not include any document provided by the client to the accountant.

(b) Unless the client to whom an accountant's document relates and the accountant expressly agree to the contrary, the accountant's document is:

(1) the property of the accountant who prepared it; or

(2) if the accountant is a partner or employee of an accounting firm, the property of the firm.

(c) Unless the client or a personal representative or assignee of the client consents, an accountant who holds an accountant's document that relates to a client may not give, sell, or otherwise transfer the accountant's document to anyone other than a partner of the accountant.

§2–601.

Except as otherwise provided in this title:

(1) a person may not practice, attempt to practice, or offer to practice certified public accountancy in the State unless licensed by the Board or qualified for a practice privilege under § 2–321 of this title; and

(2) a licensee on emeritus status under § 2–313.1 of this title may not:

(i) practice, attempt to practice, or offer to practice certified public accountancy in the State;

(ii) sign or certify financial statements, tax returns, or audit reports; or

(iii) provide attestation services.

§2–602.

Except for a licensed certified public accountant or an individual practicing under a practice privilege under § 2–321 of this title who operates a business as a sole practitioner, a person may not operate a business through which certified public accountancy is practiced, unless:

(1) the business is a partnership, limited liability company, or corporation; and

(2) except as otherwise provided under § 2–401 of this title, the partnership, limited liability company, or corporation holds a permit issued by the Board.

§2–603.

(a) Subject to subsection (b) of this section and unless authorized under this title to practice certified public accountancy, a person may not represent to the public, by use of a title, including "licensed certified public accountant", "certified public accountant", "public accountant", or "auditor", by use of the abbreviation "CPA", by description of services, methods, or procedures, or otherwise, that the person is authorized to practice certified public accountancy in the State.

(b) Subsection (a) of this section does not prohibit:

(1) the description of a principal, officer, or employee of an organization by the position, title, or office that the individual holds in the organization;

(2) the description of a licensee who is on emeritus status under § 2–313.1 of this title, provided that the licensee does not represent to the public that the licensee is authorized to practice certified public accountancy in the State; or

(3) a partnership, limited liability company, or corporation that holds a permit or is exempt from the permit requirement under § 2–401 of this title from using, in connection with the name of the partnership, limited liability company, or corporation, any of the terms or the abbreviation to which subsection (a) of this section refers.

(c) (1) (i) Except as provided in subparagraph (ii) of this paragraph, the display, distribution, or other use by a person of the person's name, in conjunction with any of the following list of titles or abbreviations in a card, sign, advertisement, directory listing, or other instrument or device, is, in any proceeding under this title, prima facie evidence that the person represents to the public that the person is authorized to practice certified public accountancy:

1. "licensed certified public accountant";

2. "certified public accountant";

3. "public accountant";

4. "auditor"; or

5. an abbreviation of any of these titles.

(ii) A licensee who is on emeritus status under § 2–313.1 of this title may use the words "certified public accountant emeritus" or the abbreviation "CPA emeritus" to describe the occupation of the individual, provided that the licensee does not represent to the public that the licensee is authorized to practice certified public accountancy in the State.

(2) In a proceeding under this title, evidence of a single representation described in paragraph (1) of this subsection is, without evidence of a general course of conduct, adequate to justify a finding that a person has represented to the public that the person is authorized to practice certified public accountancy in the State.

§2–604.

(a) Subject to subsection (b) of this section and unless a person holds a permit issued by the Board or is otherwise authorized under this title to practice

certified public accountancy, the person may not represent to the public, by use of a title, including "licensed certified public accountants", "certified public accountants", "public accountants", or "auditors", by use of the abbreviation "CPA", by description of services, methods, or procedures, or otherwise, that the person holds a permit or otherwise is authorized to operate a business through which certified public accountancy is practiced in the State.

(b) Subsection (a) of this section does not apply to a licensed certified public accountant or an individual practicing under a practice privilege under § 2–321 of this title who operates the business as a sole practitioner.

§2–605.

(a) A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.

(b) (1) The Board may impose on a person who violates any provision of this subtitle a penalty not exceeding $5,000 for each violation.

(2) In setting the amount of the penalty, the Board shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the violator;

(iv) any history of previous violations by the violator; and

(v) any other relevant factors.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

§2–701.

This title may be cited as the "Maryland Public Accountancy Act".

§2–702.

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, 2030.

§3–101.

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

(b) "Architect" means an individual who practices architecture.

(c) "Board" means, unless the context requires otherwise, the State Board of Architects.

(d) "Code official" means a public official responsible for the review of building permit documents or the issuance of building permits.

(e) "Contact hour" means a minimum of 50 minutes of actual class time for each 60–minute hour.

(f) "Design coordination" means the review and coordination of services provided by individuals licensed or certified under Titles 3, 8, 9, 14, and 15 of this article.

(g) "License" means, unless the context requires otherwise, a license issued by the Board to practice architecture.

(h) "License fee" means, as applicable, the fee paid in connection with the issuance and renewal of a license and the issuance of a reciprocal license.

(i) "Licensed architect" means, unless the context requires otherwise, an architect who is licensed by the Board to practice architecture.

(j) "Permit" means, unless the context requires otherwise, a permit issued by the Board to allow a partnership or corporation to operate a business through which an individual may practice architecture.

(k) "Permit fee" means, as applicable, the fee paid in connection with the issuance and renewal of a permit.

(l) (1) "Practice architecture" means to provide any service or creative work:

(i) in regard to an addition to, alteration of, or construction of a building or an integral part of a building; and

(ii) that requires education, training, and experience in architecture.

(2) "Practice architecture" includes:

(i) architectural design and preparation of related documents;

(ii) consultation;

(iii) design coordination;

(iv) evaluation;

(v) investigation; and

(vi) planning.

(m) "Public use" means the use of a building or other structure for the primary purpose of human use or habitation.

(n) "Residential use" means the use of a building or other structure as a dwelling.

§3–102.

The purposes of this title are to safeguard life, health, public safety, and property and to promote the public welfare by regulating persons who practice architecture in the State.

§3–103.

(a) Except as otherwise provided in this section, all architectural documents prepared in connection with the addition, alteration, construction, or design of a building, an integral part of a building, or a group of buildings which are intended for public use or residential use shall be signed, sealed, and dated by a licensed architect in accordance with § 3-501 of this title.

(b) A licensed architect may perform design coordination for a project or portion of a project provided that the licensed architect:

(1) holds a current license issued by the Board; and

(2) has adequate experience in, and understanding of, achieving the purpose of the project or portion of the project being coordinated.

(c) This title does not limit the right of:

(1) a construction contractor to administer construction contracts;

(2) a developer, builder, or contractor to provide design services related to the developer's, builder's, or contractor's own construction of new or existing single-family or two-family dwellings, or structures ancillary to them, or farm buildings;

(3) a certified interior designer or other individual to provide interior design services as that term is defined in Title 8 of this article; or

(4) an individual to prepare plans, drawings, and other documents in connection with the addition, alteration, construction, design, or repair of a single-family dwelling and appurtenances that are for the personal use of that individual or a member of the immediate family of that individual.

(d) (1) A person may not be required to employ a licensed architect in connection with the alteration or repair of an existing building or structure in a municipal corporation if the alteration or repair:

(i) does not adversely affect the structural system of the building, including foundations, footings, walls, floors, roofs, bearing partitions, beams, columns, joists, or the mechanical, electrical, or plumbing systems; and

(ii) 1. complies with the Maryland Rehabilitation Code and does not exceed $25,000 in estimated costs, including labor and materials for alterations or repairs limited to:

A. minor interior alterations or cosmetic or similar repairs; and

B. fixtures, cabinetwork or furniture; or

2. does not exceed $10,000 in estimated costs, including labor and materials, for alterations or repairs limited to:

A. Storefronts, facades, or similar replacements;

B. exterior stairways, landings, decks, or ramps;

C. joists; or

D. a mechanical, electrical, or plumbing system.

(2) Any work performed under this subsection shall be in compliance with the Americans with Disabilities Act and the Maryland Building Performance Standards set forth in Title 12, Subtitle 5 of the Public Safety Article.

(3) The exclusion provided for in this subsection shall be used only once per building or structure in a 12–month period.

(4) A building permit issued under this subsection:

(i) shall contain an affidavit signed by the person who has submitted the permit stating that the repair or alteration is in compliance with this subsection; and

(ii) may not be amended or revised in any way to cause the alteration or repair to exceed the maximum amount in total costs authorized under paragraph (1) of this subsection, including labor and materials.

(5) Any building permit issued under this subsection that contains technical submissions that fail to conform to the requirements of this subsection shall be invalid.

(e) Notwithstanding the provisions of subsection (d) of this section, a code official may require that architectural documents for alterations or repairs of existing buildings or structures be signed and sealed by a licensed architect if the code official determines that the signature and seal of a licensed architect is necessary to provide conformity with the Maryland Building Performance Standards or to otherwise provide for the health and safety of the public.

§3–201.

There is a State Board of Architects in the Department.

§3–202.

(a) (1) The Board consists of 7 members.

(2) Of the 7 members of the Board:

(i) 5 shall be licensed architects; and

(ii) 2 shall be consumer members.

(3) The Governor shall appoint the members with the advice of the Secretary and the advice and consent of the Senate.

(b) Each member of the Board shall be a resident and citizen of the State.

(c) Of the 5 architect members of the Board:

(1) at least 3 shall hold a professional degree from an architecture program accredited by the National Architectural Accrediting Board; and

(2) each shall have practiced architecture in the State, in private practice as a primary vocation, for at least 10 years before appointment.

(d) Each consumer member of the Board:

(1) shall be a member of the general public;

(2) may not be a licensee or otherwise be subject to regulation by the Board;

(3) may not be required to meet the qualifications for the professional members of the Board; and

(4) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Board.

(e) While a member of the Board, a consumer member may not:

(1) have a financial interest in or receive compensation from a person regulated by the Board; or

(2) grade any examination given by or for the Board.

(f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(g) (1) The term of a member is 5 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 October 1, 1989.

(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.

(h) (1) The Governor may remove a member for incompetence or misconduct.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned if the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§3–203.

From among the members of the Board and with the advice of the Secretary, the Governor shall appoint a chairman.

§3–204.

(a) A majority of the authorized membership of the Board is a quorum.

(b) The Board shall determine the times and places of its meetings and hearings.

(c) A member of the Board:

(1) may not receive compensation; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) (1) The Board may employ a staff in accordance with the State budget.

(2) The Board may require the staff to be covered by a surety bond or an insurance policy of the type and in the amount of coverage determined by the State Treasurer under § 5–108 of the State Government Article.

§3–204.1.

At least annually, the chairman of the Board, the chairman of the State Board of Certified Interior Designers, the chairman of the State Board of Examiners of Landscape Architects, the chairman of the State Board for Professional Engineers, and the chairman of the State Board for Professional Land Surveyors shall meet to discuss issues of mutual importance to the design professions.

§3–205.

With the advice of the established architecture societies, the Board shall adopt, by regulation, a code of ethics for practicing architecture.

§3–206.

(a) To enforce this title, the Board:

(1) may conduct investigations and hold hearings on any matter covered by this title, at any time and place in the State; and

(2) subject to the State budget, may employ an investigative staff to:

(i) investigate a complaint; and

(ii) perform any other related duty, as assigned by the Board.

(b) To enforce this title, the Board may:

(1) administer oaths;

(2) examine witnesses; and

(3) receive evidence.

(c) (1) The Board may issue a subpoena for the attendance of a witness to testify or the production of evidence in connection with any investigation or hearing conducted under subsection (a) of this section.

(2) A subpoena shall be signed by 3 members of the Board.

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

(d) (1) The Board may sue in the name of the State to enforce any provision of this title by injunction.

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

(i) post bond; or

(ii) allege or prove either that:

1. an adequate remedy at law does not exist; or

2. substantial or irreparable damage would result from the continued violation of the provision.

(3) A member of the Board or its staff may not be held personally liable for any action taken under this subsection in good faith and with reasonable grounds.

§3–207.

(a) On request of any person and payment of a fee of $10, the Board shall certify the licensing or permit status and qualifications of any person who is the subject of the request.

(b) Each certification under this section:

(1) shall include a statement of the licensing or permit status of the person who is the subject of the request; and

(2) may include:

(i) information about the examination results and other qualifications of that person;

(ii) information about the dates of issuance and renewal of the license or permit of that person;

(iii) information about any disciplinary action taken against that person; and

(iv) if authorized by that person, information about any complaint against that person.

§3–208.

(a) In addition to any powers set forth elsewhere, the Board may adopt:

(1) any regulation to carry out this title; and

(2) a seal.

(b) In addition to any duties set forth elsewhere, the Board shall keep a record of its proceedings.

§3–208.1.

(a) In this section, "code official" means a public official responsible for the review of building permit documents or the issuance of building permits.

(b) The Board shall:

(1) keep a list of the names and mailing addresses of all licensees;

(2) provide each code official with a copy of the list annually; and

(3) provide any other person who makes a request with a copy of the list at a reasonable fee set by the Board.

(c) (1) The Board shall provide all licensees and code officials with a periodic newsletter not less than semiannually on the activities of the Board.

(2) The Board shall publish, on the Department website, the newsletter jointly with the State Board for Professional Engineers, the State Board of Certified Interior Designers, the State Board of Examiners of Landscape Architects, and the State Board for Professional Land Surveyors.

(d) The Board shall distribute:

(1) to each applicant for a license and each code official, a copy of the Maryland Architects Act and the Board's rules and regulations;

(2) on each renewal of a license, to each licensee, a copy of any amendments to the Maryland Architects Act and the Board's rules and regulations that took effect during the 2-year period ending on the date of renewal; and

(3) to each code official, a copy of any amendments to the Maryland Architects Act and the Board's rules and regulations.

(e) A licensee shall designate the licensee's mailing address at the time of issuance of the license and on each renewal of the license.

§3–209.

(a) (1) The Board may set reasonable fees for its services.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the Board and shall be based on the calculations performed by the Secretary under § 2–106.2 of the Business Regulation Article.

(b) The Board shall publish the fee schedule set by the Board by regulation.

(c) (1) The Board shall pay all fees collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Occupational and Professional Licensing Design Boards' Fund established in § 2–106.1 of the Business Regulation Article.

§3–210.

(a) Any person aggrieved by any final action of the Board may take an appeal as allowed in §§ 10-222 and 10-223 of the State Government Article.

(b) The Board may appeal from a decision of the circuit court.

§3–211.

The Board exercises its powers, duties, and functions subject to the authority of the Secretary.

§3–301.

In this subtitle, "Council" means the National Council of Architectural Registration Boards.

§3–302.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice architecture in the State.

(b) (1) An architect who resides outside the State and meets the requirements for a license by reciprocity under § 3-306 of this subtitle may:

(i) offer to practice architecture in the State; and

(ii) accept a commission to practice architecture in the State.

(2) Notwithstanding paragraph (1) of this subsection, the architect shall be licensed by the Board before the architect may practice architecture in the State.

§3–303.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) An applicant shall be of good character and reputation.

(c) (1) Except as provided in paragraph (2) of this subsection, the applicant shall:

(i) hold a degree in architecture from:

1. a school of architecture that is located in the United States and that, within 2 years after the applicant's graduation, holds accredited status from the National Architectural Accrediting Board; or

2. a foreign school of architecture that the Board determines is comparable to an accredited school of architecture in the United States; and

(ii) have practical work experience or additional academic training in architecture that the Board considers appropriate.

(2) The Board shall exempt an applicant from the degree requirements of paragraph (1)(i) of this subsection if the applicant has practical work experience and academic training in architecture that the Board considers appropriate.

(d) Except as otherwise provided in this subtitle, an applicant shall pass the examination given by the Board under this subtitle.

(e) In addition to the other requirements of this section, the Board may require an applicant to satisfy any additional licensing requirements that the Board adopts from the licensing guidelines published by the Council.

§3–304.

An applicant for a license 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:

(i) a nonrefundable application fee set by the Board; and

(ii) an examination fee set by the Board in an amount not to exceed the cost of the required examination.

§3–305.

(a) Except as otherwise provided in § 3-305.1 of this subtitle, an applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) The Board shall give examinations to qualified applicants at least once a year at the time and place 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 determine the subjects, scope, and form of and the passing score for examinations given under this title.

(2) The Board may adopt an examination or a recommended grading procedure of the Council or any similar organization.

§3–305.1.

(a) The Board may use a testing service to administer examinations given under this title.

(b) If the Board uses a testing service, the testing service, subject to the requirements set by the Board, may:

(1) set the time and place of examinations;

(2) give qualified applicants notice of the time and place of examinations; and

(3) furnish any other information that the Board may require the testing service to provide.

§3–306.

(a) Subject to the provisions of this section, the Board may issue a license by reciprocity to practice architecture in the State to an individual who:

(1) is licensed to practice architecture in another state or country; or

(2) is certified by the Council under subsection (c) of this section.

(b) The Board may issue a license by reciprocity under this section for an applicant who is licensed to practice architecture in another state or country only if the applicant:

(1) is of good character and reputation;

(2) pays to the Board:

(i) a nonrefundable application fee set by the Board; and

(ii) a license fee set by the Board; and

(3) provides adequate evidence that:

(i) the applicant became licensed in the other state or country after meeting, in that or any other state or country, requirements that were at least equivalent to those then required by the laws of this State; or

(ii) at the time of application for a license by reciprocity under this section, the applicant meets the requirements currently required by the laws of this State.

(c) The Board may issue a license by reciprocity under this section for an applicant who is certified by the Council only if:

(1) the applicant:

(i) is of good character and reputation; and

(ii) pays to the Board:

1. a nonrefundable application fee set by the Board; and

2. a license fee set by the Board; and

(2) the Board receives from the Council a certified copy of its certificate for the applicant that certifies that the applicant is licensed to practice architecture in another state or country.

(d) An architect who is granted a license by reciprocity by the Board may not be required to maintain licensure in any other state or country as a condition of maintaining the license granted by the Board.

§3–307.

(a) If an applicant qualifies for a license by passing an examination under this subtitle, the Board shall send the applicant a notice that states that:

(1) the applicant has qualified for a license; and

(2) on receipt of a license fee set by the Board, the Board will issue a license to the applicant.

(b) (1) On payment of the license fee, the Board shall issue a license to each applicant who meets the requirements for a license through examination under § 3–305 of this subtitle.

(2) The Board shall issue a license to each applicant who meets the requirements for a license by reciprocity under § 3–306 of this subtitle.

§3–308.

While a license is in effect, it authorizes the licensee to practice architecture.

§3–309.

(a) Unless a license is renewed for a 2–year term as provided in this section, the license expires on the first June 30 that comes:

(1) after the effective date of the license; and

(2) in an even–numbered year.

(b) (1) At least 1 month before a license expires, the Board shall mail or electronically transmit to the licensee:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current license expires; and

2. the amount of the license fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the licensee, at the last known address of the licensee, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(c) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Board a license fee set by the Board;

(3) submits to the Board a renewal application on the form that the Board provides; and

(4) upon request by the Board, submits to the Board the original certificate of completion or transcript of completed courses verifying the licensee has complied with the continuing professional competency requirement under § 3–309.1 of this subtitle.

(d) The Board shall renew the license of each licensee who meets the requirements of this section.

(e) An architect has a grace period of 30 days after the architect's license expires in which to renew it retroactively, if the architect:

(1) otherwise is entitled to have the license renewed;

(2) pays to the Board the license fee set by the Board; and

(3) meets the continuing education requirement for renewal of a license under § 3–309.1 of this subtitle.

(f) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

§3–309.1.

The Board shall adopt regulations to require a licensee to demonstrate continuing professional competency by completing at least 24 hours of professional development activities as a condition of renewal of a license under this subtitle.

§3–309.2.

(a) The Board may issue a retired status license to an individual who:

(1) is currently licensed by the Board to practice architecture;

(2) has been a licensed architect for at least 25 years, of which 5 years have been in Maryland;

(3) is not the subject of a pending disciplinary action related to the practice of architecture in this or another state;

(4) submits to the Board an application on the form provided by the Board; and

(5) pays to the Board a fee set by the Board.

(b) The holder of a retired status license issued under this section:

(1) may use the designation of "architect emeritus"; but

(2) may not engage in the practice of architecture.

(c) The Board may reactivate the license of an individual who holds a retired status license if that individual:

(1) submits to the Board an application for reactivation on the form provided by the Board;

(2) meets all continuing professional competency requirements that would have been required for renewal of a license under § 3–309.1 of this subtitle if the individual had not been issued a retired status license;

(3) is not the subject of a pending disciplinary action related to the practice of architecture in this or any other state; and

(4) pays to the Board a reactivation fee set by the Board.

§3–310.

(a) The Board shall reinstate the license of an architect who, for any reason, has failed to renew the license by the end of the 30–day grace period if the architect:

(1) meets the renewal requirements of § 3–309 of this subtitle;

(2) except as otherwise provided in subsection (b) of this section, pays to the Board a reinstatement fee set by the Board;

(3) submits to the Board a reinstatement application on the form that the Board provides; and

(4) meets the continuing professional competency requirement that would have been required for renewal of a license under § 3–309.1 of this subtitle, if the license had not expired.

(b) The Board may waive a reinstatement fee for a licensee who provides evidence satisfactory to the Board that the licensee did not practice architecture during the time the license lapsed.

§3–311.

(a) (1) Subject to the hearing provisions of § 3–313 of this subtitle, the Board, on the affirmative vote of a majority of its authorized membership, may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if:

(i) the applicant or licensee fraudulently or deceptively obtains or renews or attempts to obtain or renew a license or permit for the applicant or licensee or for another;

(ii) the applicant or licensee fraudulently or deceptively uses a license;

(iii) the applicant or licensee is guilty of any fraud, gross negligence, incompetence, or misconduct while practicing architecture;

(iv) the applicant or licensee violates any regulation adopted by the Board;

(v) the applicant or licensee violates any provision of this title;

(vi) the applicant or licensee aids or abets an unauthorized person to practice architecture;

(vii) under the laws of the United States or of any state, the applicant or licensee is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to practice architecture; or

(viii) the applicant or licensee has had a license to practice architecture in another state revoked or suspended for grounds that would justify revocation or suspension of a license under this title, except for failure to pay a license fee.

(2) (i) Instead of or in addition to reprimanding the licensee or suspending or revoking a license under this subsection, the Board may impose a penalty not exceeding $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Board shall consider:

1. the seriousness of the violation;

2. the harm caused by the violation;

3. the good faith of the licensee; and

4. any history of previous violations by the licensee.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(b) The Board shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when

an applicant or licensee is convicted of a felony or misdemeanor described in subsection (a)(1)(vii) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to practice architecture;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

§3–312.

(a) Subject to the provisions of this section, the Board shall commence proceedings under § 3-311 of this subtitle on a complaint made to the Board by a member of the Board or any other person.

(b) (1) A complaint shall:

(i) be in writing; and

(ii) state specifically the facts on which the complaint is based.

(2) If the complaint is made by any person other than a member of the Board, the complaint shall be made under oath by the person who submits the complaint.

(c) If the Board finds that a complaint alleges facts that are adequate grounds for action under § 3-311 of this subtitle, the Board shall act on the complaint as provided under § 3-313 of this subtitle. If the Board does not make that finding, it shall dismiss the complaint.

§3–313.

(a) (1) Except as otherwise provided in § 10-226 of the State Government Article, before the Board takes any final action under § 3-311 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

(2) A hearing shall be held within a reasonable time, not exceeding 6 months, after the complaint is made.

(b) The Board shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) At least 30 days before the hearing, the hearing notice and a copy of the complaint shall be:

(1) served personally on the individual; or

(2) mailed to the last known address of the individual.

(d) The individual may be represented at the hearing by counsel.

(e) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§3–401.

In this subtitle, "responsible member" means a director or an officer of a corporation, a member of a limited liability company, or a general partner of a partnership who is appointed under § 3–404(c) of this subtitle to be in responsible charge of architecture practiced through the corporation, limited liability company, or partnership.

§3–402.

(a) (1) Subject to the provisions of this subtitle, a licensed architect may practice architecture for others through:

(i) a corporation as an officer, director, employee, or agent of the corporation;

(ii) a limited liability company as a member, employee, or agent of the limited liability company; or

(iii) a partnership as a partner, employee, or agent of the partnership.

(2) Subject to the provisions of this subtitle, a corporation, limited liability company, or partnership may provide architectural services through a licensed architect.

(b) A licensed architect who practices architecture through a corporation, limited liability company, or partnership under this subtitle is subject to all of the provisions of this title that relate to practicing architecture.

(c) (1) A corporation, limited liability company, or partnership that provides architectural services under this subtitle is not, by its compliance with this subtitle, relieved of any responsibility that the corporation, limited liability company, or partnership may have for an act or omission of its officer, director, member, partner, employee, or agent.

(2) An individual who practices architecture through a corporation, limited liability company, or partnership is not, by reason of the individual's employment or other relationship with the corporation, limited liability company, or partnership, relieved of any individual responsibility that the individual may have regarding that practice.

§3–403.

(a) Except as provided in subsection (b) of this section, a corporation, limited liability company, or partnership shall hold a permit issued by the Board before the corporation, limited liability company, or partnership may operate a business through which architecture is practiced.

(b) A corporation, limited liability company, or partnership may provide architectural services for itself or for an affiliated corporation, limited liability company, or partnership without a permit issued by the Board.

§3–404.

(a) To qualify for a permit, a corporation, limited liability company, or partnership shall meet the requirements of this section.

(b) (1) At least two-thirds of the directors of a corporation shall be licensed in this or another state to practice architecture, engineering, or landscape architecture.

(2) (i) At least two-thirds of the partners of a partnership shall be licensed in this or another state to practice architecture, engineering, or landscape architecture.

(ii) If the partnership is a limited partnership, at least two-thirds of the general partners of the limited partnership shall be licensed in this or another state to practice architecture, engineering, or landscape architecture.

(3) At least two-thirds of the members of a limited liability company shall be licensed in this or another state to practice architecture, engineering, or landscape architecture.

(c) (1) A corporation, limited liability company, or partnership shall have appointed at least 1 responsible member of the corporation, limited liability company, or partnership.

(2) A responsible member shall be in charge of architecture practiced through the corporation, limited liability company, or partnership.

(3) Each responsible member shall be:

(i) a director or an officer of a corporation, a member of a limited liability company, or a general partner of a partnership; and

(ii) a licensed architect.

§3–405.

(a) An applicant for a permit shall:

(1) submit to the Board an application on the form that the Board provides; and

(2) pay to the Board a nonrefundable application fee set by the Board.

(b) In addition to any other information required on an application form, the form shall require the name and address of:

(1) each responsible member of a corporation, limited liability company, or partnership;

(2) each officer and director of a corporation;

(3) each member of a limited liability company; and

(4) each partner of a partnership.

§3–406.

The Board shall issue a permit to each applicant who meets the requirements of this subtitle and pays to the Board a permit fee set by the Board.

§3–407.

(a) Subject to subsection (b) of this section and while a permit is in effect, it authorizes the holder to:

(1) operate a business through which a licensed architect practices architecture; and

(2) represent to the public that the business provides the services of a licensed architect.

(b) A permit authorizes the holder to provide a service that constitutes practicing architecture only if the service is performed by an individual who is licensed or otherwise authorized under this title to practice architecture.

§3–408.

(a) Unless a permit is renewed for a 2–year term as provided in this section, the permit expires on the first June 30 that comes:

(1) after the effective date of the permit; and

(2) in an even–numbered year.

(b) (1) At least 1 month before a permit expires, the Board shall mail or electronically transmit to the permit holder:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current permit expires; and

2. the amount of the permit fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the permit holder, at the last known address of the permit holder, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(c) Before a permit expires, the permit holder periodically may renew it for an additional 2–year term, if the holder:

(1) meets the qualifications for a permit under § 3–404 of this subtitle;

(2) otherwise is entitled to a permit;

(3) pays to the Board the permit fee set by the Board; and

(4) submits to the Board a renewal application on the form that the Board provides.

(d) The renewal application form shall require the same information required on the original application form under § 3–405(b) of this subtitle.

(e) The Board shall renew the permit of each permit holder who meets the requirements of this section.

(f) A corporation, limited liability company, or partnership has a grace period of 30 days after the permit of the corporation, limited liability company, or partnership expires in which to renew it retroactively, if the corporation, limited liability company, or partnership:

(1) otherwise is entitled to have the permit renewed; and

(2) pays to the Board the permit fee set by the Board.

§3–409.

Within 1 month after the effective date of the change, a permit holder shall submit to the Board an application form that shows a change in the name of:

(1) a responsible member of the holder;

(2) an officer or director, if the holder is a corporation;

(3) a member, if the holder is a limited liability company; or

(4) a partner, if the holder is a partnership.

§3–410.

(a) Subject to the hearing provisions of § 3–411 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a permit to any applicant, reprimand a permit holder, or suspend or revoke a permit if:

(1) the applicant or permit holder fraudulently or deceptively obtains or attempts to obtain a permit; or

(2) the permit holder fraudulently or deceptively uses a permit.

(b) (1) In addition to a sanction imposed under subsection (a) of this section, the Board may impose a penalty not exceeding $5,000 for:

(i) each violation for which a denial, reprimand, suspension, or revocation was imposed under subsection (a) of this section; and

(ii) each failure to meet or continue to meet the qualifications or requirements set forth in this subtitle.

(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 permit holder or the applicant; and

(iv) any history of previous violations by the permit holder or the applicant.

(c) The Board shall pay any penalty collected under subsection (b) of this section into the General Fund of the State.

§3–411.

(a) Except as otherwise provided in § 10–226 of the State Government Article, before the Board takes any final action under § 3–410 of this subtitle, it shall give the person 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) At least 30 days before the hearing, the hearing notice and a copy of the complaint shall be:

(1) served personally on the applicant or on a person in responsible charge of architecture practiced through the entity holding the permit or a person designated as a resident agent to receive process on behalf of the entity; or

(2) mailed to the last known business address of the applicant or the entity holding the permit.

(d) If, after due notice, the person against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

§3–412.

(a) (1) For the limited purpose set forth in paragraph (2) of this subsection, a permit shall remain in effect and does not expire by operation of law while the permit holder is under investigation by the Board or awaiting a hearing or disposition on charges subject to disciplinary action under this subtitle.

(2) An extension of a permit term under this subsection is effective only for the purpose of retaining the jurisdiction of the Board over the permit holder during the course of disciplinary proceedings and does not prevent the permit from expiring for any other purpose.

(b) Unless the Board agrees to accept the surrender, a permit holder may not surrender a permit while the holder is under investigation or awaiting a hearing or disposition on charges subject to disciplinary action under this subtitle.

§3–413.

A corporation, partnership, or limited liability company whose permit has been suspended or revoked under § 3–410 of this subtitle may not offer or provide architectural services until the suspension is lifted or the permit is reinstated.

§3–414.

(a) Subject to the provisions of this section, the Board may reinstate:

(1) a permit that has been revoked; or

(2) before fulfillment of the conditions of the suspension, a permit that has been suspended.

(b) A permit may be reinstated under this section only if:

(1) the corporation, partnership, or limited liability company whose permit has been revoked or suspended submits a written request to the Board; and

(2) the corporation, partnership, or limited liability company pays to the Board a reinstatement fee set by the Board.

(c) The Board, by an affirmative vote of a majority of its members then serving, shall vote on the request for reinstatement or lifting of the suspension within 60 days of receipt of the written request.

§3–415.

The Board may reinstate the permit of a corporation, partnership, or limited liability company that has failed to renew the permit for any reason if the corporation, partnership, or limited liability company:

(1) otherwise is entitled to a permit; and

(2) pays to the Board a reinstatement fee set by the Board.

§3–416.

After the Board reinstates a permit, the permit holder shall continue to comply with all applicable requirements set forth in this subtitle.

§3–501.

(a) Before a licensed architect issues to a client or submits to a public authority any final drawing, plan, specification, report, or other document required for the issuance of a building permit, the licensed architect who prepared or approved the document shall sign, seal, and date the document.

(b) Subject to exceptions stated and rights granted under § 3-103 of this title, a public authority may not accept any architectural drawing, plan, specification, report, or other document, unless the document is endorsed as required under subsection (a) of this section.

§3–601.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice architecture in the State unless licensed by the Board.

§3–602.

Except for a licensed architect who operates a business as a sole practitioner, a person may not operate a business through which architecture is practiced, unless:

(1) the business is a corporation, partnership, or limited liability company; and

(2) the corporation, partnership, or limited liability company holds a permit issued by the Board.

§3–603.

Unless authorized under this title to practice architecture, a person may not represent to the public, by use of a title, including "architect", "licensed architect", or "registered architect", by description of services, methods, or procedures, or otherwise, that the person is authorized to practice architecture in the State.

§3–604.

(a) Subject to subsection (b) of this section and unless a person holds a permit issued by the Board, the person may not represent to the public, by the use of the titles "architects", "licensed architects", or "registered architects", by the use of the term "architecture", by description of services, methods, or procedures, or otherwise that the person holds a permit or otherwise is authorized to operate a business through which architecture is practiced in the State.

(b) Subsection (a) of this section does not apply to a licensed architect who operates the business as the sole practitioner.

§3–605.

(a) A person who violates § 3-601, § 3-602, § 3-603, or § 3-604 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $3,000 or imprisonment not exceeding 1 year or both.

(b) (1) The Board may impose on a person who violates § 3-601, § 3-602, § 3-603, or § 3-604 of this subtitle a penalty not exceeding $5,000 for each violation.

(2) In setting the amount of the penalty, the Board shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the violator;

(iv) any history of previous violations by the violator; and

(v) any other relevant factors.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

§3–606.

If the Board believes that a person has violated § 3-601, § 3-602, § 3-603, or § 3-604 of this subtitle, the Board immediately shall report the alleged violation to the appropriate State's Attorney or, if the alleged violation affects more than 1 county, to the Attorney General.

§3–701.

This title may be cited as the "Maryland Architects Act".

§3–702.

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, 2028.

§4–101.

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

(b) "Apprentice barber" means an individual who, under the supervision of a master barber, is learning to practice barbering or to provide barber–stylist services in a barbershop that holds a barbershop permit.

(c) "Barber" means an individual who practices barbering.

(d) "Barber–stylist" means an individual who provides barber–stylist services.

(e) (1) "Barbershop" means any commercial establishment, except a beauty salon, in which an individual practices barbering or provides barber–stylist services.

(2) "Barbershop" includes a mobile barbershop.

(3) "Barbershop" does not include a clinic in a barber school.

(f) "Barbershop permit" means a permit issued by the Board to operate a barbershop.

(g) "Board" means the State Board of Barbers.

(h) (1) "License" means, unless the context requires otherwise, a license issued by the Board to practice barbering or to provide barber–stylist services.

(2) "License" includes, unless the context requires otherwise, each of the following licenses:

(i) a master barber license;

(ii) a barber license; and

(iii) a barber–stylist limited license.

(i) (1) "Limited license" means a license issued by the Board to practice barbering as limited in § 4–301 of this title.

(2) "Limited license" includes, unless the context requires otherwise, a limited license to provide barber–stylist services.

(j) "Master barber" means a barber who:

(1) has at least 15 months experience as a licensed barber; and

(2) has passed a test approved by the Board.

(k) "Mobile barbershop" means a barbershop that is located in a motor vehicle or a trailer that is designed, constructed, and equipped as a place for an individual to practice barbering and for use as a conveyance on highways.

(l) (1) "Practice barbering" means to provide to an individual for compensation the service of:

(i) cutting, razor cutting, styling, relaxing, body waving, shampooing, or coloring the hair;

(ii) shaving or trimming the beard;

(iii) massaging the face;

(iv) designing, fitting, or cutting a hairpiece; or

(v) performing any other similar procedure on the hair, beard, face, or hairpiece of the individual.

(2) "Practice barbering" does not include:

(i) the mere sale of wigs or hairpieces; or

(ii) the services performed by an employee under the supervision of a master barber in a barbershop that holds a barbershop permit that are restricted to:

1. shampooing;

2. removal of a hair solution;

3. sterilization of equipment; or

4. similar activities.

(m) "Provide barber–stylist services" means to provide to an individual for compensation the service of:

(1) cutting, razor cutting, or styling the hair;

(2) shaving or trimming the beard;

(3) massaging the face; or

(4) performing any other similar procedure on the hair, beard, or face of the individual.

§4–102.

This title does not prohibit an individual who is authorized to practice cosmetology under Title 5 of this article from practicing cosmetology.

§4–201.

There is a State Board of Barbers in the Department.

§4–202.

(a) (1) The Board consists of 7 members.

(2) Of the 7 members of the Board:

(i) 5 shall be master barbers; and

(ii) 2 shall be consumer members.

(3) The Governor shall appoint the members with the advice of the Secretary.

(b) Each master barber member of the Board shall have practiced barbering in the State continuously for at least 5 years before appointment.

(c) Each consumer member of the Board:

(1) shall be a member of the general public;

(2) may not be a licensee or otherwise be subject to regulation by the Board;

(3) may not be required to meet the qualifications for the professional members of the Board; and

(4) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Board.

(d) While a member of the Board, a consumer member may not:

(1) have a financial interest in or receive compensation from a person regulated by the Board; or

(2) grade any examination given by or for the Board.

(e) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) (1) The term of a member is 5 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 October 1, 1989.

(3) A member may not serve more than 2 consecutive terms.

(4) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(5) 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.

(g) (1) The Governor may remove a member for incompetence or misconduct.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned if the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the president shall provide notice to the Governor and the Governor shall appoint a successor.

§4–203.

From among the members of the Board, the Governor shall appoint a president, treasurer, and secretary.

§4–204.

(a) A majority of the authorized membership of the Board is a quorum.

(b) The Board shall determine the times and places of its meetings.

(c) Subject to the State budget, each member of the Board is entitled to:

(1) a reasonable fee set by the Board for each day on which the member is engaged in the duties of office; and

(2) reimbursement for expenses under the Standard State Travel Regulations.

(d) The Board may employ a staff in accordance with the State budget.

§4–205.

(a) On request of any person and payment of a certification fee set by the Board, the Board shall certify the licensing, registration, or permit status and qualifications of any person who is the subject of the request.

(b) Each certification under this section:

(1) shall include a statement of the licensing, registration, or permit status of the person who is the subject of the request; and

(2) may include:

(i) information about the examination results and other qualifications of that person;

(ii) information about the dates of issuance and renewal of the license, registration, or permit of that person;

(iii) information about any disciplinary action taken against that person; and

(iv) if authorized by that person, information about any complaint against that person.

(c) The Board shall collect the certification fee established by the Board in accordance with § 4–206 of this subtitle for each certification under this section.

§4–206.

(a) In addition to any powers set forth elsewhere, the Board may adopt any regulation to carry out this title.

(b) (1) The Board shall adopt regulations that establish detailed curriculum standards for use by the State Board of Education or the Maryland Higher Education Commission in approving applications for instruction in the practice of barbering and the provision of barber–stylist services at public schools or private career schools.

(2) The curriculum standards established under paragraph (1) of this subsection shall:

(i) incorporate modern methods and practices for the practice of barbering and the provision of barber–stylist services;

(ii) include a reference to each topic and the emphasis of each topic required of a comprehensive barbering and barber–stylist curriculum; and

(iii) be reviewed and updated periodically as determined by the Board.

(c) In addition to any duties set forth elsewhere, the Board shall administer and enforce this title.

§4–207.

(a) (1) Except for the examination fees that the Board shall establish in amounts not to exceed the costs of the examinations, the Board may set by regulation reasonable fees for its services, including application fees, licensing fees, license renewal fees, license reinstatement fees, certification fees, permit fees, permit renewal fees, inspection fees, and any other fees necessary for the Board to carry out the provisions of this title.

(2) The fees charged shall be:

(i) set so as to produce funds to approximate the cost of maintaining the Board; and

(ii) based on the calculations performed by the Secretary under § 2–106.10 of the Business Regulation Article.

(b) The Board shall publish a schedule of fees set by the Board.

(c) (1) The Board shall pay all fees collected under this title to the Comptroller.

(2) The Comptroller shall distribute the fees to the State Barbers and Cosmetologists Boards' Fund established in § 2–106.9 of the Business Regulation Article.

§4–208.

(a) Any person 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.

(b) The Board may appeal from a decision of the circuit court.

§4–209.

The Board exercises its powers, duties, and functions subject to the authority of the Secretary.

§4–301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board to practice barbering before the individual may practice barbering in the State.

(b) If an individual holds the appropriate barber–stylist limited license, the individual may practice barbering in a manner limited to providing barber–stylist services.

(c) This section does not apply to:

(1) a student while the student practices barbering or provides barber–stylist services in accordance with § 4–301.1 or § 4–301.2 of this subtitle;

(2) a registered apprentice barber; or

(3) an individual authorized in the discretion of the Board to practice barbering or to provide barber–stylist services under special circumstances.

§4–301.1.

(a) (1) Subject to the provisions of this subsection, a student who has completed at least 80 hours of training at a school of barbering may practice barbering or provide barber–stylist services, without a license, at the school.

(2) A student may practice barbering or provide barber–stylist services under this subsection only:

(i) in the course of the practical work required as part of the training of the student;

(ii) while the student is under the direct supervision of a teacher who meets the requirements established by the Department of Education for public school programs or the Maryland Higher Education Commission for private school programs; and

(iii) if the individual to whom a service is to be provided agrees to the service after being informed that a student in training is to provide the service.

(b) (1) Subject to the provisions of this subsection, a student who has completed at least 850 hours of training at a school of barbering may practice barbering or provide barber–stylist services, without a license, in a:

(i) hospital;

(ii) nursing home; or

(iii) correctional facility that does not house a barber school.

(2) A student may practice barbering or provide barber–stylist services under this subsection only:

(i) in the course of the practical work required as part of the training of the student;

(ii) while the student is under the direct supervision of a teacher who meets the requirements established by the Department of Education for public school programs or the Maryland Higher Education Commission for private school programs; and

(iii) if the individual to whom a service is to be provided:

1. is confined to a hospital, nursing home, or correctional facility that does not house a barber school; and

2. agrees to the service after being informed that a student in training is to provide the service.

§4–301.2.

(a) Subject to the provisions of this section, a student who has completed at least 850 hours of training while enrolled in public school courses in barbering may practice barbering or provide barber–stylist services without a license.

(b) A student may practice barbering or provide barber–stylist services under this section only if the student:

(1) is enrolled in an approved barbering program and has a record of satisfactory school performance and school attendance, as determined by the local education agency;

(2) has a letter of authorization signed by the student's teacher or work–study coordinator, to practice barbering or to provide barber–stylist services in a specific licensed barbershop;

(3) practices barbering or provides barber–stylist services only in that specific licensed barbershop; and

(4) while practicing barbering or providing barber–stylist services, works under the direct supervision of an individual who is a licensed master barber who agrees to periodically report on the progress of the student to the barbering teacher or the work–study coordinator.

(c) Under this section, there may not be more than three students working under the supervision of a licensed master barber.

(d) A barbershop may pay a student for work authorized under this section.

(e) A student authorized under this section to practice barbering or to provide barber–stylist services without a license shall conspicuously display a letter of authorization, as required by this section, at the student's work station in the specified licensed barbershop.

§4–302.

(a) To qualify for a license to practice barbering or a barber–stylist limited license, an applicant shall be an individual who meets the requirements of this section.

(b) (1) An applicant for a barber license shall have completed successfully:

(i) 1. a required program of at least 1,200 hours of training in a barber school that is approved by the State Department of Education or the Maryland Higher Education Commission, in consultation with the Board; or

2. an apprenticeship of at least 2,250 hours within 2 years in a barbershop that holds a barbershop permit under the supervision of a master barber; and

(ii) 1 hour of in–person or virtual training in domestic violence awareness under § 4–302.1 of this subtitle.

(2) If the applicant for a barber license is an individual trained and currently licensed as a cosmetologist in the State, the Board shall:

(i) credit the applicant with having met one–half of the training requirement of paragraph (1)(i) of this subsection; and

(ii) determine the manner in which the credit will be applied.

(3) The Board may credit an applicant with the number of hours of training the applicant completes in a barber school toward the number of hours required for an apprenticeship if the barber school where the applicant completes the training:

(i) is located in a detention center or correctional facility; and

(ii) 1. is approved by the State Department of Education or the Maryland Higher Education Commission; or

2. has a curriculum similar to one that is approved by the State Department of Education or the Maryland Higher Education Commission.

(4) The Board may not credit more than 600 hours of training to an individual under paragraph (3) of this subsection.

(c) (1) An applicant for a barber–stylist limited license shall have completed successfully:

(i) 1. a required program of at least 900 hours of training in a barber school that is approved by the State Department of Education or the Maryland Higher Education Commission, in consultation with the Board; or

2. an apprenticeship of at least 1,650 hours within 18 months in a barbershop that holds a barbershop permit under the supervision of a master barber; and

(ii) 1 hour of in–person or virtual training in domestic violence awareness under § 4–302.1 of this subtitle.

(2) If the applicant for a barber–stylist license is an individual trained and currently licensed as a cosmetologist in the State, the Board shall:

(i) credit the applicant with having met one–half of the training requirement of paragraph (1)(i) of this subsection; and

(ii) determine the manner in which the credit will be applied.

(3) The Board may credit an applicant with the number of hours of training the applicant completes in a barber school toward the number of hours required for an apprenticeship if the barber school where the applicant completes the training:

(i) is located in a detention center or correctional facility; and

(ii) 1. is approved by the State Department of Education or the Maryland Higher Education Commission; or

2. has a curriculum similar to one that is approved by the State Department of Education or the Maryland Higher Education Commission.

(4) The Board may not credit more than 450 hours of training to an individual under paragraph (3) of this subsection.

(d) An applicant for a master barber license shall have at least 15 months of experience as a barber.

(e) (1) Except as otherwise provided in this subtitle, an applicant for a master barber license shall pass an examination given by the Board or the Board's designee under this subtitle.

(2) Except as otherwise provided in this subtitle, an applicant for a barber license shall pass an examination given by the Board or the Board's designee under this subtitle.

(3) Except as otherwise provided in this subtitle, an applicant for a barber–stylist limited license shall pass an examination given by the Board or the Board's designee under this subtitle.

§4–302.1.

(a) The Department shall approve training programs that an individual may complete to satisfy the domestic violence awareness training requirements of this title.

(b) A training program approved under subsection (a) of this section must:

(1) be offered in person and virtually;

(2) include guidance on:

(i) recognizing the signs of domestic violence;

(ii) strategies to navigate conversations with clients who may be victims of domestic violence;

(iii) how to listen to and communicate with victims of domestic violence; and

(iv) connecting clients with resources and support groups for victims of domestic violence; and

(3) have a duration of at least 1 hour.

§4–303.

An applicant for a license shall:

(1) submit to the Board an application on the form that the Board provides; and

(2) pay to the Board an examination fee established by the Board in an amount not to exceed the cost of the required examination.

§4–304.

(a) Except as otherwise provided in § 4–304.1 of this subtitle, an applicant is entitled to be examined as provided in this section if the applicant:

(1) otherwise qualifies for a license under this title; and

(2) pays an examination fee established by the Board in accordance with § 4–303 of this subtitle to the Board or the Board's designee.

(b) The Board periodically shall give examinations to applicants 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 determine the subjects, scope, and form of and the passing score for examinations given under this subtitle.

(2) An examination may consist of written and practical parts.

(e) (1) Subject to § 2–110 of the Business Regulation Article, an applicant whose primary language is not English may use a Board approved interpreter for the written part of an examination, but not for the practical part of an examination.

(2) The passing of the practical part of an examination without an interpreter demonstrates that the applicant possesses sufficient command of English to understand and properly respond to an English–speaking customer.

(f) Subject to § 2–110 of the Business Regulation Article, in the case of an applicant who demonstrates dyslexia or other reading impairment to the Board:

(1) the Board may grant 1 or both of the following:

(i) additional time to complete all or part of the examination; or

(ii) oral examination for all or part of the written part of the examination; and

(2) the Board shall approve for licensing an applicant who:

(i) passes the examination; and

(ii) demonstrates to the Board that the applicant's dyslexia or other reading impairment, if any, does not significantly impair the applicant's ability to function as a licensee.

(g) If an applicant fails to appear for a scheduled examination, the Board may require the applicant to pay another examination fee under § 4–303 of this subtitle before rescheduling an examination for the applicant.

§4–304.1.

(a) The Board may use a testing service to administer examinations given under this title.

(b) If the Board uses a testing service, the testing service, subject to the requirements set by the Board, may:

(1) set the time and place of examinations;

(2) give qualified applicants notice of the time and place of examinations; and

(3) furnish any other information that the Board may require the testing service to provide.

(c) The Board or the Board's designees shall mail or electronically transmit to each applicant notice of the applicant's examination results.

§4–305.

(a) Subject to the provisions of this section and of § 4–306 of this subtitle, the Board may waive any requirement of this subtitle for an individual who is licensed to practice barbering or to provide barber–stylist services in another state.

(b) The Board may grant a waiver under this section only if the applicant:

(1) pays the examination fee required under § 4–303 of this subtitle;

(2) provides adequate evidence that the applicant has been licensed as a barber–stylist, barber, or master barber, whichever is applicable, in another state for at least the 6 months immediately preceding the filing of the application; and

(3) passes the applicable examination.

§4–306.

(a) Subject to the provisions of this section, the Board may waive any examination requirement of this subtitle for:

(1) an applicant for a master barber or a barber license who is licensed to practice barbering in another state; or

(2) an applicant for a barber–stylist limited license who is licensed to provide barber–stylist services in another state.

(b) The Board may grant a waiver under this section only if:

(1) the applicant pays the application fee set by the Board under § 4–206 of this title and any applicable examination fee required under § 4–303 of this subtitle for any examination requirement that is not waived by the Board;

(2) the applicant provides adequate evidence that the applicant:

(i) meets the qualifications otherwise required by this subtitle; and

(ii) became licensed in the other state after passing, in that or any other state, an examination that is similar to the examination for which the applicant is seeking the waiver;

(3) the applicant practiced barbering in the other state as a master barber or barber or provided barber–stylist services in the other state as a barber–stylist during the 2 years immediately before applying in this State;

(4) the applicant provides:

(i) a notarized statement from a previous employer certifying that the applicant has the experience required under item (3) of this subsection; or

(ii) if the applicant was self–employed, other proof that is acceptable to the Board;

(5) the applicant submits a letter from the licensing board of the other state certifying that the applicant is in good standing with the board of the other state; and

(6) the applicant certifies in writing that the applicant has read, understands, and will comply with the provisions of this title and the regulations of the Board.

§4–307.

(a) Subject to the provisions of this section, the Board may waive the written part of the master barber, barber, or barber–stylist examination for an individual who is licensed to practice barbering or to provide barber–stylist services in a foreign country.

(b) Subject to subsection (c) of this section, the Board may grant a waiver under this section only if the applicant:

(1) pays the examination fee required under § 4–303 of this subtitle that is attributable to the practical part of the examination;

(2) passes the practical part of the master barber, barber, or barber–stylist examination given by the Board; and

(3) provides adequate evidence that, at the time the applicant was licensed in the foreign country, the applicant was required to pass an examination and meet qualifications that were substantially equivalent to those then required by the laws of this State.

(c) To meet a minimum standard of training, the Board may require:

(1) an applicant licensed to practice barbering in a foreign country to complete successfully a required program of training in the practice of barbering not exceeding 1,200 hours; or

(2) an applicant licensed to provide barber–stylist services in a foreign country to complete successfully a required program of training in the provision of barber–stylist services not exceeding 900 hours.

§4–308.

(a) If an applicant qualifies for a license under this subtitle, the Board shall send the applicant a notice that states that:

(1) the applicant has qualified for a license; and

(2) the Board will issue the license to the applicant, on receipt of the appropriate license fee established by the Board in accordance with § 4-206 of this title.

(b) On payment of the appropriate license fee, the Board shall issue a license to each applicant who meets the requirements of this subtitle.

§4–309.

(a) Subject to § 4–605 of this title, while a master barber license is in effect, it authorizes the licensee to:

(1) practice barbering; and

(2) supervise an apprentice barber.

(b) Subject to § 4–605 of this title, while a barber license is in effect, it authorizes the licensee to practice barbering.

(c) Subject to § 4–605 of this title, while a barber–stylist limited license is in effect, it authorizes the licensee to provide barber–stylist services.

§4–310.

(a) The initial term of a license is 2 years.

(b) A license expires on the date set by the Board unless the license is renewed for an additional term as provided in this section.

(c) (1) At least 1 month before a license expires, the Board shall mail or electronically transmit to the licensee:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current license expires; and

2. the amount of the renewal fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the licensee, at the last known address of the licensee, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(d) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Board a renewal fee established by the Board in accordance with § 4–206 of this title; and

(3) submits to the Board a renewal application on the form that the Board provides.

(e) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

§4–312.

(a) The Board shall reinstate the license of an individual who, for any reason, has failed to renew the license if the individual:

(1) applies to the Board for reinstatement within 5 years after the license expires;

(2) meets the renewal requirements for that license under § 4-310 of this subtitle; and

(3) pays to the Board a reinstatement fee established by the Board in accordance with § 4-206 of this title, in addition to the renewal fee required under § 4-310 of this subtitle.

(b) If an individual has failed to renew a license for any reason and then applies to the Board for reinstatement more than 5 years after the license has expired, the Board shall reinstate the license only if the individual:

(1) meets the renewal requirements for that license under § 4-310 of this subtitle;

(2) pays to the Board a reinstatement fee established by the Board in accordance with § 4-206 of this title, in addition to the renewal fee required under § 4-310 of this subtitle; and

(3) passes the examination required by the Board.

§4–313.

Each licensee shall display the license conspicuously in the barbershop where the licensee practices barbering or provides barber–stylist services.

§4–314.

(a) (1) Subject to the hearing provisions of § 4–315 of this subtitle, the Board may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

(i) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(ii) fraudulently or deceptively uses a license;

(iii) is incompetent;

(iv) habitually is intoxicated or under the influence of any drug;

(v) falsifies a record submitted to the Board;

(vi) fails to use proper sanitary methods while practicing barbering;

(vii) fails to keep a barbershop in a sanitary condition;

(viii) under the laws of the United States or of any state, is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to practice barbering or to provide barber–stylist services;

(ix) violates any provision of this title or any regulation adopted by the Board under this title; or

(x) fails to pay a civil penalty imposed by the Board under § 4–608 of this title.

(2) (i) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Board may impose a penalty not exceeding $300 for all violations cited on a single date.

(ii) To determine the amount of the penalty under this subsection, the Board shall consider:

1. the seriousness of the violation;

2. the good faith of the violator;

3. the violator's history of previous violations;

4. the deleterious effect of the violation on the complainant, the public, and the barber industry; and

5. any other factors relevant to the determination of the financial penalty.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(b) The Board shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or misdemeanor described in subsection (a)(1)(viii) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to practice barbering or to provide barber–stylist services;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

(c) The Board shall commence proceedings under this section on a complaint to the Board by a member of the Board or any person.

(d) (1) A complaint shall:

(i) be in writing;

(ii) include the name and necessary contact information of the individual filing the complaint, as determined by the Board;

(iii) state specifically the facts on which the complaint is based;

(iv) be submitted to the Executive Director of the Board; and

(v) be served on the person to whom it is directed:

1. personally; or

2. by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the person's last known address as shown on the Board's records.

(2) If service is made by certified mail, the person who mails the document shall file with the Board verified proof of mailing.

(3) If a complaint is made by any person other than a member of the Board, the complaint shall be made under oath by the person who submits the complaint.

(e) (1) Except as provided in subsection (f) of this section, if the Board finds that a complaint alleges facts that are adequate grounds for action under this section, the Board shall act on the complaint as provided under § 4–315 of this subtitle to deny, suspend, or revoke a license, reprimand a licensee, or assess a penalty.

(2) If the Board does not make the finding, the Board shall dismiss the complaint.

(f) (1) If the Board makes the finding under subsection (e)(1) of this section for a violation that relates to the sanitary practice of barbering or the provision of barber–stylist services, the Board shall provide the licensee an opportunity to correct the alleged violation.

(2) If the licensee fails to correct each alleged violation within 10 days of written notification of the violation by the Board, the Board shall act on the complaint as provided under § 4–315 of this subtitle.

(3) If the licensee corrects each alleged violation within 10 days of notice, the Board shall:

(i) dismiss the complaint; and

(ii) provide the licensee written notification of the dismissal.

§4–315.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Board takes any final action under § 4-314 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) The Board may administer oaths in connection with any proceeding under this section.

(d) The hearing notice to be given to the individual shall be sent by certified mail to the last known address of the individual at least 10 days before the hearing.

(e) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§4–401.

An individual shall be registered by the Board before the individual may serve as an apprentice in a barbershop in the State.

§4–402.

An applicant for registration as an apprentice barber shall:

(1) submit to the Board an application on the form that the Board provides;

(2) pay to the Board an application fee established by the Board in accordance with § 4-206 of this title; and

(3) submit to the Board adequate evidence of the following:

(i) the intention of a barbershop in the State to allow the applicant to affiliate with it as an apprentice barber; and

(ii) in the case of an applicant who does not speak English, the intention to participate in an English comprehension course during the apprenticeship.

§4–403.

The Board shall register and issue a certificate of registration to each applicant who meets the requirements of this subtitle.

§4–404.

(a) While registration as an apprentice barber is in effect, the registration authorizes the individual to learn to practice barbering or to learn to provide barber–stylist services:

(1) in a:

(i) barbershop that holds a barbershop permit; or

(ii) beauty salon that holds a beauty salon permit; and

(2) under the supervision of a master barber.

(b) (1) An apprentice barber shall practice barbering or provide barber–stylist services only at the barbershop or beauty salon with a barbershop permit issued under § 5–504 of this article.

(2) An apprentice barber may only be paid for work authorized under this section performed while assisting a master barber in starting or completing an operation.

§4–405.

(a) (1) The initial term of registration as an apprentice barber is 2 years.

(2) An apprentice barber may renew the apprentice barber registration one time.

(b) The one–time renewal of an apprentice barber registration expires on the date set by the Board.

(c) (1) At least 1 month before registration as an apprentice barber expires, the Board shall mail or electronically transmit to the apprentice barber:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current registration as an apprentice barber expires; and

2. the amount of the renewal fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the apprentice barber, at the last known address of the apprentice barber, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(d) Before the registration of an individual expires, the individual may renew it for an additional term if the individual:

(1) otherwise is entitled to be registered;

(2) pays to the Board a renewal fee established by the Board in accordance with § 4–206 of this title; and

(3) submits to the Board a renewal application on the form that the Board provides.

(e) The Board shall renew the apprentice barber registration of and issue a renewal certificate to each apprentice barber who meets the requirements of this section.

§4–406.

Each registered apprentice barber shall display the certificate of registration conspicuously in the apprentice barber's place of employment.

§4–407.

(a) Subject to the hearing provisions of § 4-408 of this subtitle, the Board may deny registration as an apprentice barber to any applicant, reprimand any individual registered as an apprentice barber, or suspend or revoke the registration of any individual registered as an apprentice barber:

(1) for any applicable ground under § 4-314 of this title;

(2) if the applicant or individual fraudulently or deceptively obtains or attempts to obtain registration for the applicant or individual or for another; or

(3) if the applicant or individual fraudulently or deceptively uses a certificate of registration.

(b) (1) Instead of or in addition to reprimanding an individual registered as an apprentice barber or suspending or revoking the registration under this section, the Board may impose a penalty not exceeding $300 for all violations cited on a single day.

(2) To determine the amount of the penalty imposed under this section, the Board shall consider:

(i) the seriousness of the violation;

(ii) the good faith of the violator;

(iii) the violator's history of previous violations;

(iv) the deleterious effect of the violation on the complainant, the public, and the barber industry; and

(v) any other factors relevant to the determination of the penalty.

(c) The Board shall pay any penalty collected under this section into the General Fund of the State.

§4–408.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Board takes any final action under § 4-407 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) The Board may administer oaths in connection with any proceeding under this section.

(d) The hearing notice to be given to the individual shall be sent by certified mail to the last known address of the individual at least 10 days before the hearing.

(e) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§4–501.

(a) A person shall hold a barbershop permit issued by the Board before the person may operate a barbershop in the State.

(b) A separate barbershop permit is required for each barbershop that a person operates.

§4–502.

(a) To qualify for a barbershop permit, an applicant shall be a person who meets the requirements of this section.

(b) (1) An applicant shall own the facility in which the barbershop for which the application is made is located.

(2) To qualify for a barbershop permit for a mobile barbershop, the applicant shall:

(i) hold a barbershop permit to operate a barbershop that is not a mobile barbershop; and

(ii) own or lease the motor vehicle or trailer in which the mobile barbershop for which the application is made is located.

(c) An applicant shall satisfy the Board that the location and equipment of the barbershop for which the application is made meets the requirements of:

(1) the Board;

(2) the Maryland Department of Health; and

(3) the applicable local zoning code.

(d) As a condition of the issuance of a barbershop permit, the barbershop for which the application is made shall pass a pre–opening inspection conducted under § 4–512 of this subtitle.

§4–503.

(a) An applicant for a barbershop permit shall:

(1) submit to the Board an application on the form that the Board provides; and

(2) pay to the Board an application fee and a pre-opening inspection fee established by the Board in accordance with § 4-206 of this title.

(b) For each barbershop permit for which a person applies, the person shall submit a separate application and pay separate application and pre-opening inspection fees.

§4–504.

(a) The Board shall issue a barbershop permit to each applicant who meets the requirements of this subtitle.

(b) The Board shall issue a barbershop permit and a beauty salon permit to an applicant of a single establishment if the applicant:

(1) meets the requirements of:

(i) this title; and

(ii) Title 5 of this article;

(2) submits a separate application for each permit; and

(3) pays a separate fee for each application.

§4–505.

While a barbershop permit is in effect, it authorizes the barbershop permit holder to operate a barbershop.

§4–506.

(a) Unless a barbershop permit is renewed for a 2-year term as provided in this section, the permit expires on the first May 31 that comes:

(1) after the effective date of the permit; and

(2) in an odd-numbered year.

(b) (1) At least 1 month before a barbershop permit expires, the Board shall mail or electronically transmit to the permit holder:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current permit expires; and

2. the amount of the renewal fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the permit holder, at the last known address of the permit holder, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(c) Before a barbershop permit expires, the barbershop permit holder periodically may renew it for an additional 2-year term, if the holder:

(1) otherwise is entitled to hold the permit;

(2) pays to the Board a renewal fee established by the Board in accordance with § 4-206 of this title; and

(3) submits to the Board a renewal application on the form that the Board provides.

(d) The Board shall renew the barbershop permit of and issue a renewal certificate to each barbershop permit holder who meets the requirements of this section.

(e) The Secretary may determine that barbershop permits issued under this subtitle shall expire on a staggered basis.

§4–506.1.

(a) The Board may reinstate a barbershop permit that has expired if the owner of the barbershop:

(1) applies to the Board for reinstatement within 45 days after the permit expires;

(2) otherwise meets the requirements of § 4–506(c) of this subtitle; and

(3) pays to the Board a reinstatement fee established by the Board in accordance with § 4–206 of this title, in addition to the renewal fee required under § 4–506(c)(2) of this subtitle.

(b) If an owner of a barbershop has failed to renew a barbershop permit and applies to the Board for reinstatement more than 45 days after the permit has expired, the Board shall reinstate the permit only if the barbershop owner qualifies for a barbershop permit in accordance with §§ 4–502 and 4–503 of this subtitle.

§4–507.

(a) A barbershop may not employ at the same time more than three apprentice barbers for each master barber employed.

(b) A barbershop may have a separate shampoo area.

(c) The Board may not require a barbershop to have a minimum number of sinks.

(d) (1) An apprentice barber under complete and constant supervision of a master barber may assist the master barber in starting or completing an operation. The master barber or barbershop may charge the usual fees for the operation.

(2) A fee may not be charged for an operation performed completely by an apprentice barber.

§4–508.

(a) Except as otherwise provided in this subtitle, a barbershop may not be integrated with any other business.

(b) A person may conduct another business on the premises of a barbershop only if the business and barbershop are separated by a permanent wall or partition.

(c) An individual licensed to practice cosmetology may practice cosmetology in a barbershop.

§4–509.

(a) The owner shall designate a master barber to supervise each apprentice barber who is learning to practice barbering or to provide barber–stylist services in the barbershop.

(b) The owner or a designated master barber shall file monthly a report, on a form supplied by the Board, that:

(1) states the progress of each apprentice barber employed by the barbershop; and

(2) identifies the master barber supervising each apprentice barber.

(c) The owner and the master barber supervising an apprentice barber immediately shall advise the Board in writing of:

(1) the date on which an apprentice barber ceases learning to practice barbering or to provide barber–stylist services at the barbershop, temporarily or permanently; and

(2) the reason for the cessation.

§4–511.

(a) The Board may adopt regulations to ensure that each barber school approved by the State Board of Education or the Maryland Higher Education Commission is operated in a sanitary manner.

(b) The regulations adopted under subsection (a) of this section shall provide for:

(1) the reporting of violations of the regulations to the Department of Education or the Maryland Higher Education Commission; and

(2) the imposition of a fine not to exceed $300 for a violation of the regulations.

(c) In determining the amount of financial penalty to be imposed under this section, the Board shall consider the following:

(1) the seriousness of the violation;

(2) the good faith of the violator;

(3) the violator's history of previous violations;

(4) the deleterious effect of the violation on the complainant, the public, and the barber industry; and

(5) any other factors relevant to the determination of the financial penalty.

(d) The Board shall commence proceedings to assess a penalty under this section on a complaint to the Board by a member of the Board or any person.

(e) (1) A complaint shall:

(i) be in writing;

(ii) include the name and necessary contact information of the individual filing the complaint, as determined by the Board;

(iii) state specifically the facts on which the complaint is based;

(iv) be submitted to the Executive Director of the Board; and

(v) be served on the person to whom it is directed:

1. personally; or

2. by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the person's last known address as shown on the Board's records.

(2) If service is made by certified mail, the person who mails the document shall file with the Board verified proof of mailing.

(3) If a complaint is made by any person other than a member of the Board, the complaint shall be made under oath by the person who submits the complaint.

(f) (1) If the Board finds that there is a violation that relates to the sanitary condition of the barber school, the Board shall provide the owner of the barber school an opportunity to correct the alleged violation.

(2) If the school owner fails to correct each alleged violation within 10 days of written notification by the Board, the Board shall act on the complaint as provided under § 4-514 of this subtitle.

(3) If the school owner corrects each alleged violation within 10 days of notice, the Board shall:

(i) dismiss the complaint; and

(ii) provide the school owner written notification of dismissal.

§4–512.

(a) (1) With the approval of the Secretary, the Board may appoint inspectors to conduct inspections.

(2) An inspector serves at the pleasure of the Board.

(3) Subject to the State budget, each inspector is entitled to:

(i) reasonable compensation as determined by the Board for each day on which the inspector is engaged in the duties of the inspector's appointment; and

(ii) reimbursement for expenses under the Standard State Travel Regulations.

(b) (1) The Board shall inspect barbershops.

(2) The Board or an inspector shall inspect each barbershop before the barbershop:

(i) initially opens for business;

(ii) opens for business at a new location; or

(iii) continues business under a new owner.

(3) A barbershop that remodels and reopens with the same owner is not subject to the inspection requirement of this subsection.

(c) (1) The Board or an inspector may enter and inspect a barber school approved by the State Board of Education or the Maryland Higher Education Commission at any time during business hours to determine the sanitary condition of the barber school.

(2) If, during an inspection of a barber school, an inspector finds an unsanitary condition, the inspector promptly shall report the condition to the Board.

(d) (1) A barbershop shall allow an inspector, on presentation of credentials, to enter and inspect the facility at any time during business hours.

(2) During inspection of a barbershop, the owner, lessee, or manager of the barbershop shall accompany the inspector.

(e) (1) An inspector shall make an inspection report after an inspection and give a copy to the individual who accompanied the inspector during the inspection.

(2) The individual shall sign the inspection report for the barbershop to acknowledge receipt of a copy of the report.

§4–513.

(a) (1) Subject to the hearing provisions of § 4-514 of this subtitle, the Board may deny a barbershop permit to any applicant, reprimand any permit holder, or suspend or revoke a barbershop permit:

(i) for any applicable ground under § 4-314 of this title;

(ii) if the applicant or holder fraudulently or deceptively obtains or attempts to obtain a barbershop permit for the applicant or holder or for another;

(iii) if the applicant or holder fraudulently or deceptively uses a barbershop permit; or

(iv) if the holder fails to pay a civil penalty imposed by the Board under § 4-608 of this title.

(2) (i) Instead of or in addition to reprimanding a permit holder or suspending or revoking a permit under this subsection, the Board may impose a penalty not exceeding $300 for all violations cited on a single date.

(ii) To determine the amount of penalty imposed under this subsection, the Board shall consider the following:

1. the seriousness of the violation;

2. the good faith of the violator;

3. the violator's history of previous violations;

4. the deleterious effect of the violation on the complainant, the public, and the barber industry; and

5. any other factors relevant to the determination of the financial penalty.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(b) The Board shall commence proceedings under this section on a complaint to the Board by a member of the Board or any person.

(c) (1) A complaint shall:

(i) be in writing;

(ii) be signed by the complainant;

(iii) state specifically the facts on which the complaint is based;

(iv) be submitted to the Executive Director of the Board; and

(v) be served on the person to whom it is directed:

1. personally; or

2. by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the person's last known address as shown on the Board's records.

(2) If service is made by certified mail, the person who mails the document shall file with the Board verified proof of mailing.

(3) If a complaint is made by any person other than a member of the Board, the complaint shall be made under oath by the person who submits the complaint.

(d) (1) Except as provided in subsection (e) of this section, if the Board finds that a complaint alleges facts that are adequate grounds for action under § 4-514 of this subtitle, the Board shall act on the complaint as provided under § 4-514 of this subtitle to deny, suspend, or revoke a barbershop permit, or reprimand or assess a penalty against the holder of the permit.

(2) If the Board does not make the finding, the Board shall dismiss the complaint.

(e) (1) If the Board makes the finding under subsection (d)(1) of this section for a violation that relates to the sanitary condition of the barbershop, the Board shall provide the owner of the barbershop an opportunity to correct the alleged violation.

(2) If the barbershop owner fails to correct each alleged violation within 10 days of written notification by the Board, the Board shall act on the complaint as provided under § 4-514 of this subtitle.

(3) If the barbershop owner corrects each alleged violation within 10 days of notice, the Board shall:

(i) dismiss the complaint; and

(ii) provide the barbershop owner written notification of dismissal.

§4–514.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Board takes any final action under § 4-511 or § 4-513 of this subtitle, it shall give the person 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) The Board may administer oaths in connection with any proceeding under this section.

(d) The hearing notice to be given to the person shall be sent by certified mail to the last known address of the person at least 10 days before the hearing.

(e) If, after due notice, the person against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§4–601.

(a) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice barbering in the State unless licensed by the Board to practice barbering.

(b) Except as otherwise provided in this title, a person may not provide, attempt to provide, or offer to provide barber–stylist services in the State unless licensed by the Board to provide barber–stylist services.

§4–602.

A person may not operate a barbershop in the State unless the person holds a barbershop permit issued by the Board.

§4–603.

An individual may not serve as an apprentice barber unless registered by the Board as an apprentice barber.

§4–604.

(a) (1) Unless authorized under this title to practice barbering, a person may not represent to the public, by use of a title, including "licensed barber", "master

barber", or "journey barber", by description of services, methods, or procedures, or otherwise, that the person is authorized to practice barbering in the State.

(2) If an individual is authorized under this title to engage in the limited practice of barbering, the individual may represent to the public that the individual is authorized to practice barbering in a manner restricted to that limited practice.

(b) Unless an establishment holds a barbershop permit under this title, a person may not represent to the public, by title, by description of services, methods, or procedures, or otherwise, that the establishment is a barbershop.

§4–605.

(a) Except as provided in §§ 4–301.1 and 4–301.2 of this title and subsection (b) of this section, a person may not practice barbering or provide barber–stylist services in any place other than:

(1) a barbershop that holds a barbershop permit under this title; or

(2) a beauty salon that holds a beauty salon permit under Title 5 of this article.

(b) A licensed master barber, licensed barber, or licensed barber–stylist may practice barbering or provide barber–stylist services as appropriate outside a barbershop or beauty salon if:

(1) the master barber, barber, or barber–stylist is sponsored by a barbershop that holds a barbershop permit or a beauty salon that holds a beauty salon permit;

(2) the patron is a customer of the barbershop or the beauty salon;

(3) the implements transported to the site where barbering services or barber–stylist services will be performed are sanitized and disinfected;

(4) the sponsoring barbershop maintains complete records of all services performed outside the barbershop or the beauty salon; and

(5) Board inspectors are permitted to conduct inspections of:

(i) the implements used outside of the barbershop or the beauty salon; and

(ii) the premises where the barbering services or barber–stylist services are performed.

§4–607.

(a) Except as otherwise provided by this title, the Board may impose on a person who violates any provision of this title a penalty not exceeding $1,000 for all violations cited on a single day.

(b) In setting the amount of the penalty, the Board shall consider:

(1) the seriousness of the violation;

(2) the harm caused by the violation;

(3) the good faith of the violator;

(4) any history of previous violations by the violator; and

(5) any other relevant factors.

(c) The Board shall pay any penalty collected under this section into the General Fund of the State.

§4–608.

(a) Following an inspection of a barbershop, if a Board inspector determines that a licensee or permit holder has violated this title or a regulation adopted by the Board, the inspector may issue a citation to the licensee or permit holder.

(b) A citation issued by a Board inspector shall be in writing and shall state:

(1) a brief description of each violation;

(2) the amount of a civil penalty, as prescribed by regulation, for each violation; and

(3) as provided in this section:

(i) the time within which the civil penalty is to be paid;

(ii) the opportunity to contest the citation; and

(iii) the finality of the citation if it is not contested.

(c) The citation shall be served on the licensee or permit holder alleged to have committed the violation by:

(1) hand-delivery; or

(2) certified mail to the last known address of the licensee or permit holder.

(d) Subject to subsections (e) and (f) of this section, the civil penalty set forth in a citation shall be paid within 60 days of its receipt.

(e) A citation and the applicable civil penalty shall be considered a final order of the Board unless, within 60 days of being served with the citation, the licensee or permit holder notifies the Board in writing of an intent to contest the citation.

(f) (1) Upon the receipt of a written notice of a licensee or permit holder's intent to contest a citation, the Board shall hold a hearing, in accordance with § 4-315 or § 4-514 of this title, regarding the cited violations.

(2) A hearing held in accordance with paragraph (1) of this subsection may not be delegated to the Office of Administrative Hearings under Title 10, Subtitle 2 of the State Government Article.

(g) (1) The Board shall establish by regulation a schedule of civil penalties for violations of this title and regulations adopted by the Board.

(2) The civil penalties imposed under this subsection may not exceed $300 for all violations cited on a single day.

§4–701.

This title may be cited as the "Maryland Barbers Act".

§4–702.

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, 2027.

§5–101.

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

(b) "Apprentice" means an individual who is learning to practice cosmetology or any limited practice of cosmetology in a beauty salon that holds a beauty salon permit under the supervision of:

(1) if learning to practice cosmetology, a licensed senior cosmetologist;

(2) if learning to provide esthetic services, a licensed senior cosmetologist or a licensed esthetician with 2 years' experience;

(3) if learning to provide hair services, a licensed senior cosmetologist or a licensed hairstylist with 2 years' experience; and

(4) if learning to provide nail technician services, a licensed senior cosmetologist or a licensed nail technician with 2 years' experience.

(c) (1) "Beauty salon" means any commercial establishment, except a barbershop, in which an individual practices cosmetology.

(2) "Beauty salon" includes a mobile beauty salon.

(3) "Beauty salon" does not include a clinic in a cosmetology school.

(d) "Beauty salon permit" means a permit issued by the Board to operate a beauty salon.

(e) "Board" means the State Board of Cosmetologists.

(f) "Cosmetologist" means an individual who practices cosmetology.

(g) "Hairstylist" means an individual who provides hair services.

(h) "Hairstylist – blow dry technician" means an individual who provides hair services – blow drying;

(i) (1) "License" means, unless the context requires otherwise, a license issued by the Board.

(2) "License" includes, unless the context requires otherwise, each of the following licenses:

(i) a license to practice cosmetology;

(ii) a license to practice as a senior cosmetologist;

(iii) a limited license to provide esthetic services;

(iv) a limited license to provide hair services;

(v) a limited license to provide hair services – blow drying;

(vi) a limited license to provide nail technician services; and

(vii) a limited license to provide eyelash extension services.

(j) "Licensed cosmetologist" means, unless the context requires otherwise, a cosmetologist who is licensed by the Board to practice cosmetology.

(k) "Licensed senior cosmetologist" means a person who:

(1) has at least 2 years of experience as a licensed cosmetologist; and

(2) has passed a test approved by the Board.

(l) (1) "Limited license" means a license issued by the Board to practice cosmetology as limited in § 5–301 of this title.

(2) "Limited license" includes, unless the context requires otherwise, each of the following licenses:

(i) a limited license to provide esthetic services;

(ii) a limited license to provide hair services;

(iii) a limited license to provide hair services – blow drying;

(iv) a limited license to provide nail technician services; and

(v) a limited license to provide eyelash extension services.

(m) "Mobile beauty salon" means a beauty salon that is located in a motor vehicle or a trailer that is designed, constructed, and equipped as a place for an individual to practice cosmetology and for use as a conveyance on highways.

(n) (1) "Practice cosmetology" means to engage in any of the following for compensation:

(i) providing hair services;

(ii) arching or dyeing eyebrows;

(iii) dyeing eyelashes;

(iv) providing esthetic services;

(v) providing nail technician services; or

(vi) providing eyelash extension services.

(2) The practice of cosmetology does not include:

(i) the mere sale, fitting, or styling of wigs or hairpieces;

(ii) the mere shampooing of hair; or

(iii) a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device, provided that the service does not include the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.

(o) (1) "Provide esthetic services" means to provide to an individual, for compensation, the service of:

(i) cleansing, exercising, exfoliating, massaging, cosmetic microneedling, stimulating, toning, or performing any other similar procedure on the skin or scalp by electrical, mechanical, or any other means;

(ii) applying to the face, body, or scalp an alcohol, cream, lotion, astringent, or cosmetic preparation;

(iii) removing superfluous hair by the use of electrical, mechanical, or any means other than by the use of a laser light–based device; or

(iv) providing eyelash extension services.

(2) "Provide esthetic services" includes:

(i) applying eyelash extensions;

(ii) performing superficial exfoliation treatments of the epidermis using professional and other commercially available products or devices;

(iii) performing treatments for the relaxation, hydration, contouring, and beautification of the face, skin, body, eyelashes, or eyebrows; and

(iv) performing nonablative skin rejuvenation.

(3) "Provide esthetic services" does not include:

(i) the diagnosis of illness, disease, or injury; or

(ii) performing ablation of the dermis or hypodermis.

(p) "Provide eyelash extension services" means to provide to an individual, for compensation, the service of:

(1) cleaning the eye area;

(2) applying:

(i) eyelash primers and adhesives;

(ii) eyelash extensions; and

(iii) sealant; or

(3) drying the eye area for eyelash extensions.

(q) "Provide hair services" means to provide to an individual for compensation the service of beautifying, cleaning, or embellishing the hair of the individual by:

(1) arranging the hair;

(2) bleaching the hair;

(3) cleansing the hair;

(4) coloring the hair;

(5) curling the hair;

(6) cutting the hair;

(7) dressing the hair;

(8) singeing the hair;

(9) permanent waving the hair;

(10) waving the hair; or

(11) performing any other similar procedure intended to beautify, clean, or embellish the hair.

(r) "Provide hair services – blow drying" means to provide to an individual for compensation the service of beautifying, cleaning, or arranging the hair of the individual by:

(1) arranging the hair;

(2) cleansing the hair;

(3) curling the hair;

(4) dressing the hair;

(5) blow drying the hair;

(6) singeing the hair; or

(7) performing any other similar procedure intended to beautify, clean, or arrange the hair.

(s) "Provide nail technician services" means to provide to an individual, for compensation, the service of:

(1) manicuring or pedicuring the individual's nails;

(2) applying artificial nail enhancement products; or

(3) maintaining artificial nail enhancement products.

§5–102.

This title does not prohibit:

(1) an individual from practicing a health occupation that the individual is authorized under the laws of the State to practice; or

(2) an individual who is authorized to practice barbering under Title 4 of this article from practicing barbering.

§5–201.

There is a State Board of Cosmetologists in the Department.

§5–202.

(a) (1) The Board consists of seven members.

(2) Of the seven members of the Board:

(i) four shall be licensed cosmetologists;

(ii) one shall be a licensed esthetician;

(iii) one shall be affiliated with a private cosmetology school as an educator or owner; and

(iv) one shall be a consumer member.

(3) The Governor shall appoint the members with the advice of the Secretary.

(b) Each cosmetologist member of the Board:

(1) shall have practiced cosmetology actively for at least 5 years before appointment;

(2) shall be a citizen of the State;

(3) may not be affiliated directly or indirectly with any cosmetology school;

(4) may not be affiliated with any person who manufactures or sells any article, supply, or merchandise that is commonly used in a beauty salon; and

(5) may not be a graduate of the same school of cosmetology as any other member of the Board.

(c) The consumer member of the Board:

(1) shall be a member of the general public;

(2) may not be a licensee or otherwise be subject to regulation by the Board;

(3) may not be required to meet the qualifications for the professional members of the Board; and

(4) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Board.

(d) While a member of the Board, the consumer member may not:

(1) have a financial interest in or receive compensation from a person regulated by the Board; or

(2) grade any examination given by or for the Board.

(e) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) (1) The term of a member is 3 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 October 1, 1989.

(3) A member may not serve more than 2 consecutive terms.

(4) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(5) 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.

(g) (1) The Governor may remove a member for incompetence or misconduct.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned if the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§5–203.

(a) From among its members, the Board annually shall elect a chairman.

(b) The manner of election of the chairman shall be as the Board determines.

§5–204.

(a) A majority of the members then serving on the Board is a quorum.

(b) No formal action may be taken by the Board without the approval of a majority of the members of the Board eligible to vote.

(c) The Board shall meet at least once a month, at the times and places that the Board determines.

(d) Subject to the State budget, each member of the Board is entitled to:

(1) a reasonable fee set by the Board for each day on which the member is engaged in the duties of office; and

(2) reimbursement for expenses under the Standard State Travel Regulations.

(e) The Board may employ a staff in accordance with the State budget.

(f) The Board shall have its principal office in Baltimore City.

§5–205.

(a) In addition to any duties set forth elsewhere, the Board shall adopt:

(1) bylaws for the conduct of its proceedings;

(2) regulations for qualification and examination of applicants for licenses, registration, and permits and issuance of licenses, certificates of registration, and permits;

(3) regulations to govern the conduct of persons regulated under this title;

(4) regulations to govern sanitation and safety in practicing cosmetology, including regulations that establish precautions to prevent the spread of infectious and contagious diseases; and

(5) regulations to govern the direct supervision of the operation of limited practice beauty salons.

(b) (1) The Board shall adopt regulations that establish detailed curriculum standards for use by the State Board of Education or the Maryland Higher Education Commission in approving applications for instruction in the practice of cosmetology, the provision of esthetic services, the provision of eyelash extension services, the provision of hair services, and the provision of nail technician services at public schools or private career schools.

(2) The curriculum standards established under paragraph (1) of this subsection shall:

(i) incorporate modern methods and practices for:

1. practicing cosmetology;

2. providing esthetic services;

3. providing eyelash extension services;

4. providing hair services;

5. providing hair services – blow drying; and

6. providing nail technician services;

(ii) include a reference to each topic and the emphasis of each topic required of a comprehensive curriculum in the appropriate licensing area; and

(iii) be reviewed and updated periodically as determined by the Board.

(c) (1) The Board shall require a licensee renewing a license to complete at least six credit hours of continuing education approved by the Board.

(2) The Board shall adopt regulations that set standards for continuing education courses that, at a minimum, require:

(i) two hours of training in health, safety, and welfare subjects; and

(ii) four hours of training in general elective courses.

§5–206.

(a) On request of any person and payment of a certification fee established by the Board in accordance with § 5–208 of this subtitle, the Board shall certify the licensing, registration, or permit status and qualifications of any person who is the subject of the request.

(b) Each certification under this section:

(1) shall include a statement of the licensing, registration, or permit status of the person who is the subject of the request; and

(2) may include:

(i) information about the examination results and other qualifications of that person;

(ii) information about the dates of issuance and renewal of the license, registration, or permit of that person;

(iii) information about any disciplinary action taken against that person; and

(iv) if authorized by that person, information about any complaint against that person.

(c) The Board shall collect the certification fee established by the Board in accordance with § 5–208 of this subtitle for each certification under this section.

§5–207.

(a) In addition to any powers set forth elsewhere, the Board may administer oaths.

(b) In addition to any duties set forth elsewhere, the Board shall:

(1) adopt a seal;

(2) keep a record of its proceedings;

(3) keep records at its principal office; and

(4) provide copies of its regulations to persons regulated by the Board.

(c) The Board shall keep a record that, for each application for a license, registration, or permit, shows:

(1) the name of the applicant;

(2) the place of business or employment of the applicant;

(3) the address of the place of business or employment; and

(4) the action of the Board on the application.

§5–208.

(a) Except for the examination fees that the Board shall establish in amounts not to exceed the costs of the examinations, the Board may set by regulation reasonable fees for its services, including application fees, licensing fees, license renewal fees, license reinstatement fees, certification fees, permit fees, permit renewal fees, inspection fees, and any other fees necessary for the Board to carry out this title.

(b) The fees charged shall be:

(1) set so as to produce funds to approximate the cost of maintaining the Board; and

(2) based on the calculations performed by the Secretary under § 2–106.10 of the Business Regulation Article.

(c) The Board shall publish a schedule of fees set by the Board.

(d) (1) The Board shall pay all fees collected under this title to the Comptroller.

(2) The Comptroller shall distribute the fees to the State Barbers and Cosmetologists Boards' Fund established in § 2–106.9 of the Business Regulation Article.

§5–209.

Any person 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.

§5–210.

The Board exercises its powers, duties, and functions subject to the authority of the Secretary.

§5–301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board to practice cosmetology before the individual may practice cosmetology in the State.

(b) If an individual holds the appropriate limited license, the individual may practice cosmetology in a manner limited to:

(1) providing esthetic services;

(2) providing eyelash extension services;

(3) providing hair services;

(4) providing hair services – blow drying; or

(5) providing nail technician services.

(c) Subsection (a) of this section does not apply to:

(1) a student while the student practices cosmetology in accordance with § 5–302 or § 5–303 of this subtitle; or

(2) a registered apprentice.

§5–302.

(a) (1) Subject to the provisions of this subsection, a student who has completed at least 350 hours of training at a school of cosmetology may practice cosmetology, without a license, at the school.

(2) A student may practice cosmetology under this subsection only:

(i) in the course of the practical work required as part of the training of the student;

(ii) while the student is under the direct supervision of a teacher who meets the requirements established by the Department of Education for public school programs or the Maryland Higher Education Commission for private school programs; and

(iii) if the individual to whom a service is to be provided agrees to provision of the service after being informed that a student in training is to provide the service.

(b) (1) Subject to the provisions of this subsection, a student who has completed at least 1,000 hours of training at a school of cosmetology may practice cosmetology, without a license, in a hospital, nursing home, or correctional facility.

(2) A student may practice cosmetology under this subsection only:

(i) in the course of the practical work required as part of the training of the student;

(ii) while the student is under the direct supervision of a teacher who meets the requirements established by the Department of Education for public school programs or the Maryland Higher Education Commission for private school programs; and

(iii) if the individual to whom a service is to be provided:

1. is confined to the hospital, nursing home, or correctional facility; and

2. agrees to provision of the service after being informed that a student in training is to provide the service.

§5–303.

(a) Subject to the provisions of this section, a student who has completed at least 1,000 hours of training while enrolled in public school courses in cosmetology may practice cosmetology without a license.

(b) A student may practice cosmetology under this section only if the student:

(1) is enrolled in an approved cosmetology program and has a record of satisfactory school performance and school attendance, as determined by the local education agency;

(2) has a letter of authorization, signed by the student's teacher or work-study coordinator, to practice cosmetology in a specific beauty salon;

(3) practices cosmetology only in that specific beauty salon; and

(4) while practicing cosmetology, works under the direct supervision of an individual who is a licensed senior cosmetologist who agrees to periodically report on the progress of the student to the cosmetology teacher or the work-study coordinator.

(c) A beauty salon may pay a student for work authorized under this section.

(d) A student authorized under this section to practice cosmetology without a license shall conspicuously display a letter of authorization, as required by this section, at the student's work station in the specified beauty salon.

§5–304.

(a) (1) To qualify for a license to practice as a cosmetologist, an applicant shall be an individual who meets the requirements of this section.

(2) The applicant shall be at least 17 years old.

(3) The applicant shall have completed successfully a 9th grade education or the equivalent.

(4) (i) Except as otherwise provided in this subsection, an applicant shall have received training by:

1. serving as a registered apprentice as provided under §§ 5–404 and 5–405(e) of this title; or

2. successfully completing a required program of at least 1,500 hours of training in a cosmetology school that is approved by the State Board of Education or the Maryland Higher Education Commission in consultation with the Board.

(ii) If an applicant is a barber or master barber currently licensed in this State, the Board shall:

1. credit the applicant with having met one–half of the training requirements of subparagraph (i) of this paragraph; and

2. determine the manner in which the credit will be applied.

(iii) An applicant meets the requirements of this subsection if:

1. the applicant has held a cosmetologist license in another state or foreign country and has actively practiced cosmetology in the other state or foreign country for a period of 6 months; or

2. the applicant has been trained in a cosmetology school in another state or foreign country that has standards substantially equivalent to or more stringent than the standards of a school that is approved by the State Board of Education or the Maryland Higher Education Commission in consultation with the Board.

(5) The applicant shall have completed 1 hour of in–person or virtual training in domestic violence awareness under § 5–305.1 of this subtitle.

(6) Except as otherwise provided in this subtitle, the applicant shall pass a written and practical examination given by the Board under this subtitle.

(b) To qualify for a license as a senior cosmetologist, an applicant shall:

(1) have 2 years of experience as a licensed cosmetologist; and

(2) pass an examination approved by the Board.

§5–305.

(a) To qualify for a limited license to practice cosmetology, an applicant shall be an individual who meets the requirements of this section.

(b) An applicant for a limited license to provide esthetic services shall:

(1) be at least 17 years old;

(2) have completed successfully a 9th grade education or the equivalent;

(3) have received training by:

(i) serving as a registered apprentice for at least 6 months as provided under §§ 5–404 and 5–405 of this title; or

(ii) successfully completing at least 600 hours of instruction in providing esthetic services in a cosmetology school approved by the State Department of Education or the Maryland Higher Education Commission in consultation with the Board; and

(4) have completed 1 hour of in–person or virtual training in domestic violence awareness under § 5–305.1 of this subtitle.

(c) An applicant for a limited license to provide eyelash extension services shall:

(1) be at least 17 years old;

(2) have completed successfully a 9th grade education or the equivalent; and

(3) (i) have received training by:

1. serving as a registered apprentice for at least 3 months as provided under §§ 5–404 and 5–405 of this title; or

2. successfully completing at least 100 hours of instruction in providing eyelash extension services in a cosmetology school approved by the State Department of Education or the Maryland Higher Education Commission in consultation with the Board; or

(ii) pass a practical and written examination administered by the Board.

(d) An applicant for a limited license to provide hair services shall:

(1) be at least 17 years old;

(2) have completed successfully a 9th grade education or the equivalent;

(3) have received training by:

(i) serving as a registered apprentice for at least 15 months as provided under §§ 5–404 and 5–405 of this title; or

(ii) successfully completing at least 1,200 hours of instruction providing hair services in a cosmetology school approved by the State Department of Education or the Maryland Higher Education Commission in consultation with the Board; and

(4) have completed 1 hour of in–person or virtual training in domestic violence awareness.

(e) An applicant for a limited license to provide hair services – blow drying shall:

(1) be at least 17 years old;

(2) have completed successfully a 9th grade education or the equivalent;

(3) have received training by successfully completing at least 350 hours of instruction providing hair services – blow drying in a cosmetology school approved by the State Department of Education or the Maryland Higher Education Commission in consultation with the Board; and

(4) have completed 1 hour of in–person or virtual training in domestic violence awareness.

(f) An applicant for a limited license to provide nail technician services shall:

(1) be at least 17 years old;

(2) have successfully completed a 9th grade education or the equivalent;

(3) have received training by:

(i) serving as a registered apprentice for at least 3 months as provided under §§ 5–404 and 5–405 of this title; or

(ii) successfully completing at least 250 hours of instruction in providing nail technician services in a cosmetology school approved by the State Department of Education or the Maryland Higher Education Commission in consultation with the Board; and

(4) have completed 1 hour of in–person or virtual training in domestic violence awareness under § 5–305.1 of this subtitle.

(g) If an applicant is licensed to practice as an esthetician, eyelash extension technician, hairstylist, hairstylist – blow drying technician, or nail technician in another state or foreign country, the applicant meets the training requirements of this section if the applicant has held a limited license in the other state or foreign country and has actively practiced in the other state or foreign country for a period of 6 months.

(h) An applicant for a limited license shall pass an examination given by the Board under this subtitle.

§5–305.1.

(a) The Department shall approve training programs that an individual may complete to satisfy the domestic violence awareness training requirements of this title.

(b) A training program approved under subsection (a) of this section must:

(1) be offered in person and virtually;

(2) include guidance on:

(i) recognizing the signs of domestic violence;

(ii) strategies to navigate conversations with clients who may be victims of domestic violence;

(iii) how to listen to and communicate with victims of domestic violence; and

(iv) connecting clients with resources and support groups for victims of domestic violence; and

(3) have a duration of at least 1 hour.

§5–306.

An applicant for a license:

(1) shall submit to the Board an application on the form that the Board provides; and

(2) except as provided in § 5–308 of this subtitle, shall pay to the Board or the Board's designee the appropriate examination fee established by the Board in accordance with § 5–205 of this title in an amount not to exceed the cost of the required examination.

§5–307.

(a) Except as otherwise provided in § 5–307.1 of this subtitle, an applicant is entitled to be examined as provided in this section if the applicant:

(1) otherwise qualifies for a license under this title; and

(2) pays an examination fee, as established by the Board in accordance with § 5–205 of this title and § 5–306 of this subtitle, to the Board or the Board's designee.

(b) The Board periodically shall give examinations to applicants 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) Except as provided in paragraph (2) of this subsection, the Board shall determine the subjects, scope, and form of and the passing score for examinations given under this subtitle.

(2) (i) An examination may consist of written and practical parts.

(ii) An applicant may take a written examination when the applicant has completed at least 1,380 hours of the 1,500 hours of training in a cosmetology school required under § 5–304(a)(4)(i)2 of this subtitle.

(iii) An applicant who has completed 1,500 hours of training as specified in subparagraph (ii) of this paragraph may take the written and practical parts of an examination during one administration of the examination.

(e) The Board or the Board's designee shall mail or electronically transmit to each applicant notice of the applicant's examination result.

§5–307.1.

(a) The Board may use a testing service to administer the examinations required for licensure.

(b) If the Board uses a testing service, the testing service, subject to the requirements set by the Board, may:

(1) set the time and place of examinations;

(2) provide notice of the time and place of an examination to an applicant; and

(3) furnish any other information that the Board may require the testing service to provide.

§5–308.

(a) Subject to the provisions of this section, the Board may waive any examination requirement of this subtitle for an individual who is licensed to practice as a cosmetologist or a limited practice cosmetologist in another state.

(b) The Board may grant a waiver under this section only if the applicant:

(1) pays to the Board an application fee established by the Board in accordance with § 5-205 of this title; and

(2) provides adequate evidence that the applicant:

(i) meets the qualifications otherwise required by this subtitle; and

(ii) became licensed in the other state after passing, in that or any other state, an examination that is at least equivalent to the examination for which the applicant is seeking a waiver.

§5–309.

If an applicant qualifies for a license under this subtitle, the Board shall send the applicant a notice that states that:

(1) the applicant has qualified for the license; and

(2) the Board will issue the license to the applicant on receipt of a license fee established by the Board in accordance with § 5-205 of this title.

§5–310.

(a) Subject to subsections (b), (c), (d), (e), and (f) of this section and while a license to practice cosmetology is in effect, it authorizes the licensee to practice cosmetology.

(b) While a limited license to provide esthetic services is in effect, it authorizes the licensee to provide only esthetic services.

(c) While a limited license to provide eyelash extension services is in effect, it authorizes the licensee to provide only eyelash extension services.

(d) While a limited license to provide hair services is in effect, the license authorizes the licensee to provide only hair services.

(e) While a limited license to provide hair services – blow drying is in effect, the license authorizes the licensee to provide only hair services – blow drying.

(f) While a limited license to provide nail technician services is in effect, it authorizes the licensee to provide only nail technician services.

§5–311.

(a) The initial term of a license is 2 years.

(b) A license expires on the date set by the Board unless the license is renewed for an additional term as provided in this section.

(c) (1) At least 1 month before a license expires, the Board shall mail or electronically transmit to the licensee:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current license expires; and

2. the amount of the renewal fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the licensee, at the last known address of the licensee, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(d) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Board a renewal fee established by the Board in accordance with § 5–205 of this title;

(3) submits to the Board a renewal application on the form that the Board provides; and

(4) submits to the Board satisfactory evidence of completion of the continuing education requirements under § 5–205 of this title.

(e) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

(f) (1) If an individual who, on or before September 30, 1999, holds a limited license to provide esthetic services files an application to renew the license, the Board shall grant a waiver of the requirement for completion of hours of instruction under § 5–305(b)(3)(ii) of this subtitle that are in addition to the hours of instruction required on or before that date.

(2) If an individual who, on or before September 30, 1999, holds a limited license to provide manicuring services files an application to renew the license, the Board shall grant a waiver of the requirement for completion of hours of instruction under § 5–305(b)(3)(ii) of this subtitle that are in addition to the hours of instruction required on or before that date.

§5–312.

(a) The Board shall reinstate the license of an individual who, for any reason, has failed to renew the license if the individual:

(1) applies to the Board for reinstatement within 5 years after the license expires;

(2) meets the renewal requirements of § 5-311 of this subtitle; and

(3) pays to the Board a reinstatement fee established by the Board in accordance with § 5-205 of this title, in addition to the renewal fee required under § 5-311 of this subtitle.

(b) If an individual has failed to renew a license for any reason and then applies to the Board for reinstatement more than 5 years after the license has expired, the Board shall reinstate the license only if the individual:

(1) meets the renewal requirements of § 5-311 of this subtitle;

(2) passes the examination required by the Board; and

(3) pays to the Board a reinstatement fee established by the Board in accordance with § 5-205 of this title, in addition to the renewal fee required under § 5-311 of this subtitle.

§5–313.

Each license issued under this subtitle shall be displayed conspicuously by the licensee in the office or place of employment of the licensee.

§5–314.

(a) (1) Subject to the hearing provisions of § 5-315 of this subtitle, the Board may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

(i) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(ii) fraudulently or deceptively uses a license;

(iii) is incompetent;

(iv) engages in dishonest, unethical, immoral, or unprofessional conduct;

(v) is addicted to alcohol or drugs to the extent of being unfit to practice cosmetology;

(vi) advertises by means of knowingly false or deceptive statements;

(vii) under the laws of the United States or of any state, is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to practice cosmetology;

(viii) violates any provision of this title or any regulation adopted by the Board under this title; or

(ix) fails to pay a civil penalty imposed by the Board under § 5-610 of this title.

(2) (i) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Board may impose a penalty not exceeding $300 for all violations cited on a single day.

(ii) To determine the amount of the penalty imposed under this subsection, the Board shall consider:

1. the seriousness of the violation;

2. the good faith of the violator;

3. the violator's history of previous violations;

4. the deleterious effect of the violation on the complainant, the public, and the cosmetology industry; and

5. any other factors relevant to the determination of the financial penalty.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(b) The Board shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or misdemeanor described in subsection (a)(1)(vii) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to practice cosmetology;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

(c) (1) The Board shall commence proceedings under this section on a complaint to the Board by a member of the Board or any person.

(2) A complaint shall:

(i) be in writing;

(ii) include the name and necessary contact information of the individual filing the complaint, as determined by the Board;

(iii) state specifically the facts on which the complaint is based;

(iv) be submitted to the Executive Director of the Board; and

(v) be served on the person to whom it is directed:

1. personally; or

2. by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the person's last known address as shown on the Board's records.

(3) If service is made by certified mail, the person who mails the document shall file with the Board verified proof of mailing.

(d) (1) Except as provided in subsection (e) of this section, if the Board finds that a complaint alleges facts that are adequate grounds for action under this section, the Board shall act on the complaint as provided under § 5-315 of this subtitle to deny, suspend, or revoke a license, reprimand a licensee, or assess a penalty.

(2) If the Board does not make the finding, the Board shall dismiss the complaint.

(e) (1) If the Board makes the finding under subsection (d)(1) of this section for a violation that relates to the sanitary practice of cosmetology, the Board shall provide the licensee an opportunity to correct the alleged violation.

(2) If the licensee fails to correct each alleged violation within 10 days of written notification of the violation by the Board, the Board shall act on the complaint as provided under § 5-315 of this subtitle.

(3) If the licensee corrects each alleged violation within 10 days of notice, the Board shall:

(i) dismiss the complaint; and

(ii) provide the licensee written notification of the dismissal.

§5–315.

(a) Except as otherwise provided in § 10–226 of the State Government Article, before the Board takes any final action under § 5–314 of this subtitle or § 5–608.1 of this title, 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) The hearing notice to be given to the individual shall be served at least 5 days before the hearing.

(d) The individual may be represented at the hearing by counsel.

(e) (1) The Board may issue a subpoena for the attendance of a witness to testify or the production of evidence in connection with any proceeding under this section.

(2) A subpoena issued under this subsection shall be served by:

(i) certified mail; or

(ii) the sheriff of the county where the person to be served resides or has a principal place of business.

(f) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§5–316.

The Board may reinstate the license of an individual whose license has been suspended or revoked under § 5-314 of this subtitle if the individual:

(1) applies to the Board for reinstatement of the license; and

(2) provides to the Board adequate evidence that the applicant is qualified to have the license reinstated.

§5–401.

An individual shall be registered by the Board before the individual may serve as an apprentice in a beauty salon in the State.

§5–402.

An applicant for registration shall:

(1) submit to the Board an application on the form that the Board provides; and

(2) pay to the Board an application fee established by the Board in accordance with § 5-205 of this title.

§5–403.

The Board shall register and issue a certificate of registration to each applicant who meets the requirements of this subtitle.

§5–404.

(a) While registration as an apprentice is in effect, the registration authorizes the individual to learn to practice cosmetology or any limited practice of cosmetology:

(1) in a:

(i) beauty salon that holds a beauty salon permit; or

(ii) barbershop that holds a barbershop permit; and

(2) under the supervision of:

(i) if learning to practice cosmetology, a licensed senior cosmetologist;

(ii) if learning to provide esthetic services, a licensed senior cosmetologist or a licensed esthetician with 2 years' experience;

(iii) if learning to provide eyelash extension services:

1. beginning January 1, 2027, a licensed senior cosmetologist who has completed continuing education requirements in providing eyelash extension services; or

2. a licensed eyelash extension technician with 2 years' experience;

(iv) if learning to provide hair services, a licensed senior cosmetologist or a licensed hairstylist with 2 years' experience; and

(v) if learning to provide nail technician services, a licensed senior cosmetologist or a licensed nail technician with 2 years' experience.

(b) A licensed senior cosmetologist may directly train and supervise not more than two apprentices learning to practice cosmetology or any limited practice of cosmetology specified in subsection (a)(2) of this section.

(c) An individual with one of the limited licenses specified in subsection (a)(2) of this section who has at least 2 years of experience in that limited practice of cosmetology may directly train and supervise not more than two apprentices learning the same limited practice of cosmetology.

§5–405.

(a) Except as otherwise provided in subsection (g) of this section, the initial term of registration as an apprentice is 2 years.

(b) Unless registration as an apprentice is renewed for one additional 2–year term as provided in this section, the registration expires on the date set by the Board.

(c) (1) At least 1 month before the registration of an individual expires, the Board shall mail or electronically transmit to the individual:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current registration expires; and

2. the amount of the renewal fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the individual, at the last known address of the individual, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(d) Before the registration of an individual expires, the individual may renew it for an additional term, if the individual:

(1) otherwise is entitled to be registered;

(2) pays to the Board a renewal fee established by the Board in accordance with § 5–205 of this title; and

(3) submits to the Board a renewal application on the form that the Board provides.

(e) Except as otherwise provided in subsection (g) of this section, an individual registered as an apprentice may renew the registration only one time for a 2–year term.

(f) The Board shall renew the registration of and issue a renewal certificate to each individual who meets the requirements of this section.

(g) A registration as an apprentice for any limited practice of cosmetology expires 12 months after the date of its issuance unless the limited practice apprentice registration is renewed for one 1–year term.

§5–406.

Each registered individual shall display the certificate of registration conspicuously in the individual's place of employment or training.

§5–407.

(a) (1) Subject to the hearing provisions of § 5–408 of this subtitle, the Board may deny registration as an apprentice to any applicant, reprimand any individual registered as an apprentice, or suspend or revoke the registration of an individual registered as an apprentice:

(i) for any applicable ground under § 5–314 of this title;

(ii) if the applicant or individual fraudulently or deceptively obtains or attempts to obtain registration for the applicant or individual or for another; or

(iii) if the applicant or individual fraudulently or deceptively uses a certificate of registration.

(2) (i) Instead of or in addition to reprimanding an individual registered as an apprentice or suspending or revoking a registration, the Board may impose a penalty not exceeding $300 for all violations cited on a single date.

(ii) To determine the amount of penalty imposed under this subsection, the Board shall consider:

1. the seriousness of the violation;

2. the good faith of the violator;

3. the violator's history of previous violations;

4. the deleterious effect of the violation on the complainant, the public, and the cosmetology industry; and

5. any other factors relevant to the determination of the penalty.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(b) (1) The Board shall commence proceedings under this section on a complaint to the Board by a member of the Board or any person.

(2) A complaint shall:

(i) be in writing;

(ii) be signed by the complainant;

(iii) state specifically the facts on which the complaint is based;

(iv) be submitted to the Executive Director of the Board; and

(v) be served on the person to whom it is directed:

1. personally; or

2. by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the person's last known address as shown on the Board's records.

(3) If service is made by certified mail, the person who mails the document shall file with the Board verified proof of mailing.

(c) (1) Except as provided in subsection (d) of this section, if the Board finds that a complaint alleges facts that are adequate grounds for action under this section, the Board shall act on the complaint as provided under § 5–408 of this subtitle to deny, suspend, or revoke a certificate of registration, reprimand an apprentice, or assess a penalty.

(2) If the Board does not make the finding, the Board shall dismiss the complaint.

(d) (1) If the Board makes the finding under subsection (c)(1) of this section for a violation that relates to the sanitary practice of cosmetology, the Board shall provide the apprentice an opportunity to correct the alleged violation.

(2) If the apprentice fails to correct each alleged violation within 10 days of written notification of the violation by the Board, the Board shall act on the complaint as provided under § 5–408 of this subtitle.

(3) If the apprentice corrects each alleged violation within 10 days of notice, the Board shall:

(i) dismiss the complaint; and

(ii) provide the apprentice written notification of the dismissal.

§5–408.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Board takes any final action under § 5-407 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) The hearing notice to be given to the individual shall be served at least 5 days before the hearing.

(d) The individual may be represented at the hearing by counsel.

(e) (1) The Board may issue a subpoena for the attendance of a witness to testify or the production of evidence in connection with any proceeding under this section.

(2) A subpoena issued under this subsection shall be served by:

(i) certified mail; or

(ii) the sheriff of the county where the person to be served resides or has a principal place of business.

(f) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§5–409.

The Board may reinstate the registration of an individual whose registration has been suspended or revoked under § 5-407 of this subtitle if the individual:

(1) applies to the Board for reinstatement of the registration; and

(2) provides to the Board adequate evidence that the applicant is qualified to have the registration reinstated.

§5–501.

(a) A person shall hold a beauty salon permit issued by the Board before the person may operate a beauty salon in the State.

(b) A beauty salon may operate as a limited practice beauty salon by offering cosmetology services limited to:

(1) providing esthetic services;

(2) providing eyelash extension services;

(3) providing hair services;

(4) providing hair services – blow drying; or

(5) providing nail technician services.

(c) A separate beauty salon permit is required for each beauty salon that a person operates.

§5–502.

(a) To qualify for a beauty salon permit, an applicant shall meet the requirements of this section.

(b) (1) An applicant shall own or lease the facility in which the beauty salon for which the application is made is located.

(2) To qualify for a beauty salon permit for a mobile beauty salon, the applicant shall:

(i) hold a beauty salon permit to operate a beauty salon that is not a mobile beauty salon; and

(ii) own or lease the motor vehicle or trailer in which the mobile beauty salon for which the application is made is located.

(c) As a condition of the issuance of a beauty salon permit, the beauty salon for which the application is made shall pass the inspection conducted under § 5–520 of this subtitle.

(d) The applicant shall meet any other requirements that the Board sets, by regulation, for applicants for beauty salon permits.

§5–503.

(a) An applicant for a beauty salon permit shall:

(1) submit to the Board an application on the form that the Board provides;

(2) pay to the Board an application fee established by the Board in accordance with the provisions of § 5-205 of this title; and

(3) pay to the Board an inspection fee established by the Board in accordance with the provisions of § 5-205 of this title.

(b) In addition to any other information required on the application form, the form shall require the applicant to indicate if the application is for a limited practice beauty salon.

(c) For each beauty salon permit for which a person applies, the person shall submit a separate application and pay a separate application fee.

§5–504.

(a) The Board shall issue a beauty salon permit to each applicant who meets the requirements of this subtitle.

(b) A beauty salon permit for the limited practice of cosmetology shall specify the limited cosmetology services for which the permit is issued.

(c) The Board shall issue a beauty salon permit and a barbershop permit to an applicant of a single establishment if the applicant:

(1) meets the requirements of:

(i) this title; and

(ii) Title 4 of this article;

(2) submits a separate application for each permit; and

(3) pays a separate fee for each application.

§5–505.

(a) While a beauty salon permit is in effect, it authorizes the beauty salon permit holder to operate the beauty salon.

(b) While a beauty salon permit for the limited practice of cosmetology is in effect, it authorizes the holder to operate a beauty salon only for the limited purpose for which the permit is issued.

§5–506.

(a) Unless a beauty salon permit is renewed for a 2-year term as provided in this section, the permit expires on the first October 31 that comes:

(1) after the effective date of the permit; and

(2) in an odd-numbered year.

(b) (1) At least 1 month before a beauty salon permit expires, the Board shall mail or electronically transmit to the beauty salon permit holder:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current permit expires; and

2. the amount of the renewal fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the beauty salon permit holder, at the last known address of the beauty salon permit holder, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(c) Before a beauty salon permit expires, the beauty salon permit holder periodically may renew it for an additional 2-year term, if the holder:

(1) otherwise is entitled to hold the permit;

(2) pays to the Board a renewal fee established by the Board in accordance with the provisions of § 5-205 of this title; and

(3) submits to the Board a renewal application on the form that the Board provides.

(d) The Board shall renew the beauty salon permit of and issue a renewal certificate to each beauty salon permit holder who meets the requirements of this section.

(e) The Secretary may determine that permits issued under this subtitle shall expire on a staggered basis.

§5–506.1.

(a) The Board may reinstate a beauty salon permit that has expired if the owner of the salon:

(1) applies to the Board for reinstatement within 45 days after the permit expires;

(2) otherwise meets the requirements of § 5–506(c) of this subtitle; and

(3) pays to the Board a reinstatement fee established by the Board in accordance with § 5–205 of this title, in addition to the renewal fee required under § 5–506(c)(2) of this subtitle.

(b) If an owner of a salon has failed to renew a beauty salon permit and applies to the Board for reinstatement more than 45 days after the permit has expired, the Board shall reinstate the permit only if the salon owner qualifies for a beauty salon permit in accordance with §§ 5–502 and 5–503 of this subtitle.

§5–509.

(a) The Board may adopt regulations to ensure that each cosmetology school approved by the State Board of Education or the Maryland Higher Education Commission is operated in a sanitary manner.

(b) The regulations adopted under subsection (a) of this section shall provide for:

(1) the reporting of violations of the regulations to the Department of Education or the Maryland Higher Education Commission; and

(2) the imposition of a fine not to exceed $300 for a violation of the regulations.

(c) In determining the amount of financial penalty to be imposed under this section, the Board shall consider the following:

(1) the seriousness of the violation;

(2) the good faith of the violator;

(3) the violator's history of previous violations;

(4) the deleterious effect of the violation on the complainant, the public, and the barber industry; and

(5) any other factors relevant to the determination of the financial penalty.

(d) (1) The Board shall commence proceedings to assess a penalty under this section on a complaint to the Board by a member of the Board or any person.

(2) A complaint shall:

(i) be in writing;

(ii) include the name and necessary contact information of the individual filing the complaint, as determined by the Board;

(iii) state specifically the facts on which the complaint is based;

(iv) be submitted to the Executive Director of the Board; and

(v) be served on the person to whom it is directed:

1. personally; or

2. by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the person's last known address as shown on the Board's records.

(3) If service is made by certified mail, the person who mails the document shall file with the Board verified proof of mailing.

(e) (1) Except as provided in subsection (f) of this section, if the Board finds that a complaint alleges facts that are adequate grounds for action under this section, the Board shall act on the complaint as provided under § 5–523 of this subtitle to assess a penalty.

(2) If the Board does not make the finding, the Board shall dismiss the complaint.

(f) (1) If the Board makes the finding under subsection (e)(1) of this section for a violation that relates to the sanitary condition of a cosmetology school or the sanitary practice of cosmetology, the Board shall provide the owner of the school an opportunity to correct the alleged violation.

(2) If the owner fails to correct each alleged violation within 10 days of written notification of the violation by the Board, the Board shall act on the complaint as provided under § 5–523 of this subtitle.

(3) If the owner corrects each alleged violation within 10 days of notice, the Board shall:

(i) dismiss the complaint; and

(ii) provide the owner written notification of the dismissal.

§5–520.

(a) (1) The Board may appoint inspectors to conduct inspections.

(2) Subject to the State budget, each inspector is entitled to:

(i) reasonable compensation set by the Board for each day on which the inspector is engaged in the duties of the appointment; and

(ii) reimbursement for expenses under the Standard State Travel Regulations.

(b) (1) The Board shall inspect beauty salons.

(2) The Board shall inspect the facilities of applicants for beauty salon permits before the beauty salon:

(i) initially opens for business;

(ii) opens for business at a new location; or

(iii) continues business under a new owner.

(3) A beauty salon that remodels and reopens with the same owner is not subject to the inspection requirement of this subsection.

(c) (1) The Board or an inspector may enter and inspect a cosmetology school approved by the State Board of Education or the Maryland Higher Education Commission at any time during business hours to determine the sanitary condition of the cosmetology school.

(2) If, during an inspection of a cosmetology school, an inspector finds an unsanitary condition, the inspector promptly shall report the condition to the Board.

(d) (1) A beauty salon shall allow an inspector, on presentation of credentials, to enter and inspect the facility at any time during business hours.

(2) During inspection of a beauty salon, the owner, lessee, or manager of the beauty salon shall accompany the inspector.

(e) (1) An inspector shall make an inspection report after an inspection and give a copy to the individual who accompanied the inspector during the inspection.

(2) The individual shall sign the inspection report for the beauty salon or cosmetology school to acknowledge receipt of a copy of the report.

§5–521.

Each beauty salon permit holder shall display the beauty salon permit conspicuously in the beauty salon for which the permit is issued.

§5–522.

(a) (1) Subject to the hearing provisions of § 5–523 of this subtitle, the Board may deny a beauty salon permit to any applicant, reprimand any permit holder, or suspend or revoke a beauty salon permit:

(i) for any applicable ground under § 5–314 of this title;

(ii) if the applicant or holder fraudulently or deceptively obtains or attempts to obtain a beauty salon permit for the applicant or holder or for another;

(iii) if the applicant or holder fraudulently or deceptively uses a beauty salon permit; or

(iv) if the holder fails to pay a civil penalty imposed by the Board under § 5–610 of this title.

(2) (i) Instead of or in addition to reprimanding a permit holder or suspending or revoking a beauty salon permit, the Board may impose a penalty not exceeding $300 for all violations cited on a single date.

(ii) To determine the amount of penalty imposed under this subsection, the Board shall consider:

1. the seriousness of the violation;

2. the good faith of the violator;

3. the violator's history of previous violations;

4. the deleterious effect of the violation on the complainant, the public, and the cosmetology industry; and

5. any other factors relevant to the determination of the financial penalty.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(b) (1) The Board shall commence proceedings under this section on a complaint to the Board by a member of the Board or any person.

(2) A complaint shall:

(i) be in writing;

(ii) be signed by the complainant;

(iii) state specifically the facts on which the complaint is based;

(iv) be submitted to the Executive Director of the Board; and

(v) be served on the person to whom it is directed:

1. personally; or

2. by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the person's last known address as shown on the Board's records.

(3) If service is made by certified mail, the person who mails the document shall file with the Board verified proof of mailing.

(c) (1) Except as provided in subsection (d) of this section, if the Board finds that a complaint alleges facts that are adequate grounds for action under this

section, the Board shall act on the complaint as provided under § 5–523 of this subtitle to deny, suspend, or revoke a license, reprimand a licensee, or assess a penalty.

(2) If the Board does not make the finding, the Board shall dismiss the complaint.

(d) (1) If the Board makes the finding under subsection (c)(1) of this section for a violation that relates to the sanitary condition of a beauty salon or the sanitary practice of cosmetology, the Board shall provide the owner of the salon an opportunity to correct the alleged violation.

(2) If the owner fails to correct each alleged violation within 10 days of written notification of the violation by the Board, the Board shall act on the complaint as provided under § 5–523 of this subtitle.

(3) If the owner corrects each alleged violation within 10 days of notice, the Board shall:

(i) dismiss the complaint; and

(ii) provide the owner written notification of the dismissal.

§5–523.

(a) Except as otherwise provided in § 10–226 of the State Government Article, before the Board takes any final action under § 5–509 or § 5–522 of this subtitle or § 5–608.1 of this title, it shall give the person 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) The hearing notice to be given to the person shall be served at least 5 days before the hearing.

(d) The person may be represented at the hearing by counsel.

(e) (1) The Board may issue a subpoena for the attendance of a witness to testify or the production of evidence in connection with any proceeding under this section.

(2) A subpoena issued under this subsection shall be served by:

(i) certified mail; or

(ii) the sheriff of the county where the person to be served resides or has a principal place of business.

(f) If, after due notice, the person against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§5–524.

The Board may reinstate the beauty salon permit of a person whose beauty salon permit has been suspended or revoked under § 5-522 of this subtitle if the person:

(1) applies to the Board for reinstatement of the beauty salon permit; and

(2) provides to the Board adequate evidence that the applicant is qualified to have the beauty salon permit reinstated.

§5–601.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice cosmetology in the State unless licensed by the Board to practice cosmetology.

§5–602.

A person may not operate a beauty salon in the State unless the person holds a beauty salon permit issued by the Board.

§5–603.

A person may not serve as an apprentice unless registered by the Board as an apprentice.

§5–604.

(a) (1) Unless authorized under this title to practice cosmetology, a person may not represent to the public, by use of a title, including "licensed cosmetologist", by description of services, methods, or procedures, or otherwise, that the person is authorized to practice cosmetology in the State.

(2) If an individual is authorized under this title to engage in the limited practice of cosmetology, the individual may represent to the public that the

individual is authorized to practice cosmetology in a manner restricted to that limited practice.

(b) Unless an establishment holds a beauty salon permit under this title, a person may not represent to the public, by title, by description of services, methods, or procedures, or otherwise, that the establishment is a beauty salon.

§5–605.

(a) Except as provided in §§ 5–302 and 5–303 of this title and subsection (b) of this section, a person may not practice cosmetology, provide esthetic services, provide eyelash extension services, provide hair services, provide hair services – blow drying, or provide nail technician services in any place other than:

(1) a beauty salon that holds a beauty salon permit; or

(2) a barbershop that holds a barbershop permit issued under Title 4 of this article.

(b) (1) A licensed cosmetologist, esthetician, eyelash extension technician, hairstylist, hairstylist – blow dry technician, or nail technician may practice cosmetology and provide services in:

(i) a facility in which beautification–oriented medical services, authorized by the Maryland Department of Health, are provided;

(ii) the residence of an individual confined to the residence by reason of a physical or mental infirmity;

(iii) an assisted living facility as defined in § 19–1801 of the Health – General Article;

(iv) a hospice facility defined in § 19–901(c) of the Health – General Article;

(v) a nursing home as defined in § 19–1401(e) of the Health – General Article; or

(vi) a hospital as defined in § 19–301 of the Health – General Article or a similar institution.

(2) To practice in any of the locations specified in this subsection:

(i) the licensed cosmetologist, esthetician, eyelash extension technician, hairstylist, hairstylist – blow dry technician, or nail technician shall be sponsored by a beauty salon in which the cosmetologist, esthetician, hairstylist, hairstylist – blow dry technician, or nail technician is authorized to practice;

(ii) the patron to whom the services are rendered shall be a customer of the beauty salon; and

(iii) the services shall be rendered by appointment through the beauty salon.

§5–606.

An owner or lessee of a beauty salon may not allow any individual to:

(1) use as a residence any room that is used wholly or partly as a beauty salon; or

(2) sleep in any room that is used wholly or partly as a beauty salon.

§5–607.

(a) An owner or lessee of a beauty salon may not knowingly:

(1) employ in the beauty salon an individual with an infectious or contagious disease that presents a hazard to a patron; or

(2) after discovering an individual has an infectious or contagious disease that presents a hazard to a patron, continue to employ the individual in the beauty salon.

(b) (1) An individual who knows that the individual has an infectious or contagious disease that presents a hazard to a beauty salon patron may not practice cosmetology.

(2) An individual who knows that another individual has an infectious or contagious disease that presents a hazard to a beauty salon patron may not practice cosmetology on that other individual.

(c) An individual may not practice cosmetology in a careless or negligent manner so as to:

(1) cause an infection; or

(2) impart an infectious or contagious disease that presents a hazard to a beauty salon patron.

§5–608.

(a) Except as provided in subsection (b) of this section, a school of cosmetology approved by the State Department of Education or the Maryland Higher Education Commission may not allow a student to practice cosmetology on the public.

(b) A school of cosmetology approved by the State Department of Education or the Maryland Higher Education Commission may allow a student to practice cosmetology in accordance with § 5-302 or § 5-303 of this title.

§5–608.1.

(a) A person may not use or possess methyl methacrylate liquid monomer (MMA) in a beauty salon in this State.

(b) To determine whether a person is in violation of subsection (a) of this section, an inspector may chemically test products or take samples of products at random or when the inspector suspects that a product is illegal.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not to exceed $1,000 for all violations cited on a single day.

§5–608.2.

The Board may prohibit or restrict the use or possession of lasers in beauty salons.

§5–609.

(a) A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $100 or imprisonment not exceeding 30 days or both.

(b) (1) Except as otherwise provided by this title, the Board may impose on a person who violates any provision of this title a penalty not exceeding $1,000 for all violations cited on a single day.

(2) In setting the amount of the penalty, the Board shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the violator;

(iv) any history of previous violations by the violator; and

(v) any other relevant factors.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

§5–610.

(a) Following an inspection of a beauty salon, if a Board inspector determines that a licensee or permit holder has violated this title or a regulation adopted by the Board, the inspector may issue a citation to the licensee or permit holder.

(b) A citation issued by a Board inspector shall be in writing and shall state:

(1) a brief description of each violation;

(2) the amount of a civil penalty, as prescribed by regulation, for each violation; and

(3) as provided in this section:

(i) the time within which the civil penalty is to be paid;

(ii) the opportunity to contest the citation; and

(iii) the finality of the citation if it is not contested.

(c) The citation shall be served on the licensee or permit holder alleged to have committed the violation by:

(1) hand-delivery; or

(2) certified mail to the last known address of the licensee or permit holder.

(d) Subject to subsections (e) and (f) of this section, the civil penalty set forth in a citation shall be paid within 60 days of its receipt.

(e) A citation and the applicable civil penalty shall be considered a final order of the Board unless, within 60 days of being served with the citation, the licensee or permit holder notifies the Board in writing of an intent to contest the citation.

(f) (1) Upon the receipt of a written notice of a licensee or permit holder's intent to contest a citation, the Board shall hold a hearing, in accordance with § 5-315 or § 5-523 of this title, regarding the cited violations.

(2) A hearing held in accordance with paragraph (1) of this subsection may not be delegated to the Office of Administrative Hearings under Title 10, Subtitle 2 of the State Government Article.

(g) (1) The Board shall establish by regulation a schedule of civil penalties for violations of this title and regulations adopted by the Board.

(2) The civil penalties imposed under this subsection may not exceed $300 for all violations cited on a single day.

§5–6A–01.

The Cosmetology Licensure Compact is hereby enacted and entered into with all other jurisdictions that legally join in the Compact in the form substantially as the Compact appears in this section as follows:

Article 1. Purpose.

The purpose of this Compact is to facilitate the interstate practice and regulation of Cosmetology with the goal of improving public access to, and the safety of, Cosmetology Services and reducing unnecessary burdens related to Cosmetology licensure. Through this Compact, the Member States seek to establish a regulatory framework which provides for a new multistate licensing program. Through this new licensing program, the Member States seek to provide increased value and mobility to licensed Cosmetologists in the Member States, while ensuring the provision of safe, effective, and reliable services to the public.

This Compact is designed to achieve the following objectives and the Member States hereby ratify the same intentions by subscribing hereto:

A. Provide opportunities for interstate practice by Cosmetologists who meet uniform requirements for multistate licensure;

B. Enhance the abilities of Member States to protect public health and safety and prevent fraud and unlicensed activity within the profession;

C. Ensure and encourage cooperation between Member States in the licensure and regulation of the Practice of Cosmetology;

D. Support relocating military members and their spouses;

E. Facilitate the exchange of information between Member States related to the licensure, investigation, and discipline of the Practice of Cosmetology;

F. Provide for the licensure and mobility of the workforce in the profession while addressing the shortage of workers and lessening the associated burdens on the Member States.

Article 2. Definitions.

As used in this Compact, and except as otherwise provided, the following definitions shall govern the terms herein:

A. "Active Military Member" means any individual with full–time duty status in the armed forces of the United States, including members of the National Guard and Reserve.

B. "Adverse Action" means any administrative, civil, equitable, or criminal action permitted by a Member State's laws which is imposed by a State Licensing Authority or other regulatory body against a Cosmetologist, including actions against an individual's license or Authorization to Practice such as revocation, suspension, probation, monitoring of the Licensee, limitation of the Licensee's practice, or any other Encumbrance on a license affecting an individual's ability to participate in the Cosmetology industry, including the issuance of a cease and desist order.

C. "Alternative Program" means a non–disciplinary monitoring or prosecutorial diversion program approved by a Member State's State Licensing Authority.

D. "Authorization to Practice" means a legal authorization associated with a Multistate License permitting the Practice of Cosmetology in that Remote State, which shall be subject to the enforcement jurisdiction of the State Licensing Authority in that Remote State.

E. "Background Check" means the submission of information for an applicant for the purpose of obtaining that applicant's criminal history record information, as further defined in 28 C.F.R. § 20.3(d), from the Federal Bureau of

Investigation and the agency responsible for retaining State criminal or disciplinary history in the applicant's Home State.

F. "Charter Member State" means Member States who have enacted legislation to adopt this Compact where such legislation predates the effective date of this Compact as defined in Article 13.

G. "Commission" means the government agency whose membership consists of all States that have enacted this Compact, which is known as the Cosmetology Licensure Compact Commission, as defined in Article 9, and which shall operate as an instrumentality of the Member States.

H. "Cosmetologist" means an individual licensed in their Home State to practice Cosmetology.

I. "Cosmetology", "Cosmetology Services", and the "Practice of Cosmetology" mean the care and services provided by a Cosmetologist as set forth in the Member State's statutes and regulations in the State where the services are being provided.

J. "Current Significant Investigative Information" means:

1. Investigative Information that a State Licensing Authority, after an inquiry or investigation that complies with a Member State's due process requirements, has reason to believe is not groundless and, if proved true, would indicate a violation of that State's laws regarding fraud or the Practice of Cosmetology; or

2. Investigative Information that indicates that a Licensee has engaged in fraud or represents an immediate threat to public health and safety, regardless of whether the Licensee has been notified and had an opportunity to respond.

K. "Data System" means a repository of information about Licensees, including license status, Investigative Information, and Adverse Actions.

L. "Disqualifying Event" means any event which shall disqualify an individual from holding a Multistate License under this Compact, which the Commission may by Rule or order specify.

M. "Encumbered License" means a license in which an Adverse Action restricts the Practice of Cosmetology by a Licensee, or where said Adverse Action has been reported to the Commission.

N. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted Practice of Cosmetology by a State Licensing Authority.

O. "Executive Committee" means a group of delegates elected or appointed to act on behalf of and within the powers granted to them by the Commission.

P. "Home State" means the Member State which is a Licensee's primary State of residence and where that Licensee holds an active and unencumbered license to practice Cosmetology.

Q. "Investigative Information" means information, records, or documents received or generated by a State Licensing Authority pursuant to an investigation or other inquiry.

R. "Jurisprudence Requirement" means the assessment of an individual's knowledge of the laws and rules governing the Practice of Cosmetology in a State.

S. "Licensee" means an individual who currently holds a license from a Member State to Practice as a Cosmetologist.

T. "Member State" means any State that has adopted this Compact.

U. "Multistate License" means a license issued by and subject to the enforcement jurisdiction of the State Licensing Authority in a Licensee's Home State, which authorizes the Practice of Cosmetology in Member States and includes Authorizations to Practice Cosmetology in all Remote States pursuant to this Compact.

V. "Remote State" means any Member State, other than the Licensee's Home State.

W. "Rule" means any rule or regulation promulgated by the Commission under this Compact that has the force of law.

X. "Single–State License" means a Cosmetology license issued by a Member State that authorizes the Practice of Cosmetology only within the issuing State and does not include any authorization outside of the issuing State.

Y. "State" means a State, territory, or possession of the United States and the District of Columbia.

Z. "State Licensing Authority" means a Member State's regulatory body responsible for issuing Cosmetology licenses or otherwise overseeing the Practice of Cosmetology in that State.

Article 3. Member State Requirements.

A. To be eligible to join this Compact, and to maintain eligibility as a Member State, a State must:

1. License and regulate Cosmetology;

2. Have a mechanism or entity in place to receive and investigate complaints about Licensees practicing in that State;

3. Require that Licensees within the State pass a Cosmetology competency examination prior to being licensed to provide Cosmetology Services to the public in that State;

4. Require that Licensees satisfy educational or training requirements in Cosmetology prior to being licensed to provide Cosmetology Services to the public in that State;

5. Implement procedures for considering one or more of the following categories of information from applicants for licensure: criminal history; disciplinary history; or Background Check. Such procedures may include the submission of information by applicants for the purpose of obtaining an applicant's Background Check as defined herein;

6. Participate in the Data System, including through the use of unique identifying numbers;

7. Share information related to Adverse Actions with the Commission and other Member States, both through the Data System and otherwise;

8. Notify the Commission and other Member States, in compliance with the terms of the Compact and Rules of the Commission, of the existence of Investigative Information or Current Significant Investigative Information in the State's possession regarding a Licensee practicing in that State;

9. Comply with such Rules as may be enacted by the Commission to administer the Compact; and

10. Accept Licensees from other Member States as established herein.

B. Member States may charge a fee for granting a license to practice Cosmetology.

C. Individuals not residing in a Member State shall continue to be able to apply for a Member State's Single–State License as provided under the laws of each Member State. However, the Single–State License granted to these individuals may not be recognized as granting a Multistate License to provide services in any other Member State.

D. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single–State License.

E. A Multistate License issued to a Licensee by a Home State to a resident of that State shall be recognized by each Member State as authorizing a Licensee to practice Cosmetology in each Member State.

F. At no point shall the Commission have the power to define the educational or professional requirements for a license to practice Cosmetology. The Member States shall retain sole jurisdiction over the provision of these requirements.

Article 4. Multistate License.

A. To be eligible to apply to their Home State's State Licensing Authority for an initial Multistate License under this Compact, a Licensee must hold an active and unencumbered Single–State License to practice Cosmetology in their Home State.

B. Upon the receipt of an application for a Multistate License, according to the Rules of the Commission, a Member State's State Licensing Authority shall ascertain whether the applicant meets the requirements for a Multistate License under this Compact.

C. If an applicant meets the requirements for a Multistate License under this Compact and any applicable Rules of the Commission, the State Licensing Authority in receipt of the application shall, within a reasonable time, grant a Multistate License to that applicant, and inform all Member States of the grant of said Multistate License.

D. A Multistate License to practice Cosmetology issued by a Member State's State Licensing Authority shall be recognized by each Member State as authorizing the practice thereof as though that Licensee held a Single–State License to do so in each Member State, subject to the restrictions herein.

E. A Multistate License granted pursuant to this Compact may be effective for a definite period of time, concurrent with the licensure renewal period in the Home State.

F. To maintain a Multistate License under this Compact, a Licensee shall:

1. Agree to abide by the rules of the State Licensing Authority, and the State scope of practice laws governing the Practice of Cosmetology, of any Member State in which the Licensee provides services;

2. Pay all required fees related to the application and process and any other fees which the Commission may by Rule require; and

3. Comply with any and all other requirements regarding Multistate Licenses which the Commission may by Rule provide.

G. A licensee practicing in a Member State is subject to all scope of practice laws governing Cosmetology Services in that State.

H. The Practice of Cosmetology under a Multistate License granted pursuant to this Compact shall subject the Licensee to the jurisdiction of the State Licensing Authority, the courts, and the laws of the Member State in which the Cosmetology Services are provided.

Article 5. Reissuance of a Multistate License by a New Home State.

A. A Licensee may hold a Multistate License, issued by their Home State, in only one Member State at any given time.

B. If a Licensee changes their Home State by moving between two Member States:

1. The Licensee shall immediately apply for the reissuance of their Multistate License in their new Home State. The Licensee shall pay all applicable fees and notify the prior Home State in accordance with the Rules of the Commission.

2. Upon receipt of an application to reissue a Multistate License, the new Home State shall verify that the Multistate License is active, unencumbered, and eligible for reissuance under the terms of the Compact and the Rules of the Commission. The Multistate License issued by the prior Home State will be deactivated and all Member States notified in accordance with the applicable Rules adopted by the Commission.

3. If required for initial licensure, the new Home State may require a Background Check as specified in the laws of that State or the compliance with any Jurisprudence Requirements of the new Home State.

4. Notwithstanding any other provision of this Compact, if a Licensee does not meet the requirements set forth in this Compact for the reissuance of a Multistate License by the new Home State, then the Licensee shall be subject to the new Home State requirements for the issuance of a Single–State License in that State.

C. If a Licensee changes their primary State of residence by moving from a Member State to a non–Member State, or from a non–Member State to a Member State, then the Licensee shall be subject to the State requirements for the issuance of a Single–State License in the new Home State.

D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single–State License in multiple States; however for the purposes of this Compact, a Licensee shall have only one Home State and only one Multistate License.

E. Nothing in this Compact may interfere with the requirements established by a Member State for the issuance of a Single–State License.

Article 6. Authority of the Compact Commission and Member State Licensing Authorities.

A. Nothing in this Compact, nor any Rule or regulation of the Commission, may be construed to limit, restrict, or in any way reduce the ability of a Member State to enact and enforce laws, regulations, or other rules related to the Practice of Cosmetology in that State, if those laws, regulations, or other rules are not inconsistent with the provisions of this Compact.

B. Insofar as practical, a Member State's State Licensing Authority shall cooperate with the Commission and with each entity exercising independent regulatory authority over the Practice of Cosmetology according to the provisions of this Compact.

C. Discipline shall be the sole responsibility of the State in which Cosmetology Services are provided. Accordingly, each Member State's State Licensing Authority shall be responsible for receiving complaints about individuals practicing Cosmetology in that State and for communicating all relevant Investigative Information about any such Adverse Action to the other Member States through the Data System in addition to any other methods the Commission may by Rule require.

Article 7. Adverse Actions.

A. A Licensee's Home State shall have exclusive power to impose an Adverse Action against a Licensee's Multistate License issued by the Home State.

B. A Home State may take Adverse Action on a Multistate License based on the Investigative Information, Current Significant Investigative Information, or Adverse Action of a Remote State.

C. In addition to the powers conferred by State law, each Remote State's State Licensing Authority shall have the power to:

1. Take Adverse Action against a Licensee's Authorization to Practice Cosmetology through the Multistate License in that Member State, provided that:

a. Only the Licensee's Home State shall have the power to take Adverse Action against the Multistate License issued by the Home State; and

b. For the purposes of taking Adverse Action, the Home State's State Licensing Authority shall give the same priority and effect to reported conduct received from a Remote State as it would if the conduct had occurred within the Home State. In so doing, the Home State shall apply its own State laws to determine the appropriate action.

2. Issue cease and desist orders or impose an Encumbrance on a Licensee's Authorization to Practice within that Member State.

3. Complete any pending investigations of a Licensee who changes their primary State of residence during the course of such an investigation. The State Licensing Authority may report the results of an investigation to the Commission through the Data System as described herein.

4. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as the production of evidence. Subpoenas issued by a State Licensing Authority in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings before it. The issuing State Licensing Authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State in which the witnesses or evidence are located.

5. If otherwise permitted by State law, recover from the affected Licensee the costs of investigations and disposition of cases resulting from any Adverse Action taken against that Licensee.

6. Take Adverse Action against the Licensee's Authorization to Practice in that State based on the factual findings of another Remote State.

D. A Licensee's Home State shall complete any pending investigation of a Cosmetologist who changes their primary State of residence during the course of the investigation. The Home State shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigations to the Data System.

E. If an Adverse Action is taken by the Home State against a Licensee's Multistate License, the Licensee's Authorization to Practice in all other Member States shall be deactivated until all Encumbrances have been removed from the Home State License. All Home State disciplinary orders that impose an Adverse Action against a Licensee's Multistate License shall include a statement that the Cosmetologist's Authorization to Practice is deactivated in all Member States during the pendency of the order.

F. Nothing in this Compact shall override a Member State's authority to accept a Licensee's participation in an Alternative Program in lieu of Adverse Action. A Licensee's Multistate License shall be suspended for the duration of the Licensee's participation in any Alternative Program.

G. Joint Investigations.

1. In addition to the authority granted to a Member State by its respective scope of practice laws or other applicable State law, a Member State may participate with other Member States in joint investigations of Licensees.

2. Member States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

Article 8. Active Military Members and Their Spouses.

Active Military Members, or their spouses, shall designate a Home State where the individual has a current license to practice Cosmetology in good standing. The individual may retain their Home State designation during any period of service when that individual or their spouse is on active duty assignment.

Article 9. Establishment and Operation of the Cosmetology Licensure Compact Commission.

A. The Compact Member States hereby create and establish a joint government agency whose membership consists of all Member States that have

enacted the Compact known as the Cosmetology Licensure Compact Commission. The Commission is an instrumentality of the Compact Member States acting jointly and not an instrumentality of any one State. The Commission shall come into existence on or after the effective date of the Compact as set forth in Article 13.

B. Membership, Voting, and Meetings.

1. Each Member State shall have and be limited to one delegate selected by that Member State's State Licensing Authority.

2. The delegate shall be an administrator of the State Licensing Authority of the Member State or their designee.

3. The Commission shall by Rule or bylaw establish a term of office for delegates and may by Rule or bylaw establish term limits.

4. The Commission may recommend removal or suspension of any delegate from office.

5. A Member State's State Licensing Authority shall fill any vacancy of its delegate occurring on the Commission within 60 days of the vacancy.

6. Each delegate shall be entitled to one vote on all matters that are voted on by the Commission.

7. The Commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The Commission may meet by telecommunication, video conference, or other similar electronic means.

C. The Commission shall have the following powers:

1. Establish the fiscal year of the Commission;

2. Establish a code of conduct and conflict of interest policies;

3. Adopt Rules and bylaws;

4. Maintain its financial records in accordance with the bylaws;

5. Meet and take such actions as are consistent with the provisions of this Compact, the Commission's Rules, and the bylaws;

6. Initiate and conclude legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Authority to sue or be sued under applicable law may not be affected;

7. Maintain and certify records and information provided to a Member State as the authenticated business records of the Commission and designate an agent to do so on the Commission's behalf;

8. Purchase and maintain insurance and bonds;

9. Borrow, accept, or contract for services of personnel, including employees of a Member State;

10. Conduct an annual financial review;

11. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

12. As set forth in the Commission Rules, charge a fee to a Licensee for the grant of a Multistate License and thereafter, as may be established by Commission Rule, charge the Licensee a Multistate License renewal fee for each renewal period. Nothing herein may be construed to prevent a Home State from charging a Licensee a fee for a Multistate License or renewals of a Multistate License, or a fee for the Jurisprudence Requirement if the Member State imposes such a requirement for the grant of a Multistate License;

13. Assess and collect fees;

14. Accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;

15. Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;

16. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

17. Establish a budget and make expenditures;

18. Borrow money;

19. Appoint committees, including standing committees, composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

20. Provide and receive information from and cooperate with law enforcement agencies;

21. Elect a Chair, Vice Chair, Secretary and Treasurer and such other officers of the Commission as provided in the Commission's bylaws;

22. Establish and elect an Executive Committee, including a Chair and a Vice Chair;

23. Adopt and provide to the Member States an annual report;

24. Determine whether a State's adopted language is materially different from the model Compact language such that the State would not qualify for participation in the Compact; and

25. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact.

D. The Executive Committee.

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact. The powers, duties, and responsibilities of the Executive Committee shall include:

a. Overseeing the day–to–day activities of the administration of the Compact including compliance with the provisions of the Compact, the Commission's Rules and bylaws, and such other duties as deemed necessary;

b. Recommending to the Commission changes to the Rules or bylaws, changes to this Compact legislation, fees charged to Compact Member States, fees charged to Licensees, and other fees;

c. Ensuring Compact administration services are appropriately provided, including by contract;

d. Preparing and recommending the budget;

e. Maintaining financial records on behalf of the Commission;

f. Monitoring Compact compliance of Member States and providing compliance reports to the Commission;

g. Establishing additional committees as necessary;

h. Exercising the powers and duties of the Commission during the interim between Commission meetings, except for adopting or amending Rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the Commission by Rule or bylaw; and

i. Other duties as provided in the Rules or bylaws of the Commission.

2. The Executive Committee shall be composed of up to seven voting members.

a. The Chair and Vice Chair of the Commission and any other members of the Commission who serve on the Executive Committee shall be voting members of the Executive Committee; and

b. Other than the Chair, Vice Chair, Secretary and Treasurer, the Commission shall elect three voting members from the current membership of the Commission.

c. The Commission may elect ex officio, nonvoting members from a recognized national Cosmetology professional association as approved by the Commission. The Commission's bylaws shall identify qualifying organizations and the manner of appointment if the number of organizations seeking to appoint an ex officio member exceeds the number of members specified in this Article.

3. The Commission may remove any member of the Executive Committee as provided in the Commission's bylaws.

4. The Executive Committee shall meet at least annually.

a. Annual Executive Committee meetings, as well as any Executive Committee meeting at which it does not take or intend to take formal action on a matter for which a Commission vote would otherwise be required, shall be open to the public, except that the Executive Committee may meet in a closed, non–public session of a public meeting when dealing with any of the matters covered under Article 9.F.4.

b. The Executive Committee shall give 5 business days advance notice of its public meetings, posted on its website and as determined to provide notice to persons with an interest in the public matters the Executive Committee intends to address at those meetings.

5. The Executive Committee may hold an emergency meeting when acting for the Commission to:

a. Meet an imminent threat to public health, safety, or welfare;

b. Prevent a loss of Commission or Member State funds; or

c. Protect public health and safety.

E. The Commission shall adopt and provide to the Member States an annual report.

F. Meetings of the Commission.

1. All meetings of the Commission that are not closed pursuant to Article 9.F.4. shall be open to the public. Notice of public meetings shall be posted on the Commission's website at least 30 days prior to the public meeting.

2. Notwithstanding Article 9.F.1., the Commission may convene an emergency public meeting by providing at least 24 hours prior notice on the Commission's website, and any other means as provided in the Commission's Rules, for any of the reasons it may dispense with notice of proposed rulemaking under Article 11.L. The Commission's legal counsel shall certify that one of the reasons justifying an emergency public meeting has been met.

3. Notice of all Commission meetings shall provide the time, date, and location of the meeting, and if the meeting is to be held or accessible via telecommunication, video conference, or other electronic means, the notice shall include the mechanism for access to the meeting.

4. The Commission may convene in a closed, non–public meeting for the Commission to discuss:

a. Non–compliance of a Member State with its obligations under the Compact;

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current or threatened discipline of a Licensee by the Commission or by a Member State's Licensing Authority;

d. Current, threatened, or reasonably anticipated litigation;

e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

f. Accusing any person of a crime or formally censuring any person;

g. Trade secrets or commercial or financial information that is privileged or confidential;

h. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

i. Investigative records compiled for law enforcement purposes;

j. Information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact;

k. Legal advice;

l. Matters specifically exempted from disclosure to the public by federal or Member State law; or

m. Other matters as promulgated by the Commission by Rule.

5. If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

6. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be

identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

G. Financing of the Commission.

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate sources of revenue, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each Member State and impose fees on Licensees of Member States to whom it grants a Multistate License to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for Member States shall be allocated based upon a formula that the Commission shall promulgate by Rule.

4. The Commission may not incur obligations of any kind prior to securing the adequate funds to meet the same; nor shall the Commission pledge the credit of any Member States, except by and with the authority of the Member State.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the financial review and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission shall be subject to an annual financial review by a certified or licensed public accountant and the report of the financial review shall be included in and become part of the annual report of the Commission.

H. Qualified Immunity, Defense, and Indemnification.

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph may be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton

misconduct of that person. The procurement of insurance of any type by the Commission may not in any way compromise or limit the immunity granted hereunder.

2. The Commission shall defend any member, officer, executive director, employee, and representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or as determined by the Commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein may be construed to prohibit that person from retaining their own counsel at their own expense; and provided further that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

4. Nothing herein shall be construed as a limitation on the liability of any Licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable State laws.

5. Nothing in this Compact shall be interpreted to waive or otherwise abrogate a Member State's State action immunity or State action affirmative defense with respect to antitrust claims under the federal Sherman Act, federal Clayton Act, or any other State or federal antitrust or anticompetitive law or regulation.

6. Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the Member States or by the Commission.

Article 10. Data System.

A. The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system.

B. The Commission shall assign each applicant for a Multistate License a unique identifier, as determined by the Rules of the Commission.

C. Notwithstanding any other provision of State law to the contrary, a Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable as required by the Rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse Actions against a license and related thereto;

4. Non–confidential information related to Alternative Program participation, the beginning and ending dates of such participation, and other information related to such participation;

5. Any denial of application for licensure and the reason for the denial (excluding the reporting of any criminal history record information where prohibited by law);

6. The existence of Investigative Information;

7. The existence of Current Significant Investigative Information; and

8. Other information that may facilitate the administration of this Compact or the protection of the public, as determined by the Rules of the Commission.

D. The records and information provided to a Member State pursuant to this Compact or through the Data System, when certified by the Commission or an agent thereof, shall constitute the authenticated business records of the Commission, and shall be entitled to any associated hearsay exception in any relevant judicial, quasi–judicial or administrative proceedings in a Member State.

E. The existence of Current Significant Investigative Information and the existence of Investigative Information pertaining to a Licensee in any Member State will only be available to other Member States.

F. It is the responsibility of the Member States to monitor the database to determine whether Adverse Action has been taken against such a Licensee or license applicant. Adverse Action information pertaining to a Licensee or license applicant in any Member State will be available to any other Member State.

G. Member States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.

H. Any information submitted to the Data System that is subsequently expunged pursuant to federal law or the laws of the Member State contributing the information shall be removed from the Data System.

Article 11. Rulemaking.

A. The Commission shall promulgate reasonable Rules in order to effectively and efficiently implement and administer the purposes and provisions of the Compact. A Rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the Rule is invalid because the Commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of the Compact, the powers granted under the Compact, or based upon another applicable standard of review.

B. The Rules of the Commission shall have the force of law in each Member State, provided however that where the Rules of the Commission conflict with the laws of the Member State that establish the Member State's scope of practice laws governing the Practice of Cosmetology as held by a court of competent jurisdiction, the Rules of the Commission shall be ineffective in that State to the extent of the conflict.

C. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the Rules adopted thereunder. Rules shall become binding as of the date specified by the Commission for each Rule.

D. If a majority of the legislatures of the Member States rejects a Rule or portion of a Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of the Rule, then the Rule may not have further force and effect in any Member State or to any State applying to participate in the Compact.

E. Rules shall be adopted at a regular or special meeting of the Commission.

F. Prior to the adoption of a proposed Rule, the Commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments.

G. Prior to the adoption of a proposed Rule by the Commission, and at least 30 days in advance of the meeting at which the Commission will hold a public hearing on the proposed Rule, the Commission shall provide a notice of proposed rulemaking:

1. On the website of the Commission or other publicly accessible platform;

2. To persons who have requested notice of the Commission's notices of proposed rulemaking; and

3. In any such way the Commission may by Rule specify.

H. The notice of proposed rulemaking shall include:

1. The time, date, and location of the public hearing at which the Commission will hear public comments on the proposed Rule and, if different, the time, date, and location of the meeting where the Commission will consider and vote on the proposed Rule;

2. If the hearing is held via telecommunication, video conference, or other electronic means, the Commission shall include the mechanism for access to the hearing in the notice of proposed rulemaking;

3. The text of the proposed Rule and the reason therefor;

4. A request for comments on the proposed Rule from any interested person; and

5. The manner in which interested persons may submit written comments.

I. All hearings shall be recorded. A copy of the recording and all written comments and documents received by the Commission in response to the proposed Rule shall be available to the public.

J. Nothing in this Article may be construed as requiring a separate hearing on each Rule. Rules may be grouped for the convenience of the Commission at hearings required by this Article.

K. The Commission shall, by majority vote of all members, take final action on the proposed Rule based on the rulemaking record and the full text of the Rule.

1. The Commission may adopt changes to the proposed Rule provided the changes do not enlarge the original purpose of the proposed Rule.

2. The Commission shall provide an explanation of the reasons for substantive changes made to the proposed Rule as well as reasons for substantive changes not made that were recommended by commenters.

3. The Commission shall determine a reasonable effective date for the Rule. Except for an emergency as provided in Article 11.L., the effective date of the Rule shall be no sooner than 45 days after the Commission issuing the notice that it adopted or amended the Rule.

L. Upon a determination that an emergency exists, the Commission may consider and adopt an emergency Rule within 5 days, with opportunity to comment, provided that the usual rulemaking procedures provided in the Compact and in this Article shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than 90 days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or Member State funds;

3. Meet a deadline for the promulgation of a Rule that is established by federal law or rule; or

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

N. No Member State's rulemaking requirements may apply under this Compact.

Article 12. Oversight, Dispute Resolution, and Enforcement.

A. Oversight.

1. The executive and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to implement the Compact.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a Licensee for professional malpractice, misconduct or any such similar matter.

3. The Commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the Compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the Commission service of process shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

B. Default, Technical Assistance, and Termination.

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall provide written notice to the defaulting State. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the Commission may take, and shall offer training and specific technical assistance regarding the default.

2. The Commission shall provide a copy of the notice of default to the other Member States.

3. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact after an affirmative vote of a majority of the delegates of the Member States, and all rights, privileges and benefits conferred on that State by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

4. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, the defaulting State's State Licensing Authority and each of the Member States' State Licensing Authority.

5. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

6. Upon the termination of a State's membership from this Compact, that State shall immediately provide notice to all licensees who hold a Multistate License within that State of such termination. The terminated State shall continue to recognize all licenses granted pursuant to this Compact for a minimum of 180 days after the date of said notice of termination.

7. The Commission may not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

8. The defaulting State may appeal the action of the Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution.

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between Member and non–Member States.

2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement.

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this Compact and the Commission's Rules.

2. By majority vote as provided by Commission Rule, the Commission may initiate legal action against a Member State in default in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies herein may not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or the defaulting Member State's law.

3. A Member State may initiate legal action against the Commission in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

4. No individual or entity other than a Member State may enforce this Compact against the Commission.

Article 13. Effective Date, Withdrawal, and Amendment.

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the seventh Member State.

1. On or after the effective date of the Compact, the Commission shall convene and review the enactment of each of the Charter Member States to determine if the statute enacted by each such Charter Member State is materially different than the model Compact statute.

a. A Charter Member State whose enactment is found to be materially different from the model Compact statute shall be entitled to the default process set forth in Article 12.

b. If any Member State is later found to be in default, or is terminated or withdraws from the Compact, the Commission shall remain in existence and the Compact shall remain in effect even if the number of Member States should be less than 7.

2. Member States enacting the Compact subsequent to the Charter Member States shall be subject to the process set forth in Article 9.C.24. to determine if their enactments are materially different from the model Compact statute and whether they qualify for participation in the Compact.

3. All actions taken for the benefit of the Commission or in furtherance of the purposes of the administration of the Compact prior to the effective date of the Compact or the Commission coming into existence shall be considered to be actions of the Commission unless specifically repudiated by the Commission.

4. Any State that joins the Compact shall be subject to the Commission's Rules and bylaws as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the

Commission shall have the full force and effect of law on the day the Compact becomes law in that State.

B. Any Member State may withdraw from this Compact by enacting a statute repealing that State's enactment of the Compact.

1. A Member State's withdrawal may not take effect until 180 days after enactment of the repealing statute.

2. Withdrawal may not affect the continuing requirement of the withdrawing State's State Licensing Authority to comply with the investigative and Adverse Action reporting requirements of this Compact before the effective date of withdrawal.

3. Upon the enactment of a statute withdrawing from this Compact, a State shall immediately provide notice of the withdrawal to all Licensees within that State. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing State shall continue to recognize all licenses granted pursuant to this Compact for a minimum of 180 days after the date of the notice of withdrawal.

C. Nothing contained in this Compact may be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a Member State and a non–Member State that does not conflict with the provisions of this Compact.

D. This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member States.

Article 14. Construction and Severability.

A. This Compact and the Commission's rulemaking authority shall be liberally construed so as to effectuate the purposes and the implementation and administration of the Compact. Provisions of the Compact expressly authorizing or requiring the promulgation of Rules may not be construed to limit the Commission's rulemaking authority solely for those purposes.

B. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is held by a court of competent jurisdiction to be contrary to the constitution of any Member State, a State seeking participation in the Compact, or of the United States, or the applicability to any government, agency, person or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Compact and the

applicability thereof to any other government, agency, person or circumstance may not be affected.

C. Notwithstanding Article 14.B., the Commission may deny a State's participation in the Compact or, in accordance with the requirements of Article 12, terminate a Member State's participation in the Compact, if it determines that a constitutional requirement of a Member State is a material departure from the Compact. Otherwise, if this Compact shall be held to be contrary to the constitution of any Member State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

Article 15. Consistent Effect and Conflict with Other State Laws.

A. Nothing herein shall prevent or inhibit the enforcement of any other law of a Member State that is not inconsistent with the Compact.

B. Any laws, statutes, regulations, or other legal requirements in a Member State in conflict with the Compact are superseded to the extent of the conflict.

C. All permissible agreements between the Commission and the Member States are binding in accordance with their terms.

§5–701.

This title may be cited as the "Maryland Cosmetologists Act".

§5–702.

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, 2027.

§6–101.

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

(b) (1) "Assignment of local registration" means any procedure by which a licensee or registrant grants to another person a right to use a local registration to enable that person to engage in the business of providing electrical services.

(2) "Assignment of local registration" includes any procedure by which:

(i) a licensee or registrant agrees to be the representative of another person; and

(ii) by virtue of that agreement, the other person is authorized to engage in the business of providing electrical services.

(c) "Engage in the business of providing electrical services" means to engage in providing electrical services for compensation.

(d) (1) "License" means, unless the context requires otherwise, a license issued by the State Board to provide or assist in providing electrical services.

(2) "License" includes, unless the context requires otherwise:

(i) a master electrician license; and

(ii) a journeyperson electrician license.

(e) "Licensed apprentice electrician" means, unless the context requires otherwise, an electrician who is licensed by the State Board to assist in providing electrical services while:

(1) under the direction or control of a licensed master electrician; and

(2) in training to become a journeyperson electrician.

(f) "Licensed journeyperson electrician" means, unless the context requires otherwise, an electrician who is licensed by the State Board to provide or assist in providing electrical services while:

(1) under the direction or control of a licensed master electrician; and

(2) in training to become a master electrician.

(g) "Licensed master electrician" means, unless the context requires otherwise, a master electrician who is licensed by the State Board to provide electrical services.

(h) "Local board" means a board that a local jurisdiction of the State creates to regulate any aspect of the electrical trade.

(i) "Local registration" means, unless the context requires otherwise, a registration that is issued by a local board to provide electrical services.

(j) "Master electrician" means an individual who has the experience, knowledge, and skill to provide electrical services in all aspects of the electrical trade, in a manner that complies with applicable plans, specifications, codes, or law.

(k) (1) "Provide electrical services" means to provide any service in the electrical trade.

(2) "Provide electrical services" includes installing, repairing, maintaining, erecting, or altering any electrical equipment, wiring, fixture, appliance, apparatus, raceway, conduit, or system that:

(i) generates, transmits, transforms, or uses electrical energy in any form for light, heat, power, or communication; and

(ii) is located within a plant, substation, or elsewhere.

(l) "State Board" means the State Board of Electricians.

(m) "State license" means a license that is issued by the State Board to an electrician.

§6–102.

The purpose of this title is to establish a licensing program for individuals who provide or assist in providing electrical services, in order to safeguard the life, health, property, and public welfare of the citizens of the State.

§6–103.

(a) This title does not affect the right of any local jurisdiction of the State:

(1) to regulate locally the quality and character of work of a person who engages in the business of providing electrical services by establishing a system of registrations, permits, fees, and inspections designed to:

(i) ensure compliance with and implementation of State and local building laws; or

(ii) enforce other local laws protecting public health and safety;

(2) to require a person who engages in the business of providing electrical services to submit any plan or specification for approval before the electrical services are provided;

(3) to establish a local board to:

(i) carry out items (1) and (2) of this subsection;

(ii) take any disciplinary action, except for revocation of a license issued by the State Board, against the holder of a local registration or the holder of a local permit who violates any provision of this title or any local law; and

(iii) report any enforcement activity to the State Board;

(4) except as provided in §§ 6–504 and 6–602 of this title and subject to the requirements of this section, to require an examination before issuing a registration to provide electrical services within the local jurisdiction; or

(5) to collect, from a person who is registered with a local board, fees for:

(i) an examination for a registration to provide electrical services;

(ii) issuance and renewal of the registration; or

(iii) an inspection.

(b) If a local jurisdiction registers any class of electricians other than master electricians, journeyperson electricians, or apprentice electricians, that class is also under the control and supervision of the local board.

(c) (1) Beginning July 1, 2021, a local jurisdiction may not issue licenses for apprentice, journeyperson, or master electricians.

(2) A local jurisdiction that licensed apprentice–level, journeyperson–level, or master–level electricians before July 1, 2021, may continue to register the electricians according to the same rules and requirements for licenses issued before July 1, 2021, if the local jurisdiction complies with subsections (d) and (e) of this section.

(3) A local jurisdiction that did not license apprentice–level, journeyperson–level, or master–level electricians before July 1, 2021, may choose to register apprentice–level, journeyperson–level, or master–level electricians if it complies with subsections (d) and (e) of this section.

(d) If a local jurisdiction chooses to register apprentice–level, journeyperson–level, or master–level electricians under subsection (c) of this section, the local board shall administer the same examination as the State Board as provided under § 6–306 of this title.

(e) On or before July 1, 2022, and on or before July 1 each year thereafter, a local jurisdiction that registers apprentice–level, journeyperson–level, or master–level electricians shall report to the Department:

(1) each apprentice electrician registration issued in the previous year;

(2) each journeyperson electrician registration issued in the previous year;

(3) each master electrician registration issued in the previous year;

(4) each individual who sat for a journeyperson electrician examination in the previous year;

(5) each individual who sat for a master electrician examination in the previous year; and

(6) any other information the Department requires.

(f) This title may not be construed to waive any requirement of an ordinance or regulation that sets out the type of work to be performed by a person who engages in the business of providing electrical services as required under State or local building laws.

§6–201.

There is a State Board of Electricians in the Department.

§6–202.

(a) (1) The State Board consists of 9 members appointed by the Governor with the advice and consent of the Senate.

(2) Of the 9 members of the State Board:

(i) 6 shall be licensed master electricians; and

(ii) 3 shall be consumer members.

(3) Of the 6 master electrician members:

(i) 1 shall be from Baltimore City;

(ii) 1 shall be from the area that consists of Caroline, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester counties;

(iii) 1 shall be from the area that consists of Baltimore, Cecil, and Harford counties;

(iv) 1 shall be from the area that consists of Anne Arundel, Calvert, Charles, and St. Mary's counties;

(v) 1 shall be from the area that consists of Montgomery and Prince George's counties; and

(vi) 1 shall be from the area that consists of Allegany, Carroll, Frederick, Garrett, Howard, and Washington counties.

(4) The consumer members shall be from the State at large.

(5) A member of the State Board may not reside in the same county as another member.

(b) Each member of the State Board shall be a citizen and resident of the State.

(c) Each master electrician member of the State Board shall:

(1) hold an active State license; and

(2) be engaged actively in providing electrical services as a master electrician for at least 5 consecutive years immediately before appointment.

(d) Each consumer member of the State Board:

(1) shall be a member of the general public;

(2) may not be a licensee or otherwise be subject to regulation by the State Board;

(3) may not be required to meet the qualifications for the professional members of the State Board; and

(4) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the State Board.

(e) While a member of the State Board, a consumer member may not:

(1) have a financial interest in or receive compensation from a person regulated by the State Board; or

(2) grade an examination given by or for the State Board.

(f) Before taking office, each appointee to the State Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(g) (1) The term of a member is 3 years and begins on July 1.

(2) The terms of members are staggered as required by the terms provided for members of the State Board on October 1, 1989.

(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) A member may not be reappointed for more than 2 consecutive 3-year terms.

(h) (1) The Governor may remove a member for incompetence or misconduct.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned if the member did not attend at least two–thirds of the State Board meetings held during any consecutive 12–month period while the member was serving on the State Board.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§6–203.

(a) From among its members, the State Board annually shall elect a chairman, a vice chairman, and a secretary.

(b) (1) The manner of election of officers shall be as the State Board determines.

(2) The terms of the officers are for 1 year and begin on July 1.

§6–204.

(a) A majority of the authorized membership of the State Board is a quorum.

(b) (1) The State Board shall meet at least once a month, at the times that it determines, in the office of the State Board.

(2) The State Board may hold special meetings as necessary.

(c) Subject to the State budget, each member of the State Board is entitled to:

(1) an annual salary of $3,600; and

(2) reimbursement for reasonable expenses under the Standard State Travel Regulations.

(d) The State Board may employ a staff in accordance with the State budget.

§6–205.

(a) In addition to any powers and duties set forth elsewhere, the State Board shall:

(1) twice a year hold a seminar and invite members from each local licensing jurisdiction to discuss any industry or licensing problems;

(2) adopt regulations to establish:

(i) application and examination fees;

(ii) continuing education requirements; and

(iii) application deadlines;

(3) enforce, within 18 months of issuance, minimum standards for the provision of electrical services consistent with the most recently issued version of the National Fire Protection Association 70: National Electrical Code;

(4) issue licenses;

(5) keep records of its proceedings; and

(6) adopt any other regulations necessary to carry out this title.

(b) The continuing education requirements adopted under this section shall:

(1) be based on the National Electrical Code or any local variants adopted by a local board;

(2) consist of a course or training on practical techniques, installation procedures, or other relevant topics; and

(3) be administered by:

(i) a college or an apprenticeship program approved by the Division of Workforce Development and Adult Learning or the federal Office of Apprenticeship;

(ii) a state or nationally recognized training program; or

(iii) another person approved by the State Board.

§6–206.

(a) In connection with a proceeding, the State Board or a hearing officer whom the State Board designates:

(1) may hold hearings;

(2) may administer oaths; and

(3) by deposition in the same manner as provided in civil cases in the State or otherwise, may take testimony.

(b) (1) The State Board or its designee may issue a subpoena.

(2) The police department of Baltimore City or the sheriff of a county shall serve a subpoena issued under this subsection.

(3) If a person fails to comply with a subpoena issued under this subsection, on petition of the State Board, a circuit court may compel compliance with the subpoena.

(c) (1) If the State Board concludes that conduct alleged to be a violation of this title may result in irreparable harm to a person, the State Board may sue to enforce a provision of this title by ex parte, interlocutory, or final injunction.

(2) The State Board shall bring suit under this subsection in the circuit court for the county where:

(i) the violation allegedly is occurring; or

(ii) the principal place of business of the alleged violator is located.

(3) In seeking an injunction under this subsection, the State Board is not required to allege or prove that an adequate remedy at law does not exist.

§6–207.

(a) (1) The State Board may set by regulation reasonable fees for its services.

(2) The fees charged shall be:

(i) set so as to produce funds to approximate the cost of maintaining the State Board; and

(ii) based on the calculations performed by the Secretary under § 2–106.10 of the Business Regulation Article.

(b) The State Board shall publish a schedule of the fees set by the State Board.

(c) (1) The State Board shall pay all fees collected under this title to the Comptroller.

(2) The Comptroller shall distribute the fees to the Occupational Mechanical Licensing Boards' Fund established under § 2–106.9 of the Business Regulation Article.

§6–208.

The State Board exercises its powers, duties, and functions subject to the authority of the Secretary.

§6–301.

(a) Each county shall:

(1) (i) adopt regulations that have qualifications that are at least as stringent as the qualifications under § 6–304 of this subtitle, to provide for the regulation and registration of master electricians, journeyperson electricians, or apprentice electricians; and

(ii) register apprentice electricians, journeyperson electricians, or master electricians in the manner prescribed under § 6–103 of this title; or

(2) (i) require a State license for providing electrical services as a master electrician, journeyperson electrician, or apprentice electrician; and

(ii) enforce the provisions of this title.

(b) Each municipal corporation shall:

(1) (i) adopt regulations that have qualifications that are at least as stringent as the qualifications under § 6–304 of this subtitle to provide for the regulation and registration of apprentice, journeyperson, or master electricians; and

(ii) register apprentice electrician, journeyperson electrician, or master electrician registrations in the manner prescribed under § 6–103 of this title;

(2) adopt the electrical rules and regulations of the county in which the municipal corporation is located; or

(3) (i) require a State license for providing electrical services as an apprentice, journeyperson, or master electrician; and

(ii) enforce the provisions of this title.

(c) Each licensed or registered master electrician shall display the State license number, the county registration number, or the municipal corporation registration number on each vehicle used on the job for providing electrical services.

(d) A county or municipal corporation may not adopt a resolution or enact a law that requires a person licensed or registered under this subtitle who is compliant with subsection (c) of this section to display additional license or registration numbers on each vehicle used on the job for providing electrical services.

§6–302.

(a) In a local jurisdiction that requires local registration and has qualified to register electricians locally under § 6–103 of this title, the State license, while the State license is in effect, serves only as a mechanism that helps a licensee in obtaining a local registration under §§ 6–601 and 6–602 of this title.

(b) If a county or municipal corporation does not require local registration, the State license, while the State license is in effect, authorizes the licensee to:

(1) provide electrical services; or

(2) be the representative of another person who engages in the business of providing electrical services.

§6–303.

This subtitle does not require:

(1) a public utility company to employ an electrician licensed by the State Board to represent the company while the company is engaging in the business of providing electrical services to a facility of the company that:

(i) is regulated by the Public Service Commission; and

(ii) is located on any premises, roadway, or right–of–way in which the company has a lawful interest;

(2) an employee of a public utility company to hold a State license while the employee provides electrical services to a facility of the company that:

(i) is regulated by the Public Service Commission; and

(ii) is located on any premises, roadway, or right–of–way in which the company has a lawful interest; or

(3) a person to hold a license issued by the State Board if the person:

(i) is licensed or registered under Title 18 of this article to provide security system services and is acting within the scope of that license;

(ii) holds a license issued under Title 12 of this article and is acting within the scope of that license;

(iii) holds a license issued under Title 9A of the Business Regulation Article and is acting within the scope of that license; or

(iv) provides wireless security systems in compliance with Title 19, Subtitle 9 of the Business Regulation Article.

§6–304.

(a) To qualify for a State license, an applicant shall meet the requirements of this section.

(b) (1) Subject to paragraph (2) of this subsection, an applicant for a master electrician license shall have been engaged or employed regularly and principally in providing electrical services for all types of electrical equipment and apparatuses for at least 7 years while under the direction and supervision of:

(i) a master electrician; or

(ii) a similarly qualified employee of a governmental unit.

(2) (i) The State Board may allow an applicant up to 3 years of credit toward the experience required under paragraph (1) of this subsection, if the State Board determines that the applicant has completed a formal course of study or professional training in electrical installation comparable to the required experience.

(ii) The State Board shall credit toward the experience required under paragraph (1) of this subsection an applicant's work as part of a successfully completed electrician apprenticeship program approved by the Division of Workforce Development and Adult Learning or the federal Office of Apprenticeship.

(c) (1) Subject to paragraph (2) of this subsection, an applicant for a journeyperson electrician license shall have been engaged or employed regularly and principally in providing electrical services for all types of electrical equipment and apparatuses for at least 4 years while under the direction and supervision of:

(i) a master electrician; or

(ii) an employee of a governmental unit who is similarly qualified as a master electrician licensed under this title.

(2) The State Board shall credit toward the experience required under paragraph (1) of this subsection an applicant's work as part of a successfully completed electrician apprenticeship program approved by the Division of Workforce Development and Adult Learning or the federal Office of Apprenticeship.

(d) Except as otherwise provided in this subtitle, the applicant shall pass an examination given by the State Board under this subtitle.

(e) The State Board may investigate the qualifications of each applicant to determine whether the applicant meets the requirements of this section.

§6–305.

An applicant for a State license shall:

(1) submit to the State Board an application on the form that the State Board provides; and

(2) pay to the State Board an application fee set by the State Board in an amount not to exceed the cost of the required examination.

§6–306.

(a) Except as otherwise provided in § 6–306.1 of this subtitle, an applicant who otherwise qualifies for a State license is entitled to be examined as provided in this section.

(b) The State Board shall give examinations to qualified applicants at least twice a year, at the dates, times, and places that the State Board determines.

(c) (1) At least 15 days before the examination, the State Board shall notify each applicant whether the applicant is eligible to be examined under this section.

(2) The notice shall specify the passing score for examinations given under this subtitle.

(d) (1) The State Board shall determine the subjects, scope, and, subject to subsection (e) of this section, form of the examination from a list of questions submitted by the Maryland Uniform Electrical Licensing Examination Committee, Inc.

(2) The State Board shall choose examination questions that:

(i) test the applicant's knowledge of all applicable codes, laws, or principles of electrical installation; and

(ii) are constructed to determine the fitness of the applicant for a State license.

(3) The State Board may appoint a committee to develop examination questions for examinations given under this subtitle.

(e) The form of each examination shall be objective and written.

(f) The passing score for each examination shall be 70%.

(g) An applicant shall pay to the State Board or the State Board's designee an examination fee set by the State Board not to exceed the cost of the required examination.

(h) Within 45 days after the examination, the State Board shall mail or electronically transmit to each applicant notice of the applicant's examination score.

(i) On written request to the State Board, an applicant who failed an examination may review the answers that the applicant gave and the scores for those answers, at a time and place that the State Board determines.

(j) (1) If an applicant fails to appear for a scheduled examination, the applicant may reapply for an examination.

(2) The applicant:

(i) shall submit to the State Board an application for reexamination on the form that the State Board provides; and

(ii) unless, for good cause, the State Board waives payment of the examination fee, shall again pay the examination fee under subsection (g) of this section.

§6–306.1.

(a) The State Board may use a testing service to administer the examinations given under this title.

(b) If the State Board uses a testing service, the testing service, subject to the requirements set by the State Board, may:

(1) set the time and place of examinations;

(2) give qualified applicants notice of the time and place of examinations; and

(3) furnish any other information that the State Board may require the testing service to provide.

§6–307.

(a) Subject to the limitations in this section, the State Board shall waive examination requirements of this title for an individual who holds an active local registration.

(b) The State Board shall grant a waiver under this section only if the applicant:

(1) pays the application fee established by the State Board under § 6–305 of this subtitle;

(2) provides adequate evidence that the applicant:

(i) meets the qualifications otherwise required by this subtitle; and

(ii) was licensed in a local jurisdiction before December 31, 2022, after:

1. passing, in that local jurisdiction, an examination that is equivalent to the examination for which the applicant is seeking the waiver; and

2. meeting, in that local jurisdiction, requirements that are equivalent to the licensing requirements of this title; and

(3) submits a statement from the local jurisdiction certifying:

(i) the applicant is in good standing with the local jurisdiction;

(ii) the applicant obtained the local license by taking an examination equivalent to any examination given by the State Board; and

(iii) the date of the local examination.

(c) An initial State license that is obtained under this section may not be reinstated unless the requirements of § 6–312 of this subtitle are met.

§6–307.1.

The State Board shall waive the experience and examination requirements for an applicant for a journeyperson electrician license if the applicant:

(1) (i) provides written proof of 4 years of work experience providing electrical services under the control and direction of a master electrician; and

(ii) submits an application for a license to the State Board on or before December 31, 2022; or

(2) provides written proof that the applicant has successfully completed an electrician apprenticeship program approved by the Division of Workforce Development and Adult Learning or the federal Office of Apprenticeship that consists of:

(i) at least 576 classroom hours; and

(ii) 8,000 hours of work experience.

§6–308.

(a) Subject to the limitations in this section, on the affirmative vote of at least a majority of the authorized membership of the State Board, the State Board may waive the examination requirements of this subtitle for an individual who is licensed to provide electrical services as a master electrician or journeyperson electrician in another state.

(b) The State Board may grant a waiver under this section only if the applicant:

(1) pays the appropriate application fee set by the State Board under § 6–305 of this subtitle; and

(2) provides adequate evidence that the applicant:

(i) meets the qualifications otherwise required by this title;

(ii) holds an active license in good standing in the other state;

(iii) holds a license that is equivalent to the license issued by the State Board;

(iv) for a master electrician license applicant, meets a 7–year experience requirement in providing electrical services, at least 4 years of which must have been gained prior to licensure in the other state, while under the supervision of a master electrician or similarly qualified employee of a governmental unit;

(v) for a journeyperson electrician license applicant, meets a 4–year experience requirement in providing electrical services, at least 2 years of which must have been gained prior to licensure in the other state, while under the supervision of a master electrician or similarly qualified employee of a governmental unit; and

(vi) was licensed in the other state by examination, after meeting requirements in that state that are substantially equivalent to the licensing requirements of this State.

(c) The State Board may grant a waiver only if the state in which the applicant is licensed waives the examination of licensees of this State to a similar extent as this State waives the examination requirements for individuals licensed in that state.

(d) The State Board may not grant a waiver under this section to an applicant who is licensed solely in a country other than the United States.

(e) The State Board shall pursue a policy of reciprocal recognition of electrician licenses awarded in other states.

§6–309.

(a) If an applicant qualifies for a State license under this subtitle, the State Board shall send the applicant a notice that states that:

(1) the applicant has qualified for a State license; and

(2) the State Board will issue a State license to the applicant on receipt of:

(i) a license fee set by the State Board; and

(ii) proof of general liability and property damage insurance as required under § 6–604 of this title.

(b) (1) If, at the time of application, an applicant intends to assign to another person a local license that is obtained by use of a State license, the applicant shall identify on the application the person to whom the applicant is assigning the local license.

(2) On payment of the State license fee and receipt of the proof of insurance required under § 6–604 of this title, the State Board shall issue a State license to each applicant who meets the requirements of this title.

(c) The State Board shall include on each State license that the State Board issues:

(1) the name of the licensee; and

(2) if the licensee assigns a local license to another person who engages in the business of providing electrical services, the name of the person.

§6–310.

(a) Unless a State license is renewed for a 2–year term as provided in this section, the State license expires on the first June 30 that comes:

(1) after the effective date of the State license; and

(2) in an odd–numbered year.

(b) (1) At least 1 month before a State license expires, the State Board shall mail or electronically transmit to the State licensee:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current State license expires; and

2. the amount of the renewal fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the State Board as undeliverable, the State Board shall mail to the State licensee, at the last known address of the State licensee, the materials required under paragraph (1) of this subsection within 10 business days of the date the State Board received the notice that the electronic transmission was undeliverable.

(c) Before a State license expires, the State licensee periodically may renew it for an additional 2–year term, if the State licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the State Board a renewal fee set by the State Board;

(3) complies with continuing education requirements established by the State Board in regulation; and

(4) submits to the State Board a renewal application on the form that the State Board provides and adequate evidence of completion of the continuing education requirements for license renewal established by the State Board.

(d) The State Board shall renew the State license of each State licensee who meets the requirements of this section.

(e) A State license to provide or assist in providing electrical services is not transferable.

(f) The Secretary may determine that State licenses issued under this subtitle shall expire on a staggered basis.

§6–311.

(a) The State Board shall place a State licensee on uninsured status and issue an uninsured status certificate to the State licensee, if the State licensee:

(1) submits to the State Board an application for uninsured status on the form that the State Board provides;

(2) pays to the State Board any applicable uninsured status application fee;

(3) except for the insurance requirements of § 6–604 of this title, qualifies for an active State license; and

(4) returns the State license to the State Board.

(b) The State Board shall place an applicant for an initial State license on uninsured status and issue an uninsured status certificate to the applicant, if the applicant:

(1) submits to the State Board an application for uninsured status on the form that the State Board provides;

(2) pays to the State Board an uninsured status application fee set by the State Board; and

(3) except for meeting the continuing education requirement established by the State Board under § 6–310(c) of this subtitle and the insurance requirements of § 6–604 of this title, qualifies for an active State license.

(c) (1) A master electrician licensee on uninsured status may not use a State license to obtain a local registration for providing electrical services as a master electrician in a local jurisdiction of the State.

(2) In a county that requires a State master electrician license, a licensee on uninsured status may only provide electrical services as a journeyperson electrician.

(d) (1) Unless the individual applies for another 2–year term as provided in this subsection, an individual on uninsured status loses that status on the expiration of the uninsured status.

(2) (i) At least 1 month before the uninsured status of an individual expires, the State Board shall mail or electronically transmit to the individual:

1. a renewal application form; and

2. a notice that states:

A. the date on which the uninsured status expires; and

B. the amount of the renewal fee.

(ii) If an electronic transmission under subparagraph (i) of this paragraph is returned to the State Board as undeliverable, the State Board shall mail to the individual, at the last known address of the individual, the materials required under subparagraph (i) of this paragraph within 10 business days of the date the State Board received the notice that the electronic transmission was undeliverable.

(3) Before the uninsured status expires, an individual on uninsured status periodically may renew it for an additional 2–year term, if the individual:

(i) otherwise is entitled to be placed on uninsured status;

(ii) except for an electrical inspector, pays to the State Board a renewal fee set by the State Board;

(iii) submits to the State Board a renewal application on the form that the State Board provides; and

(iv) meets the continuing education requirements established by the State Board under § 6–310(c) of this subtitle.

(4) After an uninsured status expires, the former licensee may reapply for uninsured status only if the former licensee:

(i) otherwise is entitled to be placed on uninsured status;

(ii) pays to the State Board a reapplication fee set by the State Board; and

(iii) reapplies to the State Board for uninsured status within 2 years after initial expiration of uninsured status on a form that the State Board provides.

(5) The State Board shall renew the uninsured status of each individual or grant the reapplication for uninsured status of each former licensee who meets the requirements of this subsection.

(e) If an individual who was formerly on uninsured status who has failed to renew the uninsured status within 2 years of its expiration reapplies for that status, the State Board shall require the individual to comply with the requirements for obtaining a State license under §§ 6–304 and 6–307 of this subtitle and § 6–503 of this title as well as the requirements for uninsured status under this section.

(f) The State Board shall reactivate the State license of an individual who is on uninsured status, if the individual:

(1) meets the renewal requirements that are in effect when the individual requests the reactivation of the State license;

(2) submits to the State Board an application for reactivation on the form that the State Board provides; and

(3) pays to the State Board a reactivation fee set by the State Board.

§6–312.

(a) The State Board shall reinstate the State license of an individual who is not on uninsured status and who has failed to renew the State license for any reason, if the individual:

(1) applies to the State Board for reinstatement within 2 years after the State license expires;

(2) meets the renewal requirements of § 6–310 of this subtitle; and

(3) in addition to the renewal fee required under § 6–310 of this subtitle, pays to the State Board a reinstatement fee set by the State Board.

(b) If an individual who has failed to renew the State license for any reason applies for reinstatement more than 2 years after the State license has expired, the State Board shall require the individual to pay a reinstatement fee set by the State Board, and comply with the requirements for obtaining a State license under §§ 6–304 and 6–307 of this subtitle and § 6–503 of this title.

§6–313.

(a) (1) Except as provided in paragraph (2) of this subsection, a county or local government may employ an individual as an electrical inspector only if the individual:

(i) holds a State license or local license, as applicable;

(ii) previously held, within the last 5 years, a State license or local license, as applicable, that was not suspended or revoked; or

(iii) is certified by:

1. the International Code Council as a combination inspector or as an electrical inspector for residential or commercial buildings;

2. the North American Board of Certified Energy Practitioners; or

3. a certifying entity that is comparable to the entity listed in item 1 or 2 of this item.

(2) Paragraph (1) of this subsection does not apply to a county or local government that uses code inspectors or combination building code inspectors to conduct trade–specific inspections on residential or commercial buildings to determine compliance with adopted electrical codes or related building codes.

(b) An individual may not have any financial interest in any electrical business while employed by the State, a county, or a local government as an electrical inspector.

(c) (1) On appointment or employment as an electrical inspector, the individual:

(i) shall place the State license of the individual on uninsured status; and

(ii) except for the renewal fee, shall meet the uninsured status requirements of § 6–311 of this subtitle.

(2) The State Board may issue an electrical inspector identification card to an electrical inspector who has placed the State license on uninsured status.

(3) The State Board may not charge a fee to issue the identification card.

(d) The State Board may change the status of an electrical inspector to individual uninsured status, if the electrical inspector:

(1) meets the uninsured status requirements of § 6–311 of this subtitle; and

(2) pays an uninsured status fee set by the State Board.

(e) On termination of the appointment or employment of an individual as an electrical inspector, the State Board shall reactivate the State license of the

individual who is on uninsured status, without examination, if the individual meets the reactivation requirements for a State license under § 6–311(f) of this subtitle, including payment of the reactivation fee.

§6–314.

Within 10 days after the change, each State licensee shall give the State Board written notice of a change of:

(1) the name of the State licensee;

(2) the address of:

(i) the State licensee; or

(ii) the person to whom the State licensee assigns a local license; or

(3) the employment of the State licensee, including a change in the assignment of a local license.

§6–315.

The State Board may investigate or act in a disciplinary proceeding against a licensee notwithstanding:

(1) a lapse, by operation of law, of the State license of the licensee;

(2) a suspension of the State license of the licensee by order of the State Board or a court; or

(3) a voluntary surrender of the State license of the licensee to the State Board.

§6–316.

(a) (1) Subject to the hearing provisions of § 6–317 of this subtitle, the State Board may deny a State license to any applicant, reprimand any State licensee, or suspend or revoke a State license if the applicant or State licensee:

(i) fraudulently or deceptively obtains or attempts to obtain a State license for the applicant, State licensee, or another person;

(ii) fraudulently or deceptively uses a State license;

(iii) transfers the authority granted by a State license to another person;

(iv) engages in an unfair or deceptive trade practice, as defined in § 13–301 of the Commercial Law Article;

(v) willfully or deliberately disregards and violates a building code, electrical code, or law of the State or a local jurisdiction;

(vi) under the laws of the United States or of any state, is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to provide electrical services;

(vii) aids or abets a person to evade a provision of this title;

(viii) willfully or deliberately disregards disciplinary action taken by a local jurisdiction against the individual in connection with the provision of electrical services;

(ix) fails in a material respect to comply with a provision of this title;

(x) fails to train and control adequately a person who, while under the supervision of the State licensee, sells or estimates electrical work or provides or assists in providing electrical services;

(xi) fails to maintain a local registration, if required, under § 6–601 of this title;

(xii) fails to maintain the general liability and property damage insurance required under § 6–604 of this title;

(xiii) offers or provides electrical services outside the scope of the license held by the licensee;

(xiv) permits another licensee employed by the individual to provide electrical services outside the scope of that individual's license;

(xv) without justification, fails to perform a contract or abandons a project to provide electrical services;

(xvi) provides electrical services that are inadequate or incomplete, according to the terms of a contract or a project;

(xvii) directly or indirectly publishes an advertisement relating to the provision of electrical services that contains a representation or statement that is false, deceptive, or misleading;

(xviii) certifies on a license renewal application that the continuing education requirement of license renewal has been completed if the licensee has not fully completed the continuing education requirement at the time the license renewal application is submitted;

(xix) violates any other provision of this title; or

(xx) violates any regulation adopted under this title.

(2) (i) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Board may impose a civil penalty not exceeding $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Board shall consider:

1. the seriousness of the violation;

2. the harm caused by the violation;

3. the good faith of the licensee; and

4. any history of previous violations by the licensee.

(iii) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(b) Allowing a State license to be used by another person is, in a disciplinary proceeding under this section, prima facie evidence that a State licensee transferred the authority granted by a State license to another person.

(c) The State Board shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a State license or the reprimand of a

State licensee when an applicant or State licensee is convicted of a felony or misdemeanor described in subsection (a)(1)(vi) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the State license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or State licensee to provide electrical services;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or State licensee before and after the conviction.

(d) This section may not be construed to limit the ability of a local board to take disciplinary action against the holder of a local registration or the holder of a local permit in that jurisdiction under § 6–103 of this title.

§6–317.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the State Board takes any final action under § 6-316 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the State Board.

(b) The State 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, nevertheless the State Board may hear and determine the matter.

§6–318.

Any person aggrieved by a final decision of the State 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.

§6–319.

(a) The State Board may not suspend a State license for more than 1 year.

(b) The State Board may not revoke a State license for less than 1 year.

(c) If the State Board, after a hearing, suspends a license, the State Board may allow the licensee to complete a contract to provide electrical services that is in progress and uncompleted at the time of suspension.

(d) (1) If a State license is revoked, the State Board may reinstate the State license after not less than 1 year.

(2) A State license that has been revoked may be reinstated under this subsection if:

(i) the individual whose State license has been revoked submits a written request to the State Board;

(ii) the State Board holds a hearing on the request; and

(iii) the State Board makes a determination to reinstate the State license.

§6–320.

Within 30 days after taking action, the State Board shall give each local board or building official notice of the name of each master electrician whose State license has been suspended, revoked, or reinstated by the State Board.

§6–321.

(a) (1) When a county or municipal corporation that requires a local license initiates a disciplinary action against a licensed master electrician, the county or municipal corporation shall report the disciplinary action to the State Board within 30 days of commencement of the action.

(2) When the State Board receives notice of a local disciplinary action against a licensed electrician, the State Board shall provide notice of the disciplinary action to each local licensing jurisdiction.

(b) Each local jurisdiction that registers electricians under § 6–603 of this title shall submit a report to the State Board on the number of complaints against electricians registered in the local jurisdiction on or before December 1 of each year.

§6–401.

(a) Subject to the limitations in this subtitle, an individual who holds a State master electrician license or qualifies for a State master electrician license may use the State license to:

(1) obtain a local registration; and

(2) assign that local registration to another person, if authorized by that local jurisdiction, including a sole proprietorship, who engages in the business of providing electrical services.

(b) (1) Subject to the limitations in this section, if an individual obtains a State license on the basis of a local registration under Subtitle 5 of this title and that local registration has been assigned to a person who engages in the business of providing electrical services, the individual shall identify on the State license the person to whom that local registration has been assigned.

(2) Subject to the limitations in this section, if an individual obtains a local registration on the basis of a State master electrician license and intends to assign that local registration to a person who engages in the business of providing electrical services, the individual shall identify on the State license the person to whom that local registration is to be assigned.

(c) (1) If, at the time of application for a State master electrician license, an individual intends to assign a local registration obtained on the basis of the State license, the individual shall:

(i) meet the requirements for issuance of a State license under § 6–309 of this title;

(ii) include, on the application form submitted to the State Board, the name of the person to whom the local registration is to be assigned;

(iii) pay the appropriate State license fee under § 6–309 of this title; and

(iv) submit to the State Board proof of general liability and property damage insurance as required under § 6–604 of this title.

(2) If an individual obtains a State license on the basis of a local registration that has been assigned, the individual shall:

(i) meet the requirements for issuance of a State license under § 6–309 of this title;

(ii) include, on an application form submitted to the State Board, the name of the person to whom the local registration has been assigned;

(iii) pay the appropriate State license fee under § 6–309 of this title; and

(iv) submit to the State Board proof of general liability and property damage insurance, if applicable, as required under § 6–604 of this title.

(3) If, after issuance of a State master electrician license to an individual, the individual intends to assign a local registration obtained on the basis of the State master electrician license, the individual shall:

(i) meet the notification requirements of § 6–314 of this title;

(ii) submit to the State Board an application for identification of the assignment on the State license;

(iii) pay to the State Board an identification fee set by the State Board;

(iv) submit to the State Board proof of general liability and property damage insurance as required under § 6–604 of this title; and

(v) return the State license.

(d) (1) If an individual obtains a local registration by the use of the State master electrician license of the individual, the local registration may be assigned at any 1 time to only 1 person who engages in the business of providing electrical services.

(2) If at any time an individual holds 2 or more current local registrations that were obtained by the use of a State master electrician license, the individual may assign those local registrations only if the assignment is made to the same person.

§6–402.

(a) Subject to the limitations in this section and § 6–314 of this title, a master electrician who is licensed by the State Board and who assigns a local registration to a person who engages in the business of providing electrical services may change that assignment.

(b) To change an assignment of a local registration, an applicant shall:

(1) submit to the State Board an application on the form that the State Board provides;

(2) pay to the State Board a change of status fee set by the State Board;

(3) submit to the State Board proof of the change of status of the local registration; and

(4) return the State license to the State Board.

(c) On payment of the change of status fee, the State Board shall issue a new license to the applicant.

(d) The State Board shall give each local jurisdiction notice of any change in the status of a local registration obtained by the use of a State license that will affect the status of the State license.

§6–501.

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

(b) (1) "Reciprocal license" means a license to provide electrical services issued by the State Board on the basis of a registration issued by a local jurisdiction.

(2) "Reciprocal license" includes any type or class of license that the State Board issues to provide electrical services.

(c) (1) "Reciprocal registration" means registration with a local jurisdiction on the basis of:

(i) a license issued by the State Board; or

(ii) a registration with another local jurisdiction.

(2) "Reciprocal registration" includes any type or class of registration with a local jurisdiction to provide electrical services.

§6–502.

(a) Subject to the limitations in this title, the State Board may reciprocate with a local jurisdiction to waive any of the qualifications required for any license issued under this title for an applicant for a reciprocal license.

(b) Subject to the limitations in this subtitle, each local jurisdiction may reciprocate with the State Board or another local jurisdiction to waive any local examination requirement and the qualifications required for taking a local examination for an applicant for a reciprocal registration.

§6–503.

(a) Subject to the limitations in this subtitle, an individual may qualify for a reciprocal license from the State Board if the individual:

(1) is registered with a local jurisdiction of the State to provide electrical services in the local jurisdiction;

(2) applies for a reciprocal license of the same class or type as the applicant's local registration that the State Board issues; and

(3) at the time of application, does not have:

(i) the same class or type of registration suspended or revoked by a local jurisdiction of the State; or

(ii) a record of outstanding violations of the regulations of a local jurisdiction of the State.

(b) The State Board shall waive any of the qualifications required for a license under this title for an individual who:

(1) is registered with a local jurisdiction of the State, to provide the same class or type of electrical services as those permitted by the license for which the applicant is seeking a waiver; and

(2) meets the waiver requirements of subsection (c) of this section.

(c) The State Board shall grant a waiver under this section for an applicant who is registered with a local jurisdiction only if the applicant:

(1) (i) 1. qualified for the registration by passing an examination given in the local jurisdiction; and

2. has been registered for at least 1 year immediately before the date of application; or

(ii) 1. qualified for the registration other than by passing an examination in the local jurisdiction; and

2. has been registered for at least 2 years immediately before the date of application;

(2) submits a written statement from the local jurisdiction certifying:

(i) if the registration was earned on the basis of an examination, the date of registration; and

(ii) the registrant:

1. is in good standing with the local jurisdiction; and

2. has no record of outstanding violations of regulations of the local jurisdiction;

(3) pays any reciprocal license fee set by the State Board;

(4) if required, submits proof of general liability insurance to the State Board; and

(5) complies with any other licensing requirements of the State Board.

§6–504.

(a) Subject to the limitations in this subtitle, an individual may qualify for a reciprocal registration from a local jurisdiction of the State if the individual:

(1) is registered with another local jurisdiction of the State to provide electrical services in that local jurisdiction;

(2) applies for a reciprocal registration to provide the same class or type of electrical services as those permitted by the registration the individual holds in that local jurisdiction; and

(3) at the time of application, does not have:

(i) a registration of the same class or type suspended or revoked by a local jurisdiction of the State; or

(ii) a record of outstanding violations of the regulations of a local jurisdiction of the State.

(b) A local jurisdiction of the State that registers individuals to provide electrical services shall waive any of the registration qualifications of the local jurisdiction for an individual who:

(1) (i) is a resident of the State; or

(ii) meets the legal requirements of the State for establishing a principal place of business in the State;

(2) is registered with another local jurisdiction of the State to provide electrical services of the same class or type as those permitted by the registration for which the applicant is seeking a waiver; and

(3) meets the waiver requirements of subsection (c) of this section.

(c) A local jurisdiction shall grant a waiver under this section for an applicant who is registered with another local jurisdiction only if the applicant:

(1) (i) 1. qualified for the registration by passing an examination given in that local jurisdiction; and

2. has been registered for at least 1 year immediately before the date of application; or

(ii) 1. qualified for the registration other than by passing an examination in that local jurisdiction; and

2. has been registered for at least 2 years immediately before the date of application;

(2) submits a written statement from the local jurisdiction certifying:

(i) if a registration was earned on the basis of an examination, the date of registration; and

(ii) the registrant:

1. is in good standing with the local jurisdiction; and

2. has no record of outstanding violations of the regulations of the local jurisdiction;

(3) pays any reciprocal registration fee required by the local jurisdiction;

(4) if required:

(i) executes a bond to the local jurisdiction; or

(ii) submits proof of general liability insurance to the local jurisdiction; and

(5) complies with any other registration requirements of the local jurisdiction.

§6–505.

(a) Before a reciprocal license or a reciprocal registration expires, the licensee or registrant periodically may renew it for an additional term, if the licensee or registrant:

(1) otherwise is entitled to be licensed or registered;

(2) pays a renewal fee to:

(i) the State Board as required under this title; or

(ii) the local jurisdiction from which the reciprocal registration is sought; and

(3) meets any other requirement for renewal set by:

(i) the State Board; or

(ii) the local jurisdiction from which the reciprocal registration is sought.

(b) A reciprocal license or reciprocal registration issued to an individual who has failed to renew the license or registration may not be reinstated.

(c) A reciprocal license or a reciprocal registration issued under this subtitle is not transferable.

§6–506.

(a) Subject to subsection (b) of this section, an individual who holds a reciprocal license or a reciprocal registration may assign it to a person who engages in the business of providing electrical services if the individual is employed principally by the person.

(b) An individual may reassign the reciprocal license or reciprocal registration of the individual once in a fiscal year.

§6–601.

(a) This section applies only to a local jurisdiction that has applied for and received authorization to offer local master or journeyperson registration under § 6–103 of this title.

(b) Within 60 days after the issuance of a State license to an individual, the individual shall register locally with the local jurisdiction where the individual:

(1) resides;

(2) has a principal business office; or

(3) has a resident agent.

§6–602.

(a) Subject to the limitations in this section, a local jurisdiction shall waive its examination requirements for an individual who is licensed by the State Board to provide electrical services.

(b) A local jurisdiction shall grant a waiver under this section only if the applicant:

(1) pays any registration fee that the local jurisdiction requires; and

(2) provides adequate evidence that the applicant:

(i) is licensed as an electrician under this title;

(ii) holds an active State license; and

(iii) in place of any bond requirement of a local jurisdiction, meets the insurance requirements of § 6–604 of this subtitle.

(c) Within 10 working days after payment of any local registration fee, a local jurisdiction shall issue a local registration to each applicant who meets the requirements of this section.

§6–603.

(a) An electrician may obtain an electrical permit or any other similar permit from a local jurisdiction, if the electrician:

(1) (i) holds a State license; and

(ii) is actively registered locally, if required;

(2) shows proof of the State license;

(3) pays any permit fee that the local jurisdiction requires; and

(4) provides proof of insurance in compliance with the requirements of § 6–604 of this subtitle.

(b) Before a local jurisdiction issues an electrical permit or similar permit to an electrician under this section, the local jurisdiction shall give the electrician notice of any local electrical requirements with which the electrician shall comply while providing electrical services in that local jurisdiction.

(c) (1) Except as provided in paragraph (2) of this subsection, on payment of the permit fee that the local jurisdiction requires, the local jurisdiction shall issue the appropriate permit to each applicant who meets the requirements of this section.

(2) A local jurisdiction may delay the issuance of an electrical permit under this subsection if, for a particular job, the local jurisdiction requires the issuance of other permits, including a building permit, before issuance of the electrical permit.

§6–604.

(a) This section does not apply to a State licensee on uninsured status.

(b) A licensed master electrician, a person to whom a licensed master electrician assigns a local registration under this title, or another person who engages in the business of providing electrical services may not contract to provide electrical services unless the electrical work, including completed operations, of the licensed

master electrician, person assigned a local registration, or person who engages in the business of providing electrical services is covered by liability insurance:

(1) for general liability in the amount of at least $300,000; and

(2) for property damage in the amount of at least $100,000.

(c) (1) The insurance required under this section may be bought:

(i) by a master electrician; or

(ii) for a master electrician, by a person who engages in the business of providing electrical services and employs the master electrician.

(2) The insurance requirement of this section is not meant to cover electrical services that a master electrician provides outside the scope of employment for the person who carries the insurance.

(d) (1) A licensed apprentice electrician or licensed journeyperson electrician in the employ of a licensed master electrician need not obtain separate insurance while providing or assisting in providing electrical services under the control and supervision of the licensed master electrician.

(2) Subject to the restrictions of § 6–311 of this title regarding uninsured status, uninsured licensees who have had their uninsured status approved by the State Board need not obtain insurance while maintaining uninsured status.

(e) (1) An applicant for a State license shall submit proof of the insurance required under this section to the State Board with the license application.

(2) The State Board may not issue a State license to an applicant to whom the insurance requirements of this section would apply unless the applicant submits proof of the insurance.

(f) Unless an applicant meets the insurance requirements of this section, the State Board may not renew a State license of the applicant to whom the insurance requirements of this section would apply.

(g) If the insurance required under this section is canceled, the insurer shall notify the State Board within 10 days after the date of cancellation.

(h) If a local jurisdiction requires a master electrician or other person who engages in the business of providing electrical services to execute a bond to the local

jurisdiction, the applicant may satisfy the bond requirement by submitting proof of the insurance required under this section.

(i) The State Board shall specify on each license whether the license holder meets the insurance requirements of this section.

§6–605.

(a) Except as otherwise provided in this title, a person may not employ an individual to provide electrical services or employ an individual to assist in providing electrical services unless the individual:

(1) is licensed by the State Board as a master electrician;

(2) (i) is licensed by the State Board as a journeyperson electrician; and

(ii) provides or assists in providing electrical services within the scope of the individual's license; or

(3) (i) is licensed by the State Board as an apprentice electrician; and

(ii) provides or assists in providing electrical services within the scope of the individual's license.

(b) At least one licensed master electrician or journeyperson electrician shall be present at each job site in which electrical services are provided.

§6–606.

(a) A master electrician shall display the master electrician's license and the license number conspicuously in the principal place of business of the master electrician.

(b) Each electrician advertisement in the name of a person who engages in the business of providing electrical services shall contain the license number and name of a master electrician or holder of a journeyperson electrician license whom the master electrician employs and designates to direct and control the provision of electrical services through the business of the person.

(c) A licensee shall give the State Board written notice of any change of name, address, or employment from what appears on the current license at least 10 working days before the change is to take effect.

§6–607.

Except as otherwise provided in this title, an individual may not:

(1) provide, attempt to provide, or offer to provide electrical services for compensation in the State without an appropriate license issued under this title;

(2) assist, attempt to assist, or offer to assist in providing electrical services for compensation in the State without the required license or appropriate registration issued under this title;

(3) provide electrical services for compensation without obtaining a permit for such services if required by a local jurisdiction; or

(4) provide electrical services beyond the scope of the license issued to the individual under this title.

§6–608.

(a) In this section, "officer" includes a superintendent, a manager, or an agent of a business entity, regardless of whether the business entity engages in the business of providing electrical services.

(b) Any person, including an officer, who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to:

(1) on a first conviction, a fine not exceeding $1,000; and

(2) on a second or subsequent conviction, a fine not exceeding $5,000.

(c) Any person who violates § 6–604 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000.

(d) (1) In addition to any other penalties imposed under this title, the State Board may impose on a person who violates any provision of this subtitle a civil penalty not exceeding $5,000 for each violation.

(2) In determining the penalty imposed under paragraph (1) of this subsection, the State Board shall consider:

(i) the seriousness of the violation;

(ii) the good faith of the violator;

(iii) any previous violations by the violator;

(iv) the harmful effect of the violation; and

(v) any other relevant factors.

(e) The State Board shall pay any penalty collected under subsection (d) of this section into the General Fund of the State.

§6–701.

This title may be cited as the "Maryland Electricians Act".

§6–702.

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, 2033.

§6.5–101.

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

(b) "Board" means the State Board of Stationary Engineers.

(c) "Boiler" means:

(1) a closed vessel in which water is heated, steam is generated, steam is superheated, or a combination of these functions is accomplished, under pressure or vacuum for use externally to the vessel by the direct application of heat from the combustion of fuels or from electricity or nuclear energy; or

(2) a fired unit for heating or vaporizing liquids other than water if the unit is separate from a processing system and is complete within itself.

(d) "Heating boiler" means:

(1) a steam boiler that operates at pressures not exceeding 15 psig; or

(2) a hot water boiler that operates at pressures not exceeding 160 psig or temperatures not exceeding 250 degrees Fahrenheit.

(e) (1) "License" means, unless the context requires otherwise, a license issued by the Board to perform the functions of a stationary engineer.

(2) "License" includes, unless the context requires otherwise:

(i) a Grade 5 license;

(ii) a Grade 4 license;

(iii) a Grade 3 license;

(iv) a Grade 2 license; and

(v) a Grade 1 license.

(f) (1) "Provide stationary engineer services" means to oversee the operation of a power plant, plant of machinery, or boiler, each generating pressure of more than 15 psi and operating at 30 or more horsepower.

(2) "Provide stationary engineer services" does not include overseeing the operation of a heating boiler.

(g) "Stationary engineer" means an individual who is licensed by the Board to provide stationary engineer services in accordance with the license grades described in § 6.5–302 of this title.

§6.5–102.

The purpose of this title is to establish a licensing program to ensure that qualified individuals provide stationary engineer services to:

(1) protect the public;

(2) provide for the safe operation of power plants, plants of machinery, and boilers; and

(3) promote high professional standards.

§6.5–103.

The provisions of this title and any regulations adopted under this title may not supersede the authority of the Board of Boiler Rules to implement boiler and pressure vessel safety standards established under Title 12, Subtitle 9 of the Public Safety Article or any regulations adopted under that subtitle.

§6.5–201.

There is a State Board of Stationary Engineers in the Department.

§6.5–202.

(a) (1) The Board consists of eight members appointed by the Governor with the advice of the Secretary and the advice and consent of the Senate.

(2) Of the eight members of the Board:

(i) three shall be stationary engineers;

(ii) one shall be a representative from the boiler manufacture and design industry;

(iii) one shall be a boiler owner;

(iv) two shall be consumer members; and

(v) one shall be the Chief Boiler Inspector of the State, or the Chief Boiler Inspector's designee, who shall be an ex officio, nonvoting member of the Board.

(b) Each member of the Board shall be:

(1) a citizen of the United States; and

(2) a resident of the State.

(c) (1) At least two of the engineer members of the Board shall hold a Grade 1 stationary engineer license.

(2) Each engineer member of the Board shall:

(i) have at least 10 years practical experience in running steam engines, boilers, and appliances pertaining to stationary and portable engines; and

(ii) hold a State license at all times during the member's term on the Board.

(d) Each consumer member of the Board:

(1) shall be a member of the general public;

(2) may not be a licensee or otherwise be subject to regulation by the Board; and

(3) may not have had within 1 year before appointment a financial interest in or have received compensation from a person regulated by the Board.

(e) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) (1) The term of a member is 3 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 October 1, 2005.

(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.

(g) (1) The Governor may remove a member for incompetence, misconduct, neglect of duties, or other sufficient cause.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned if the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chair shall provide notice to the Governor and the Governor shall appoint a successor.

§6.5–203.

(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.

§6.5–204.

(a) A majority of the voting members then serving on the Board is a quorum.

(b) (1) The Board shall meet at least twice a year at a location and in an office provided by the State.

(2) The Board may hold special meetings as provided in its regulations.

(3) The Board shall meet with and consult the Board of Boiler Rules as necessary but at least one time each year.

(c) A member of the Board:

(1) may not receive compensation; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) The Board may employ a staff in accordance with the State budget.

§6.5–205.

(a) The Board shall:

(1) adopt regulations to carry out the provisions of this title;

(2) administer examinations;

(3) issue licenses;

(4) maintain a list of all licensees; and

(5) maintain a record of its proceedings.

(b) The Board shall make available through written, electronic, or other means:

(1) to each applicant for a license, a copy of the Maryland Stationary Engineers Act and the Board's regulations; and

(2) on each renewal of a license, to each licensee, a copy of any amendments to the Maryland Stationary Engineers Act and the Board's regulations that took effect during the 2-year period ending on the date of renewal.

§6.5–206.

(a) The Board may investigate any 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 the title.

(c) (1) If the Board concludes that any conduct alleged to be in violation of this title will result in harm to a citizen of the State, the Board may seek a permanent or temporary injunction with respect to the conduct from the circuit court of any 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 of the provision.

(3) A member of the Board may not be held personally liable for any action taken under this subsection in good faith and 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 § 6.5-314 of this title; and

(ii) a proceeding brought for an alleged violation of this title.

(2) If a person 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.

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

§6.5–207.

(a) Subject to subsection (b) of this section, the Board may set by regulation reasonable fees for its services.

(b) Except for examination fees, which may not exceed the costs of administering the examination, the fees charged shall be:

(1) set so as to produce funds to approximate the cost of maintaining the Board; and

(2) based on the calculations performed by the Secretary under § 2–106.10 of the Business Regulation Article.

(c) The Board shall publish a schedule of the fees set by the Board.

(d) (1) The Board shall pay all fees collected under this title to the Comptroller.

(2) The Comptroller shall distribute the fees to the Occupational Mechanical Licensing Boards' Fund established in § 2–106.9 of the Business Regulation Article.

§6.5–208.

The Board exercises its powers, duties, and functions subject to the authority of the Secretary.

§6.5–301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board to provide stationary engineer services before the individual may provide stationary engineer services in the State.

(b) (1) In this subsection, "resource recovery facility" means a facility that processes solid waste to produce valuable resources, including steam, electricity, metals, or refuse–derived fuel.

(2) An individual who provides stationary engineer services at a resource recovery facility that generates steam or electricity is not required to be licensed by the Board to provide stationary engineer services if the individual is certified to operate a resource recovery facility under regulations adopted by the Secretary of the Environment.

§6.5–302.

(a) A Grade 5 stationary engineer licensee may oversee the operation of a boiler that:

(1) (i) can be operated at 30 to 99 horsepower; and

(ii) is located in a building not open for public use;

(2) is inspected in accordance with the boiler laws and regulations by a special inspector or a deputy boiler inspector;

(3) if not equipped with a 24–hour computerized monitoring system and automatic controls, is visited by a Grade 5 licensee at least once every 24 hours that the boiler is in operation; and

(4) if equipped with a 24–hour computerized monitoring system and automatic controls, is visited by a Grade 5 licensee at least once per week that the boiler is in operation, if the licensee:

(i) is responsible for the safe operation of the equipment at all times;

(ii) is available to observe the monitoring equipment or devices and make the necessary adjustments at least once every 24 hours; and

(iii) maintains a daily inspection log.

(b) A Grade 4 stationary engineer licensee may oversee the operation of a boiler that:

(1) (i) can operate at 30 to 99 horsepower; and

(ii) is located in a building open for public use;

(2) is inspected in accordance with the boiler laws and regulations by a special inspector or a deputy boiler inspector;

(3) if not equipped with a 24–hour computerized monitoring system and automatic controls, is attended by a Grade 4 licensee as follows:

(i) at all times that the boiler is in operation; or

(ii) if located in a school:

1. at all times during regular school hours; and

2. only when at least 150 students, faculty, or members of the public occupy the building where the boiler is located during nonregular school hours;

(4) if equipped with a 24–hour computerized monitoring system and automatic controls, is attended by a Grade 4 licensee as follows:

(i) if located in a hospital, hotel, residential facility, or other building generally open to the public, is visited at least once every 8 hours that the building is open for public use, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log; and

(ii) if located in a school, is visited at least once every 8 hours:

1. during regular school hours; and

2. during nonregular school hours when the school building in which the boiler is located is occupied by at least 150 students, faculty, or members of the public, if the licensee:

A. is responsible for the safe operation of such equipment at all times;

B. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

C. maintains a daily inspection log.

(c) A Grade 3 stationary engineer licensee may oversee the operation of a boiler that:

(1) can operate at 100 to 299 horsepower;

(2) is inspected in accordance with the boiler laws and regulations by a special inspector or a deputy boiler inspector;

(3) if not equipped with a 24–hour computerized monitoring system and automatic controls, has a Grade 3 licensee in attendance at all times that the boiler is in operation; and

(4) if equipped with a 24–hour computerized monitoring system and automatic controls, is attended by a Grade 3 licensee as follows:

(i) if not located in a building open for public use, does not require regular full–time attendance or scheduled visitation, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log; and

(ii) if located in a school, hospital, hotel, residential facility, or other building generally open to the public, is visited at least once every 8 hours that the building is open for public use, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log.

(d) A Grade 2 stationary engineer licensee may oversee the operation of a boiler that:

(1) can operate at 300 to 499 horsepower;

(2) is inspected in accordance with the boiler laws and regulations by a special inspector or a deputy boiler inspector;

(3) if not equipped with a 24–hour computerized monitoring system and automatic controls, has a Grade 2 licensee in attendance at all times that the boiler is in operation; and

(4) if equipped with a 24–hour computerized monitoring system and automatic controls, is attended by a Grade 2 licensee as follows:

(i) if not located in a building open for public use, does not require regular full–time attendance or scheduled visitation, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log; and

(ii) if located in a school, hospital, hotel, residential facility, or other building generally open to the public, is visited at least once every 8 hours that the building is open for public use, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log.

(e) A Grade 1 stationary engineer licensee may oversee the operation of a boiler that:

(1) can operate at 500 or more horsepower;

(2) is inspected in accordance with the boiler laws and regulations by a special inspector or a deputy boiler inspector;

(3) if not equipped with a 24–hour computerized monitoring system and automatic controls, has a Grade 1 licensee in attendance at all times that the boiler is in operation; and

(4) if equipped with a 24–hour computerized monitoring system and automatic controls and is attended by a Grade 1 licensee as follows:

(i) if not located in a building open for public use, does not require regular visitation, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log; and

(ii) if located in a school, hospital, hotel, residential facility, or other building generally open to the public, is visited at least once every 8 hours that the building is open for public use, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log.

§6.5–303.

(a) Except as otherwise provided in this title, to qualify for licensure as a stationary engineer, an applicant shall meet the requirements of this section and pass an examination administered by the Board.

(b) In addition to the other qualifications for a license set forth in this subtitle, an applicant shall qualify under this section by meeting the educational and experience requirements set forth in subsection (c) of this section.

(c) (1) An applicant for the Grade 1 stationary engineer's examination qualifies under this section if the applicant possesses at least one of the following qualifications:

(i) 5 years of documented experience as an active Grade 2 stationary engineer under the direction and control of a Grade 1 stationary engineer, toward which an applicant may receive:

1. 1 year of credit for 6 credit hours of classes or continuing education units in boiler safety or operations; and

2. 1 year of credit for holding a current active license as a:

A. master plumber;

B. master heating, ventilation, air–conditioning, and refrigeration contractor; or

C. master restricted heating, ventilation, air–conditioning, or refrigeration contractor;

(ii) a 4–year degree in mechanical engineering from an accredited university or college;

(iii) licensure as a professional engineer including:

1. 1 year of documented experience as a professional engineer; and

2. 1 year of documented experience as a Grade 2 stationary engineer under the direction and control of a Grade 1 stationary engineer; or

(iv) a valid marine engineer's certificate or a chief petty officer's certificate from the United States Navy with documentation of steam boiler engineer training.

(2) An applicant for a Grade 2 stationary engineer's examination qualifies under this section if the applicant possesses at least one of the following qualifications:

(i) 36 months of documented experience as an active Grade 3 engineer under the direction and control of a licensed Grade 2 or Grade 1 stationary engineer, that may include:

1. 1 year of credit for 6 credit hours of classes or continuing education units in boiler safety or operations; and

2. 1 year of credit for holding a current active license as a:

A. master plumber;

B. master heating, ventilation, air–conditioning, and refrigeration contractor; or

C. master restricted heating, ventilation, air–conditioning, or refrigeration contractor;

(ii) a 4–year degree in mechanical engineering from an accredited university or college;

(iii) licensure as a professional engineer and 6 months of documented experience as a Grade 3, Grade 4, or Grade 5 stationary engineer; or

(iv) a valid marine engineer's certificate or chief petty officer's certificate from the United States Navy.

(3) An applicant for a Grade 3 stationary engineer's examination qualifies under this section if the applicant possesses at least one of the following qualifications:

(i) 2 years of documented experience as an active Grade 4 or Grade 5 stationary engineer;

(ii) 1 year of documented experience as an active Grade 4 or Grade 5 engineer and 6 credit hours or continuing education units of classes in boiler operations or safety; or

(iii) a valid marine engineer's certificate or chief petty officer's certificate from the United States Navy.

(4) An applicant for a Grade 4 stationary engineer's examination qualifies under this section if the applicant possesses at least one of the following qualifications:

(i) 6 months of documented experience as an active Grade 5 stationary engineer; or

(ii) 3 credit hours or continuing education units of classes in boiler operations or safety.

(5) An applicant for a Grade 5 stationary engineer's examination qualifies under this section if the applicant possesses a high school diploma or graduate equivalence diploma.

§6.5–303.1.

(a) The Board may authorize an applicant to take a license examination if the Board determines that the work experience of the applicant is substantially equivalent to the work experience requirements of a licensee for the license level requested by the applicant.

(b) In evaluating the work experience of an applicant, the Board shall consider:

(1) the size of the operation or plant at which the applicant acquired the work experience;

(2) the type of machinery the applicant used in acquiring the work experience; and

(3) (i) the job responsibilities or duties of the applicant; and

(ii) the time period in which the applicant held each job responsibility or duty.

(c) An applicant may receive not more than 2 years of work experience credit under this section if the Board determines that the work experience is acquired through:

(1) a formal course of study; or

(2) professional training.

§6.5–304.

(a) An applicant for a license shall:

(1) submit to the Board:

(i) an application on the form that the Board provides; and

(ii) any relevant document that the Board requires; and

(2) pay to the Board or the Board's designee:

(i) a nonrefundable application fee set by the Board; and

(ii) an examination fee set by the Board in an amount not to exceed the cost of the required examination.

(b) An application shall be made under oath.

(c) If the Board finds that an application form and the accompanying documentation do not demonstrate that the applicant meets the requirements for a license under this subtitle, the Board may require the applicant to submit additional information or documentation.

§6.5–305.

(a) The Board shall examine all engineers who are at least 18 years old and who otherwise qualify for examination.

(b) The Board periodically shall offer the examinations required under this subtitle to qualified applicants 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) The Board shall determine the subjects, scope, and form of and passing scores for examinations given under this subtitle.

§6.5–306.

(a) The Board may use a testing service to administer the examination required under this subtitle.

(b) If the Board uses a testing service, the testing service, subject to the requirements set by the Board, shall:

(1) set the time and place of the examination;

(2) give qualified applicants notice of the time and place of the examination;

(3) charge an examination fee not to exceed the cost of administering the examination; and

(4) furnish any information that the Board may require the testing service to provide.

§6.5–306.1.

(a) Subject to subsection (b) of this section, the Board may authorize an applicant to take an examination for:

(1) a Grade 1 stationary engineer license if the individual lawfully provided stationary engineering services in the State in accordance with § 6.5–302(e) of this subtitle for 5 or more consecutive years immediately prior to the date of application;

(2) a Grade 2 stationary engineer license if the individual lawfully provided stationary engineering services in the State in accordance with § 6.5–302(d) of this subtitle for 3 or more consecutive years immediately prior to the date of application;

(3) a Grade 3 stationary engineer license if the individual lawfully provided stationary engineering services in the State in accordance with § 6.5–302(c) of this subtitle for 2 or more consecutive years immediately prior to the date of application; or

(4) a Grade 4 stationary engineer license if the individual lawfully provided stationary engineering services in the State in accordance with § 6.5–302(b) of this subtitle for 6 or more consecutive months immediately prior to the date of application.

(b) The Board may authorize an individual to take an examination under this section only if the applicant submits to the Board:

(1) an examination application on the form that the Board provides;

(2) an application fee set by the Board;

(3) proof of eligibility for the applicable application; and

(4) an application for the applicable license in accordance with the provisions of this title.

§6.5–307.

(a) Subject to the limitations in subsections (b) and (c) of this section, on the affirmative vote of a majority of its voting members then serving, the Board may waive the examination requirements of this title for an individual who is licensed in another state or in a locality in another state to provide stationary engineer services.

(b) The Board may grant a waiver under this section only if the applicant:

(1) pays to the Board the nonrefundable application fee required under § 6.5–304 of this subtitle; and

(2) provides adequate evidence that the applicant:

(i) meets the qualifications otherwise required by this subtitle;

(ii) holds an active license in good standing in the other state or the locality;

(iii) holds a license that is equivalent to the State license; and

(iv) became licensed in the other state or the locality after meeting the state's or locality's requirements that are at least equivalent to the licensing requirements of the State, including the number of years of work experience equivalent to the experience required under § 6.5–303(c) of this subtitle.

(c) The Board may grant a waiver only if the state or the locality in which the applicant is licensed waives the examination of licensees of this State to a similar extent as the State waives the examination requirements for individuals licensed in that state or locality.

(d) (1) In this subsection, "BRAC" means the Base Realignment and Closure process as announced by the United States Department of Defense.

(2) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, the Board shall grant a waiver to an applicant who files a request before July 1, 2012, if the applicant:

(i) pays to the Board the nonrefundable application fee required under § 6.5–304 of this subtitle;

(ii) holds an active stationary engineer's license in good standing from Virginia or New Jersey, or from a locality of one of those states, that is equivalent to the State license;

(iii) has experience in the provision of stationary engineer services that meets the time requirements of § 6.5–303 of this subtitle; and

(iv) has relocated to the State as a family member of a BRAC employee.

§6.5–308.

(a) The use of unauthorized material by an applicant during an examination shall cause the immediate rejection of the application and shall bar the applicant from reexamination for at least 1 year.

(b) (1) An applicant who fails an examination or fails to appear for a scheduled examination shall file a new application and pay a new application fee.

(2) An examination fee is nonrefundable.

(c) An applicant who takes an examination required by this title shall be notified of the results of the examination as soon as practicable.

(d) If an applicant fails an examination given under this subtitle, the applicant may retake the examination.

§6.5–309.

(a) If an applicant qualifies for a license under this subtitle, the Board shall send the applicant a notice that states that:

(1) the applicant has qualified for a license; and

(2) the Board will issue a license to the applicant on receipt of the appropriate license fee required under § 6.5-207 of this title.

(b) On payment of the license fee, the Board shall issue a license to each applicant who meets the requirements of this subtitle.

(c) The Board shall include on each license that the Board issues:

(1) the full name of the licensee;

(2) the license grade level; and

(3) the registration number assigned by the Board to the licensee.

§6.5–310.

While a license is in effect, it authorizes the licensee to provide stationary engineer services in accordance with the licensee's grade level.

§6.5–311.

A licensee shall provide the Board written notice of any change of name or address from the name or address that appears on the current license, at least 10 working days before the change is to take effect.

§6.5–312.

(a) Except as provided in subsection (e) of this section and unless a license is renewed for a 2-year term as provided in this section, the license expires every other year on the anniversary of the date of issuance of the license.

(b) (1) At least 1 month before a license expires, the Board shall mail or electronically transmit to the licensee:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current license expires; and

2. the amount of the renewal fee as required under § 6.5–207 of this title.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the licensee, at the last known address of the licensee, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(3) The failure of a licensee to receive the notice as provided for in this subsection does not prevent the license from expiring as specified under subsection (a) of this section.

(c) Before a license expires, the licensee periodically may renew it for an additional 2-year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Board the appropriate license renewal fee required under § 6.5-207 of this title; and

(3) submits to the Board a renewal application on the form that the Board provides.

(d) (1) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

(2) The Board shall include on each renewal certificate that the Board issues the date on which the current license expires.

(e) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

§6.5–313.

(a) The Board shall reinstate the license of an individual who, for any reason, has failed to renew the license, if the individual:

(1) applies to the Board for reinstatement within 2 years after the license expires;

(2) meets the renewal requirements of § 6.5–312 of this subtitle and pays to the Board all past due renewal fees; and

(3) except as otherwise provided in subsection (c) of this section, pays to the Board a reinstatement fee set by the Board, in addition to all past due renewal fees.

(b) (1) If an individual has failed to renew a license for any reason and then applies to the Board for reinstatement more than 2 years after the license has expired, the Board may:

(i) require the individual to reapply for a license in the same manner as an applicant applies for an original license under this subtitle; or

(ii) subject to paragraph (2) of this subsection, reinstate the license.

(2) The Board may reinstate a license under paragraph (1)(ii) of this subsection only if the individual:

(i) meets the renewal requirements of § 6.5–312 of this subtitle and pays to the Board all past due renewal fees;

(ii) if required by the Board, states reasons why reinstatement should be granted; and

(iii) except as otherwise provided in subsection (c) of this section, pays to the Board a reinstatement fee set by the Board, in addition to all past due renewal fees.

(c) The Board may waive a reinstatement fee for a licensee who provides evidence satisfactory to the Board that the licensee did not provide stationary engineer services during the time the license lapsed.

§6.5–314.

(a) (1) Subject to the hearing provisions of § 6.5-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

(i) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(ii) fraudulently or deceptively uses a license;

(iii) under the laws of the United States or of any state, is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to provide services as a stationary engineer;

(iv) fails to control or supervise adequately a person who, while under the supervision of a licensee, provides services as a stationary engineer;

(v) permits a licensee to provide services as a stationary engineer outside the scope of that individual's license grade;

(vi) permits an individual to provide services as a stationary engineer without the appropriate license issued by the Board;

(vii) is under the influence of drugs or alcohol while operating an engine, boiler, or other type of power equipment;

(viii) is guilty of negligence, incompetence, or misconduct while providing stationary engineer services;

(ix) violates any regulation adopted under this title; or

(x) violates any provision of this title.

(2) (i) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Board may impose a penalty not exceeding $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Board shall consider:

1. the seriousness of the violation;

2. the harm caused by the violation;

3. the good faith of the licensee; and

4. any history of previous violations by the licensee.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(b) The Board shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or misdemeanor described in subsection (a)(1)(iii) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to provide services as a stationary engineer;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

§6.5–315.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Board takes any final action under § 6.5-314 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.

§6.5–316.

A person aggrieved by a final action of the Board may take an appeal as specified under §§ 10-222 and 10-223 of the State Government Article.

§6.5–401.

Except as otherwise provided in this title, a person may not perform, attempt to perform, or offer to perform the functions of a stationary engineer in the State unless licensed by the Board in the appropriate grade to provide such services.

§6.5–402.

A person may not:

(1) use or attempt to use the license of another individual; or

(2) impersonate another individual who holds a license.

§6.5–403.

(a) A person may not allow an individual to provide services as a stationary engineer if the individual does not hold an appropriate license issued by the Board.

(b) A person may not allow an individual to provide services as a stationary engineer outside the scope of that individual's license grade.

§6.5–404.

(a) A person who violates § 6.5-401, § 6.5-402, or § 6.5-403 of this subtitle is guilty of a misdemeanor and on conviction is subject to:

(1) a fine not exceeding $1,000 or imprisonment not exceeding 6 months or both; and

(2) on a second or subsequent conviction, a fine not exceeding $5,000 or imprisonment not exceeding 2 years or both.

(b) (1) Except as otherwise provided by this title, the Board may impose on a person who violates any provision of this title a penalty not exceeding $5,000 for each violation.

(2) In setting the amount of the penalty, the Board shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the violator;

(iv) any history of previous violations by the violator; and

(v) any other relevant factors.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

§6.5–501.

This title may be cited as the "Maryland Stationary Engineers Act".

§6.5–502.

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, 2034.

§7–101.

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

(b) "Board" means the State Board of Foresters.

(c) (1) Notwithstanding § 5–101 of the Natural Resources Article, "forestry" means the application, for compensation, of scientific techniques to the planting, conservation, protection, and management of trees and related resources for their continuing use, whether found in large numbers and areas commonly known as forests, woodlands, and woodlots or in small groupings and individual trees in suburban and urban settings.

(2) "Forestry" includes:

(i) consultation, investigation, evaluation, or planning of any forestry activity that is described under paragraph (1) of this subsection; or

(ii) having responsibility for any forestry activity that is described under paragraph (1) of this subsection.

(3) "Forestry" does not include:

(i) the services of a tree expert, as defined under § 5–415(c) of the Natural Resources Article;

(ii) practices and services generally provided by:

1. an arboriculturist;

2. a gardener;

3. a horticulturist;

4. a landscape contractor;

5. a landscape gardener;

6. a nurseryman; or

7. an orchardist; or

(iii) the cutting, hauling, handling, or processing of forest products.

(d) "License" means, unless the context requires otherwise, a license issued by the Board to practice forestry.

(e) "Licensed forester" means, unless the context requires otherwise, an individual who is licensed by the Board to practice forestry.

(f) "Uniformed services" has the meaning stated in § 9–901 of the State Government Article.

§7–102.

The purposes of this title are to benefit and protect the public and to promote the public welfare by regulating persons who practice forestry in the State.

§7–201.

There is a State Board of Foresters in the Department.

§7–202.

(a) (1) The Board consists of 7 members.

(2) Of the 7 members of the Board:

(i) 5 shall be licensed foresters; and

(ii) 2 shall be consumer members.

(3) The Governor shall appoint the members with the advice and consent of the Senate.

(4) The Governor shall appoint each of the licensed forester members from a list of at least 3 names of licensed foresters submitted to the Governor by the Maryland members of the Maryland-Delaware Division of the Allegheny Society of American Foresters.

(b) Each member of the Board shall be:

(1) a citizen of the United States; and

(2) a resident of the State for at least 3 years.

(c) Each licensed forester member of the Board shall have practiced forestry for at least 10 years.

(d) Each consumer member of the Board:

(1) shall be a member of the general public;

(2) may not be a licensee or otherwise be subject to regulation by the Board;

(3) may not be required to meet the qualifications for the professional members of the Board; and

(4) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Board.

(e) While a member of the Board, a consumer member may not:

(1) have a financial interest in or receive compensation from a person regulated by the Board; or

(2) grade any examination given by or for the Board.

(f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(g) (1) The term of a member is 5 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 October 1, 1989.

(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.

(h) (1) The Governor may remove a member for:

(i) incompetence;

(ii) misconduct; or

(iii) habitual or willful neglect of duty.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned if the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§7–203.

(a) From among its members, the Board annually shall elect a chairman, a vice chairman, and a secretary.

(b) The manner of election of officers shall be as the Board determines.

(c) The secretary of the Board shall be covered by a surety bond or an insurance policy of the type and in the amount of coverage determined by the State Treasurer under § 5–108 of the State Government Article.

§7–204.

(a) A majority of the authorized membership of the Board is a quorum.

(b) (1) The Board shall meet at least twice a year, at the times and places that the Board determines.

(2) The Board may hold special meetings as provided in its bylaws, but the Board may not hold more than 1 meeting in a calendar month.

(c) A member of the Board:

(1) may not receive compensation; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) The Board may employ a staff in accordance with the State budget.

§7–205.

(a) Subject to the State budget, the Board may employ an investigative staff to investigate a charge that is made against a licensed forester and alleges facts that constitute:

(1) a ground for disciplinary action under this title; or

(2) a violation of this title.

(b) The Board may administer oaths.

(c) (1) The Board may issue a subpoena for the attendance of a witness to testify or the production of evidence in connection with:

(i) a disciplinary action under § 7-309 of this title; or

(ii) a proceeding brought for an alleged violation of this title.

(2) A subpoena shall be signed by the chairman of the Board and sealed with the seal of the Board.

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

§7–206.

(a) In addition to any powers set forth elsewhere, the Board may adopt:

(1) any bylaw for the conduct of the proceedings of the Board; and

(2) any regulation to carry out this title.

(b) In addition to any duties set forth elsewhere, the Board:

(1) shall administer this title;

(2) shall adopt a seal; and

(3) shall keep a record of its proceedings.

(c) The Board shall keep a record that, for each application for a license, shows:

(1) the applicant's:

(i) name;

(ii) age;

(iii) residence;

(iv) place of business; and

(v) educational and other qualifications;

(2) the date of the application;

(3) whether the applicant was required to take an examination;

(4) the action of the Board on the application;

(5) the reason for the action; and

(6) any other information the Board considers necessary.

(d) The Board shall:

(1) keep a list of all licensed foresters that shows the name and place of business of each licensee;

(2) provide a copy of the list:

(i) on request, to any member of the public; and

(ii) every 2 years, on or before March 31, to:

1. each licensee; and

2. the Secretary of State.

(e) (1) With the advice of the established forestry associations, the Board shall adopt, by regulation, a code of ethics for practicing forestry.

(2) The Board shall distribute a copy of the code of ethics:

(i) to each applicant for a license; and

(ii) on each renewal of a license, to each licensee.

(f) The Board shall adopt regulations that implement the continuing education requirement set forth in § 7-308(c)(2) of this title.

§7–207.

The Board shall pay all money collected under this title into the General Fund of the State.

§7–208.

The Board exercises its powers, duties, and functions subject to the authority of the Secretary.

§7–301.

Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice forestry in the State.

§7–302.

An individual who meets the educational requirements but does not meet the experience requirements under § 7-304 of this subtitle may practice forestry without a license if the individual practices forestry under the responsible charge of a licensed forester.

§7–303.

An individual who is licensed to practice forestry in another state or country may practice forestry in this State without a license if:

(1) the state or country in which the individual is licensed waives the license requirements for licensees of this State to a similar extent as this State waives the license requirements for individuals licensed in that state or country;

(2) the individual submits to the Board evidence that the individual is licensed in the other state or country; and

(3) the individual:

(i) is not a resident of this State and does not maintain a place of business in this State; or

(ii) has become a resident of this State within the preceding 6 months.

§7–304.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) An applicant shall have been graduated on completion of a 4-year curriculum in forestry from a college or university that is approved by the Board or accredited by the Society of American Foresters.

(c) The applicant shall have at least 2 years of experience in forestry that indicates to the Board that the applicant is competent to practice forestry.

§7–305.

(a) An applicant for a license shall:

(1) submit to the Board an application on the form that the Board provides; and

(2) pay to the Board an application fee of $45.

(b) (1) In addition to any other information required on an application form, the form shall require:

(i) a statement about the education of the applicant;

(ii) a statement about the experience of the applicant in practicing forestry; and

(iii) a list of at least 5 references, which shall include at least 3 foresters who have personal or professional knowledge of the applicant's experience in practicing forestry.

(2) An application shall be made under oath.

§7–306.

(a) If an applicant qualifies for a license under this subtitle, the Board shall mail or electronically transmit to the applicant a notice that states that:

(1) the applicant has qualified for a license;

(2) on receipt of a $55 license fee, the Board will issue a license to the applicant; and

(3) if the applicant fails to pay the license fee within 30 days after receipt of the notice, the applicant forfeits the right to be issued a license and, to obtain a license, may be required to submit a new application and to pay a new application fee.

(b) (1) On payment of the license fee, the Board shall issue a license to each applicant who meets the requirements of this subtitle.

(2) If an applicant fails to pay the license fee within 30 days after the receipt of notice that the applicant has qualified, the Board may:

(i) deny the applicant a license under that application; and

(ii) require the applicant to submit a new application and again to pay the application fee required under § 7-305 of this subtitle.

(c) The Board shall include on each license that the Board issues:

(1) the full name of the licensee;

(2) the registration number assigned by the Board to the licensee; and

(3) the signature of the chairman of the Board.

(d) Subject to any regulation that the Board adopts, it shall replace any lost, mutilated, or destroyed license certificate on:

(1) request of the licensee; and

(2) payment of a replacement fee of $5.

§7–307.

While a license is in effect, it authorizes the licensee to practice forestry.

§7–308.

(a) Unless a license is renewed for a 2–year term as provided in this section, the license expires on the first September 30 that comes:

(1) after the effective date of the license; and

(2) in an even–numbered year.

(b) (1) At least 30 days before a license expires, the Board shall mail or electronically transmit to the licensee:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current license expires; and

2. the amount of the renewal fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the licensee, at the last known address of the licensee, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(c) (1) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(i) otherwise is entitled to be licensed;

(ii) except as provided in subsection (d) of this section, pays to the Board a renewal fee of $100; and

(iii) submits to the Board a renewal application on the form that the Board provides.

(2) (i) 1. Except as provided in subsubparagraph 2 of this subparagraph, the Board may not renew a license unless the licensee meets the continuing education requirements of this section.

2. The continuing education requirement does not apply to:

A. the first renewal of a license by a licensee; or

B. a licensee who has inactive status or who has applied for inactive status.

(ii) To qualify for renewal of a license, for each 2–year license term of a license, a licensee shall complete successfully at least 8 hours of instruction provided through programs that the Board approves.

(d) A licensee serving on active duty in the uniformed services is exempt from the renewal fee required by this section.

(e) The Board shall renew the license of each licensee who meets the requirements of this section.

(f) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

(g) (1) A licensee may apply to the Board for inactive status.

(2) The Board shall grant inactive status to a licensee if the licensee:

(i) otherwise is entitled to be licensed; and

(ii) pays to the Board an inactive license fee of $25.

(3) An individual may return to active status if the individual meets the requirements for renewal of a license under this section.

§7–309.

(a) (1) Subject to the hearing provisions of § 7-311 of this subtitle, the Board, on the affirmative vote of a majority of its authorized members, may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

(i) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(ii) fraudulently or deceptively uses a license;

(iii) is guilty of gross negligence, incompetence, or misconduct in practicing forestry;

(iv) under the laws of the United States or of any state is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to practice forestry;

(v) has had a license to practice forestry in another state revoked or suspended by the other state for a cause that would justify revocation or suspension under this title, except for the failure to pay a license or registration renewal fee;

(vi) knowingly violates any provision of the code of ethics adopted by the Board; or

(vii) knowingly violates any provision of this title.

(2) (i) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Board may impose a penalty not exceeding $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Board shall consider:

1. the seriousness of the violation;

2. the harm caused by the violation;

3. the good faith of the licensee; and

4. any history of previous violations by the licensee.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(b) The Board shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or misdemeanor described in subsection (a)(1)(iv) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to practice forestry;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

§7–310.

(a) Subject to the provisions of this section, the Board shall commence proceedings under § 7-309 of this subtitle on complaint made to the Board by a member of the Board or any other person.

(b) (1) A complaint shall be:

(i) in writing; and

(ii) submitted to the secretary of the Board.

(2) If the complaint is made by any person other than a member of the Board, the complaint shall be made under oath by the person who submits the complaint.

(c) If the Board finds that a complaint alleges facts that are adequate grounds for action under § 7-309 of this subtitle, the Board shall act on the complaint as provided under § 7-311 of this subtitle. If the Board does not make that finding, it shall dismiss the complaint.

§7–311.

(a) (1) Except as otherwise provided in § 10-226 of the State Government Article, before the Board takes any final action under § 7-309 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

(2) A hearing shall be held within 3 months after the complaint is made.

(b) The Board shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) At least 30 days before the hearing, the hearing notice and a copy of the complaint shall be:

(1) served personally on the individual; or

(2) sent by certified mail to the last known address of the individual.

(d) The individual may be represented at the hearing by counsel.

(e) If, after due notice, the person against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§7–312.

Any person 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.

§7–313.

(a) Subject to any regulation that the Board adopts, the Board may reinstate a license that has been revoked.

(b) A license may be reinstated under this section only on:

(1) the basis of evidence submitted to the Board after the revocation and not available, before the revocation, to the individual seeking reinstatement;

(2) the affirmative vote of a majority of the authorized members of the Board; and

(3) payment to the Board of a fee of $5.

§7–401.

(a) Each licensed forester shall obtain a seal for use as required under § 7-402 of this subtitle.

(b) The seal shall:

(1) be of a design determined by the Board; and

(2) include:

(i) the legend "Licensed Forester"; and

(ii) the name of the licensed forester who holds the seal.

§7–402.

Before a licensed forester issues to any person any plan, map, specification, or report, the licensed forester who prepared or approved the document shall endorse on the document the licensed forester's:

(1) name;

(2) registration number; and

(3) seal.

§7–501.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice forestry in the State unless licensed by the Board.

§7–502.

Unless authorized under this title to practice forestry, a person may not represent to the public, by use of a title, including "licensed forester", "professional forester", "registered professional forester", or "registered forester", by description of services, methods, or procedures, or otherwise, that the person is authorized to practice forestry in the State.

§7–503.

An individual may not use or attempt to use the license of another.

§7–504.

(a) Unless a document is prepared by or under the responsible charge of a licensed forester, the licensed forester may not endorse the document as provided under § 7-402 of this title.

(b) While the license of an individual is suspended, revoked, or expired, a person may not endorse a document, as provided under § 7-402 of this title, with the name, seal, or registration number of the individual.

§7–505.

A person may not give false information to the Board in an attempt to obtain a license.

§7–506.

(a) A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000.

(b) (1) The Board may impose on a person who violates any provision of this title a penalty not exceeding $5,000 for each violation.

(2) In setting the amount of the penalty, the Board shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the violator;

(iv) any history of previous violations by the violator; and

(v) any other relevant factors.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

§7–601.

This title may be cited as the "Maryland Foresters Act".

§7–602.

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, 2035.

§8–101.

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

(b) "Board" means the State Board of Certified Interior Designers.

(c) "Certificate" means a certificate issued by the Board to use the title "certified interior designer".

(d) "Certificate fee" means, as applicable, the fee paid in connection with the issuance and renewal of a certificate and issuance of a reciprocal certificate.

(e) "Certified interior design services" means interior design services provided by a certified interior designer.

(f) "Certified interior designer" means an interior designer who is certified by the Board.

(g) "Design coordination" means the review and coordination of services provided by individuals licensed or certified under Titles 3, 8, 9, 14, and 15 of this article.

(h) "Interior design services" means rendering or offering to render services for a fee or other valuable consideration, in the preparation and administration of interior design documents (including drawings, schedules and specifications) which pertain to the planning and design of interior spaces including furnishings, layouts, fixtures, cabinetry, lighting fixtures, finishes, materials, and interior construction not materially related to or materially affecting the building systems, all of which shall comply with applicable laws, codes, regulations, and standards. The scope of work described herein shall not be construed as authorizing the planning and design of engineering and architectural interior construction as related to the building systems, including structural, electrical, plumbing, heating, ventilating, air conditioning or mechanical systems and shall not be construed as authorizing the practice of architecture or engineering as defined in Title 3 or Title 14 of this article. The interior design plans as described above are not to be construed as those architectural plans which may be required to be filed with any county or municipality.

(i) "Public use" means the use of a building or other structure for the primary purpose of human use or habitation.

(j) "Residential use" means the use of a building or other structure as a dwelling.

§8–102.

This title does not apply to:

(1) a person who does not use the title "certified interior designer" on any card, device, sign, stationery, or other means of identification or communication; or

(2) an architect licensed in this State.

§8–103.

(a) A certified interior designer may render or offer to render interior design services described in § 8-101 of this subtitle provided that services pertain to a building or other structure that is intended for public use or residential use.

(b) A certified interior designer may perform design coordination for a project or portion of a project provided that the certified interior designer:

(1) holds a current certificate issued by the Board; and

(2) has adequate experience in, and understanding of, achieving the purpose of the project or portion of the project being coordinated.

§8–201.

There is a State Board of Certified Interior Designers in the Department.

§8–202.

(a) (1) The Board consists of 7 members.

(2) Of the 7 members of the Board:

(i) 5 shall be certified interior designers;

(ii) 1 shall be an architect licensed by the State Board of Architects who provides interior design services; and

(iii) 1 shall be a consumer member.

(3) The Governor shall appoint the members of the Board with the advice of the Secretary and the advice and consent of the Senate.

(b) Each member of the Board shall be a resident and citizen of the State.

(c) Each interior designer member shall have provided interior design services for at least 5 years immediately before appointment.

(d) The architect member shall have practiced in the State for at least 5 years immediately before appointment.

(e) The consumer member of the Board:

(1) shall be a member of the general public;

(2) may not be a certified interior designer or otherwise be subject to regulation by the Board;

(3) may not be required to meet the qualifications for the professional members of the Board; and

(4) may not, within 1 year before appointment, have had a financial interest in or have received compensation from an individual regulated by the Board.

(f) While a member of the Board, the consumer member may not:

(1) have a financial interest in or receive compensation from an individual regulated by the Board; or

(2) grade any examination given by or for the Board.

(g) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(h) (1) The term of a member is 3 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 July 1, 1991.

(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.

(i) A member of the Board may not be held personally liable for any actions taken or decisions made in good faith as a member of the Board.

(j) (1) The Governor may remove a member for incompetence or misconduct.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned if

the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§8–203.

(a) From among its members, the Board annually shall elect a chairman and a secretary.

(b) The manner of election of officers shall be as the Board determines.

(c) A member may serve no more than three consecutive years as an officer of the Board.

§8–204.

(a) A majority of the members then serving on the Board is a quorum.

(b) The Board shall determine the times and places of its meetings and hearings.

(c) A member of the Board:

(1) may not receive compensation; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) The Board may employ a staff in accordance with the State budget.

§8–204.1.

At least annually, the chairman of the Board, the chairman of the State Board of Architects, the chairman of the State Board of Examiners of Landscape Architects, the chairman of the State Board for Professional Engineers, and the chairman of the State Board for Professional Land Surveyors shall meet to discuss issues of mutual importance to the design professions.

§8–205.

To enforce this title, the Board may:

(1) conduct investigations and hold hearings on any matter covered by this title, at any time and place in the State;

(2) administer oaths;

(3) examine witnesses; and

(4) receive evidence.

§8–206.

(a) In addition to the powers set forth elsewhere, the Board may adopt regulations to carry out this title.

(b) In addition to any duties set forth elsewhere, the Board shall:

(1) keep a record of its proceedings; and

(2) adopt, by regulation, a code of ethics for certified interior designers.

§8–206.1.

(a) In this section, "code official" means a public official responsible for the review of building permit documents or the issuance of building permits.

(b) The Board shall:

(1) keep a list of the names and mailing addresses of all certificate holders;

(2) provide each code official with a copy of the list annually; and

(3) provide any other person who makes a request with a copy of the list at a reasonable fee set by the Board.

(c) (1) The Board shall provide all certificate holders and code officials with a periodic newsletter not less than semiannually on the activities of the Board.

(2) The Board shall publish, on the Department website, the newsletter jointly with the State Board for Professional Engineers, the State Board of Architects, the State Board of Examiners of Landscape Architects, and the State Board for Professional Land Surveyors.

(d) The Board shall distribute:

(1) to each applicant for a certificate and each code official, a copy of the Maryland Certified Interior Designers Act and the Board's rules and regulations;

(2) on each renewal of a certificate, to each certificate holder, a copy of any amendments to the Maryland Certified Interior Designers Act and the Board's rules and regulations that took effect during the 2-year period ending on the date of renewal; and

(3) to each code official, a copy of any amendments to the Maryland Certified Interior Designers Act and the Board's rules and regulations.

(e) A certificate holder shall designate the certificate holder's mailing address at the time of issuance of the certificate and on each renewal of the certificate.

§8–207.

(a) (1) The Board may set reasonable fees for its services.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the Board and shall be based on the calculations performed by the Secretary under § 2–106.2 of the Business Regulation Article.

(b) The Board shall publish the fee schedule set by the Board by regulation.

(c) (1) The Board shall pay all fees collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Occupational and Professional Licensing Design Boards' Fund established in § 2–106.1 of the Business Regulation Article.

(d) The Board shall publish annually a list including the name and address of each individual:

(1) who has been certified; or

(2) whose certification has been suspended or revoked within 3 years before the publication.

§8–208.

The Board exercises its powers, duties, and functions subject to the authority of the Secretary.

§8–301.

Except as otherwise provided in this title, an individual shall be certified by the Board before the individual may use the title "certified interior designer" or the term "certified interior design services".

§8–302.

(a) To qualify for a certificate, an 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:

(1) file an application and pay a nonrefundable application fee in accordance with § 8–303 of this subtitle;

(2) have satisfied education and experience requirements necessary to qualify for the National Council of Interior Design Qualification Examination, or its equivalent, as determined by the Board; and

(3) have passed the National Council of Interior Design Qualification Examination, or its equivalent.

§8–303.

An applicant for a certificate shall:

(1) submit an application to the Board on the form that the Board provides; and

(2) pay to the Board or the Board's designee a nonrefundable application fee set by the Board.

§8–304.

(a) Subject to the provisions of this section, the Board may waive any examination requirement of this subtitle for an individual who is licensed or certified as an interior designer in another state.

(b) The Board may grant a waiver under this section only if the applicant:

(1) pays to the Board:

(i) the nonrefundable application fee set by the Board; and

(ii) the certificate fee set by the Board; and

(2) provides adequate evidence that the applicant:

(i) meets the qualifications otherwise required by this subtitle; and

(ii) became licensed or certified in the other state after meeting qualifications that are substantially equivalent to those required for a certificate in this State.

(c) The Board may grant a waiver under this section only if the state in which the applicant is licensed or certified waives the examination of certified interior designers of this State to a similar extent as this State waives the examination requirements for individuals licensed or certified in that state.

§8–305.

On payment of the certificate fee set by the Board, the Board shall issue a certificate to each applicant who meets the requirements of this subtitle for a certificate.

§8–306.

While a certificate is in effect, it authorizes the certificate holder to use the title "certified interior designer" or the term "certified interior design services".

§8–307.

(a) Unless a certificate is renewed for a 2–year term as provided in this section, a certificate expires on the first June 30 that comes:

(1) after the effective date of the certificate; and

(2) in an even–numbered year.

(b) (1) At least 30 days before the certificate expires, the Board shall mail or electronically transmit to the certificate holder:

(i) a renewal application form;

(ii) a notice that states the date on which the current certificate expires; and

(iii) the amount of the certificate fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the certificate holder, at the last known address of the certificate holder, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(c) Before the certificate expires, the certificate holder periodically may renew it for an additional 2–year term, if the certificate holder:

(1) otherwise is entitled to be certified;

(2) pays to the Board a certificate fee set by the Board;

(3) submits to the Board a renewal application on the form that the Board provides; and

(4) submits to the Board any documentation required by the Board to verify that the certificate holder has complied with the continuing education requirements under § 8–308 of this subtitle.

(d) The Board shall renew the certificate of each certificate holder who meets the requirements of this section.

(e) The Secretary may determine that certificates issued under this subtitle shall expire on a staggered basis.

§8–308.

(a) (1) To qualify for renewal of a certificate under this subtitle, a certificate holder shall earn during each 2-year certificate term at least one continuing education unit in two or more courses that the Board approves.

(2) A continuing education unit consists of 10 hours of study.

(b) A certificate holder who is granted a certificate during the second year of a certificate term may renew the certificate for the next full term if the certificate holder earns at least one-half of a continuing education unit in one or more courses that the Board approves.

§8–309.

The Board shall reinstate the certificate of an interior designer who has failed to renew the certificate for any reason if the interior designer:

(1) meets the renewal requirements under § 8–307 of this subtitle;

(2) pays to the Board the reinstatement fee as set by the Board;

(3) submits to the Board a reinstatement application on the form that the Board provides; and

(4) earns two continuing education units in courses approved by the Board in a 2–year period immediately preceding the request for reinstatement.

§8–310.

(a) (1) Subject to the hearing provisions of § 8-312 of this subtitle, the Board may deny a certificate to any applicant, reprimand any certificate holder, or suspend or revoke a certificate if the applicant or certificate holder:

(i) fraudulently or deceptively obtains or renews or attempts to obtain or renew a certificate for the applicant or certificate holder or for another;

(ii) fraudulently or deceptively uses the title "certified interior designer" or the term "certified interior design services";

(iii) under the laws of the United States or of any state, is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the applicant or certificate holder to perform certified interior design services;

(iv) is guilty of any fraud, gross negligence, incompetence, or misconduct in the use of the title "certified interior designer" or the term "certified interior design services";

(v) signs or seals any interior design documents after a certificate holder's certificate expires or has been suspended or revoked by the Board;

(vi) violates any regulation that the Board adopts; or

(vii) violates any provision of this title.

(2) (i) Instead of or in addition to reprimanding a certificate holder or suspending or revoking a certificate under this subsection, the Board may impose a penalty not exceeding $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Board shall consider:

1. the seriousness of the violation;

2. the harm caused by the violation;

3. the good faith of the certificate holder; and

4. any history of previous violations by the certificate holder.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(b) The Board shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a certificate or the reprimand of a certificate holder when an applicant or certificate holder is convicted of a felony or misdemeanor described in subsection (a)(1)(iii) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the certificate;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to perform interior design services;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or certificate holder before and after the conviction.

§8–311.

(a) Subject to the provisions of this section, the Board shall bring proceedings under § 8-310 of this subtitle on the complaint made to the Board by a member of the Board or any other individual.

(b) (1) A complaint shall:

(i) be in writing; and

(ii) state specifically the facts on which the complaint is based.

(2) If the complaint is made by any individual other than a member of the Board, the complaint shall be made under oath by the individual who submits the complaint.

(c) If the Board finds that the complaint alleges facts that are adequate grounds for action under § 8-310 of this subtitle, the Board shall act on the complaint as provided under § 8-312 of this subtitle. If the Board does not make that finding, it shall dismiss the complaint.

§8–312.

(a) (1) Except as otherwise provided in § 10-226 of the State Government Article, before the Board takes any final action under § 8-310 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

(2) A hearing shall be held:

(i) in accordance with regulations adopted by the Board; and

(ii) within a reasonable time not to exceed 6 months after the complaint is made.

(b) The Board shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Board may administer oaths in connection with any proceeding under this section.

(d) At least 30 days before the hearing, the hearing notice and a copy of the complaint shall be:

(1) served personally on the individual; or

(2) sent by mail to the last known address of the individual.

(e) The individual may be represented at the hearing by counsel.

(f) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§8–313.

Any person 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.

§8–401.

A certified interior designer shall state in each of the designer's interior design documents that the document is not an architectural or engineering drawing, specification, or design and is not to be used for construction of any load-bearing column, load-bearing framing, or load-bearing wall or structure.

§8–402.

A certified interior designer shall disclose to a client or a prospective client the way that compensation, including commission, is to be paid for certified interior design services.

§8–403.

(a) Before a certified interior designer issues to a client or submits to a public authority any interior design document, including drawings, plans, schedules, reports, or specifications, the certified interior designer who prepared or approved the document shall sign, seal, and date the document.

(b) Any interior design document issued or submitted as described in subsection (a) of this section shall be identified as the interior design document.

§8–404.

(a) Each certified interior designer shall obtain a seal for use as required under § 8-403 of this subtitle.

(b) The seal shall:

(1) be of a design determined by the Board; and

(2) include:

(i) the legend "certified interior designer"; and

(ii) the name of the certified interior designer who holds the seal.

§8–501.

Except as otherwise provided in this title, a person may not use the title "certified interior designer" or the term "certified interior design services" unless certified by the Board.

§8–502.

(a) A person who violates § 8-501 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000.

(b) (1) The Board may impose on a person who violates § 8-501 of this subtitle a penalty not exceeding $5,000 for each violation.

(2) In setting the amount of the penalty, the Board shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the violator;

(iv) any history of previous violations by the violator; and

(v) any other relevant factors.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

§8–601.

This title may be cited as the "Maryland Certified Interior Designers Act".

§8–602.

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, 2034.

§9–101.

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

(b) "Board" means the State Board of Examiners of Landscape Architects.

(c) "Design coordination" means the review and coordination of services provided by individuals licensed or certified under Titles 3, 8, 9, 14, and 15 of this article.

(d) "Landscape architect" means an individual who practices landscape architecture.

(e) "License" means, unless the context requires otherwise, a license issued by the Board to practice landscape architecture.

(f) "License fee" means, as applicable, the fee paid in connection with the issuance and renewal of a license or the issuance of a reciprocal license.

(g) "Licensed landscape architect" means a landscape architect who is licensed by the Board to practice landscape architecture.

(h) "Permit" means a permit issued by the Board to allow a partnership or corporation to operate a business through which an individual may practice landscape architecture.

(i) "Permit fee" means, as applicable, the fee paid in connection with the issuance and renewal of a permit.

(j) (1) "Practice landscape architecture" means:

(i) to provide any service or creative work in the analysis or design of land and natural resources that requires training and experience in the application of the biological, physical, mathematical, and social sciences; and

(ii) to perform design coordination of a project or portion of a project provided that the licensed landscape architect holds a current license issued by the Board and has adequate education and experience in, and understanding of, the project or portion of the project being coordinated.

(2) "Practice landscape architecture" includes:

(i) consultation, research, analysis, assessment, selection, and allocation of land and natural resources;

(ii) development of graphic, written, digital, and other appropriate criteria to govern the planning and design of land development and construction programs, including:

1. preparation, review, and analysis of master plans, site plans, and land development plans;

2. reconnaissance, planning, design, and preparation of construction documents;

3. construction, observation, administration, and project management;

4. preservation, restoration, conservation, reclamation, rehabilitation, and management of land and natural resources;

5. preparation of feasibility and site selection studies, environmental studies, and cost estimate reports; and

6. design and analysis of grading and drainage, irrigation, erosion and sediment control systems, and pedestrian and vehicular circulation systems; and

(iii) in conjunction with site plan preparation, the performance of the following:

1. determining a grade;

2. determining drainage; and

3. preparing and designing stormwater drainage systems provided that the preparation and design:

A. are in accordance with design manuals, details, and standards accepted by the State or local authorities; and

B. do not require a hydraulic or structural design of system components.

(k) "Responsible charge" means direct control and personal supervision of landscape architecture services that requires initiative, professional skill, and independent judgment.

§9–102.

The purposes of this title are to safeguard public welfare, health, and property and to promote the public good by regulating persons who practice landscape architecture in the State.

§9–103.

This title does not limit the right of a nurseryman, general contractor, or landscape contractor to design, plan, locate, plant, or arrange plantings or other ornamental features.

§9–201.

There is a State Board of Examiners of Landscape Architects in the Department.

§9–202.

(a) (1) The Board consists of 5 members.

(2) Of the 5 members of the Board:

(i) 3 shall be licensed landscape architects; and

(ii) 2 shall be consumer members.

(3) The Governor shall appoint the members with the advice of the Secretary and the advice and consent of the Senate.

(b) Each landscape architect member shall be a licensed landscape architect who has practiced landscape architecture in the State for at least 5 years.

(c) Each consumer member of the Board:

(1) shall be a member of the general public;

(2) may not be a licensee or otherwise be subject to regulation by the Board;

(3) may not be required to meet the qualifications for the professional members of the Board; and

(4) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Board.

(d) While a member of the Board, a consumer member may not:

(1) have a financial interest in or receive compensation from a person regulated by the Board; or

(2) grade any examination given by or for the Board.

(e) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) (1) The term of a member is 3 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 October 1, 1989.

(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.

(g) (1) The Governor may remove a member for incompetence or misconduct.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned if

the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§9–203.

(a) From among its members, the Board annually shall elect a chairman and a secretary.

(b) The manner of election of officers shall be as the Board determines.

§9–204.

(a) A majority of the authorized membership of the Board is a quorum.

(b) The Board shall meet at least twice a year, at the times and places that the Board determines.

(c) A member of the Board:

(1) may not receive compensation; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) The Board may employ a staff in accordance with the State budget.

§9–204.1.

At least annually, the chairman of the Board, the chairman of the State Board of Architects, the chairman of the State Board of Certified Interior Designers, the chairman of the State Board for Professional Engineers, and the chairman of the State Board for Professional Land Surveyors shall meet to discuss issues of mutual importance to the design professions.

§9–205.

(a) To enforce this title, the Board may:

(1) conduct investigations and hold hearings on any matter covered by this title, at any time and place in the State;

(2) administer oaths;

(3) examine witnesses; and

(4) receive evidence.

(b) Subject to the State budget, the Board may employ an investigative staff to:

(1) investigate a complaint; and

(2) perform any other related duty, as assigned by the Board.

(c) (1) The Board may issue a subpoena for the attendance of a witness to testify or the production of evidence in connection with:

(i) any disciplinary action under § 9–310 of this title; or

(ii) any proceeding brought for an alleged violation of this title.

(2) A subpoena shall be signed by the Chairman of the Board and sealed with the seal of the Board.

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

(d) (1) The Board may sue in the name of the State to enforce any provision of this title by injunction.

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

(i) post bond; or

(ii) allege or prove either that:

1. an adequate remedy at law does not exist; or

2. substantial or irreparable damage would result from the continued violation of the provision.

(3) A member of the Board may not be held personally liable for any action taken under this subsection in good faith and with reasonable grounds.

§9–206.

(a) In addition to any powers set forth elsewhere, the Board may adopt:

(1) any regulation to carry out this title; and

(2) a seal.

(b) In addition to any duties set forth elsewhere, the Board shall keep a record of its proceedings.

(c) (1) With the advice of the established landscape architect associations, the Board shall adopt, by regulation, a code of ethics for practicing landscape architecture.

(2) The Board shall distribute a copy of the code of ethics:

(i) to each applicant for a license; and

(ii) on each renewal of a license, to each licensee.

(3) In addition to complying with the publication requirements of Title 10, Subtitle 1 of the State Government Article, the Board shall distribute a copy of any amendment to the code of ethics to each licensee.

§9–206.1.

(a) In this section, "code official" means a public official responsible for the review of building permit documents or the issuance of building permits.

(b) The Board shall:

(1) keep a list of the names and mailing addresses of all licensees;

(2) provide each code official with a copy of the list annually; and

(3) provide any other person who makes a request with a copy of the list at a reasonable fee set by the Board.

(c) (1) The Board shall provide all licensees and code officials with a periodic newsletter not less than semiannually on the activities of the Board.

(2) The Board shall publish, on the Department website, the newsletter jointly with the State Board for Professional Engineers, the State Board of Architects, the State Board of Certified Interior Designers, and the State Board for Professional Land Surveyors.

(d) The Board shall distribute:

(1) to each applicant for a license and each code official, a copy of the Maryland Landscape Architects Act and the Board's rules and regulations;

(2) on each renewal of a license, to each licensee, a copy of any amendments to the Maryland Landscape Architects Act and the Board's rules and regulations that took effect during the 2-year period ending on the date of renewal; and

(3) to each code official, a copy of any amendments to the Maryland Landscape Architects Act and the Board's rules and regulations.

(e) A licensee shall designate the licensee's mailing address at the time of issuance of the license and on each renewal of the license.

§9–207.

(a) The Board may set reasonable fees for its services.

(b) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the Board and shall be based on the calculation performed by the Secretary under § 2–106.2 of the Business Regulation Article.

(c) The Board shall publish the fee schedule set by the Board by regulation.

(d) (1) The Board shall pay all fees collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Occupational and Professional Licensing Design Boards' Fund established in § 2–106.1 of the Business Regulation Article.

§9–207.1.

Any person aggrieved by any final action of the Board may take an appeal as allowed in §§ 10-222 and 10-223 of the State Government Article.

§9–208.

The Board exercises its powers, duties, and functions subject to the authority of the Secretary.

§9–301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice landscape architecture in the State.

(b) This section does not apply to:

(1) an individual who practices landscape architecture while performing official duties as an employee of the federal government;

(2) an individual while practicing landscape architecture under the supervision of a licensed landscape architect, if the individual does not assume responsible charge of design or supervision; or

(3) an individual while practicing landscape architecture as an employee of a person who is authorized to practice landscape architecture, if the employee does not assume responsible charge of design or supervision.

§9–302.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) An applicant shall be at least 18 years old.

(c) An applicant shall meet the educational and experience requirements under § 9-303 of this subtitle.

(d) Except as otherwise provided in this subtitle, the applicant shall pass the examination given by the Board under this subtitle.

§9–303.

(a) Before an applicant takes the examination given by the Board, the applicant shall qualify under this section by meeting the educational and experience requirements set forth in subsection (b), (c), (d), or (e) of this section.

(b) An applicant qualifies under this section if the applicant:

(1) has been graduated from a college or school of landscape architecture that holds accredited status from the national Landscape Architectural Accreditation Board; and

(2) has at least 2 years of work experience in landscape architecture that is:

(i) under the responsible charge of a licensed landscape architect or other authorized individual; and

(ii) otherwise satisfactory to the Board.

(c) An applicant qualifies under this section if the applicant:

(1) has been graduated on completion of at least a 4–year curriculum in a design–related discipline from a college or university that is accredited by, or is a constituent unit of an institution accredited by, the Middle States Association of Colleges and Schools or the equivalent regional accrediting association of other regional areas; and

(2) has at least 4 years of work experience in landscape architecture that is:

(i) under the responsible charge of a licensed landscape architect or other authorized individual; and

(ii) otherwise satisfactory to the Board.

(d) An applicant qualifies under this section if the applicant:

(1) has been graduated on completion of at least a 4–year curriculum in a nondesign–related discipline from a college or university that is accredited by, or is a constituent unit of an institution accredited by, the Middle States Association of Colleges and Schools or the equivalent regional accrediting association of other regional areas; and

(2) has at least 6 years of practical work experience in landscape architecture that is:

(i) under the responsible charge of a licensed landscape architect or other authorized individual; and

(ii) otherwise satisfactory to the Board.

(e) (1) An applicant qualifies under this section if the applicant:

(i) is a high school graduate or the equivalent; and

(ii) has at least 8 years of practical work experience in landscape architecture that is:

1. under the responsible charge of a licensed landscape architect or other authorized individual; and

2. otherwise satisfactory to the Board.

(2) The Board may count each full year of study at a college or school of landscape architecture that meets the criteria set forth in subsection (b) of this section as one of the years of the work experience required under this subsection.

§9–304.

An applicant for a license 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:

(i) a nonrefundable application fee set by the Board; and

(ii) an examination fee set by the Board in an amount not to exceed the cost of the required examination.

§9–305.

(a) Except as otherwise provided in § 9-305.1 of this subtitle, an applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) The Board shall give written examinations to qualified applicants at least once a year at the time and place 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 determine, by regulation, the subjects, scope, and form of and the passing score for examinations given under this title.

(2) The Board shall structure the examination to test the competency of an applicant to plan, design, and supervise the installation of landscape projects.

(3) The Board may supplement a written examination given under this section with an oral examination.

§9–305.1.

(a) The Board may use a testing service to administer the examinations given under this title.

(b) If the Board uses a testing service under this subsection, the testing service, subject to the requirements set by the Board, may:

(1) set the time and place of examinations;

(2) give qualified applicants notice of the time and place of examinations; and

(3) furnish any other information that the Board may require the testing service to provide.

§9–306.

(a) Subject to the provisions of this section, the Board may waive any requirement of this subtitle for an applicant who is licensed to practice landscape architecture in another state.

(b) The Board may grant a waiver under this section only if the applicant:

(1) pays to the Board:

(i) the nonrefundable application fee set by the Board; and

(ii) the license fee set by the Board; and

(2) provides adequate evidence that, at the time the applicant was licensed in the other state, the applicant was required to pass an examination and meet qualifications that were substantially equivalent to the examination and qualifications in this State.

(c) The Board may grant a waiver under this section only if the state in which the applicant is licensed waives the examination and qualifications of licensees of this State to a similar extent as this State waives the examination and qualification requirements for individuals licensed in that state.

§9–307.

(a) If an applicant qualifies for a license under this subtitle, the Board shall send the applicant a notice that states that:

(1) the applicant has qualified for a license; and

(2) on receipt of the license fee set by the Board, the Board will issue a license to the applicant.

(b) On payment of the license fee, the Board shall issue a license to each applicant who meets the requirements of this subtitle.

§9–308.

(a) While a license is in effect, it authorizes the licensee to practice landscape architecture.

(b) A licensed landscape architect is not authorized to practice architecture, engineering, or land surveying.

§9–309.

(a) Unless a license is renewed for a 2–year term as provided in this section, the license expires on the first June 30 that comes:

(1) after the effective date of the license; and

(2) in an even–numbered year.

(b) (1) At least 1 month before a license expires, the Board shall mail or electronically transmit to the licensee:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current license expires; and

2. the amount of the license fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the licensee, at the last known address of the licensee, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(c) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Board the license fee set by the Board; and

(3) submits to the Board a renewal application on the form that the Board provides.

(d) The Board shall renew the license of each licensee who meets the requirements of this section.

(e) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

(f) The Board shall adopt regulations:

(1) to require a licensee to demonstrate continuing professional competency by completing at least 24 hours of professional development activities as a condition of renewal of a license under this section; and

(2) in accordance with the following:

(i) the continuing professional competency requirement does not apply to the first renewal of a license;

(ii) if a license expires on or before September 30, 2015, a licensee is not required to fulfill the continuing professional competency requirement;

(iii) if a license expires between October 1, 2015, and September 30, 2016, a licensee is required to fulfill 50% of the continuing professional competency requirement as provided in regulations adopted by the Board under this subsection; and

(iv) if a license expires on or after October 1, 2016, a licensee is required to fulfill the full continuing professional competency requirement as provided in regulations adopted by the Board under this subsection.

§9–310.

(a) (1) Subject to the hearing provisions of § 9–312 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if:

(i) the applicant or licensee fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(ii) the applicant or licensee fraudulently or deceptively uses a license;

(iii) under the laws of the United States or of any state, the applicant or licensee is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to practice landscape architecture;

(iv) the applicant or licensee is guilty of gross negligence, incompetence, or misconduct while practicing landscape architecture;

(v) the applicant or licensee has had a license to practice landscape architecture in another state revoked or suspended by the other state for a cause that would justify revocation or suspension under this title, except for the failure to pay a license fee;

(vi) the applicant or licensee violates any regulation adopted by the Board; or

(vii) the applicant or licensee violates any provision of this title.

(2) (i) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Board may impose a penalty not exceeding $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Board shall consider:

1. the seriousness of the violation;

2. the harm caused by the violation;

3. the good faith of the licensee; and

4. any history of previous violations by the licensee.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(b) The Board shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or misdemeanor described in subsection (a)(1)(iii) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to practice landscape architecture;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

§9–311.

(a) Subject to the provisions of this section, the Board shall commence proceedings under § 9-310 of this subtitle on a complaint made to the Board by a member or any other person.

(b) (1) A complaint shall:

(i) be in writing;

(ii) state specifically the facts on which the complaint is based; and

(iii) be submitted to the Secretary of the Board.

(2) If the complaint is made by any person other than a member of the Board, the complaint shall be made under oath by the person who submits the complaint.

(c) If the Board finds that a complaint alleges facts that are adequate grounds for action under § 9-310 of this subtitle, the Board shall act on the complaint as provided under § 9-312 of this subtitle. If the Board does not make that finding, it shall dismiss the complaint.

§9–312.

(a) (1) Except as otherwise provided in § 10-226 of the State Government Article, before the Board takes any final action under § 9-310 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

(2) A hearing shall be set within a reasonable time, not exceeding 6 months, after the Board brings charges against a licensee.

(b) The Board shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Board may administer oaths in connection with any proceeding under this section.

(d) At least 30 days before the hearing, the hearing notice and a copy of the complaint shall be:

(1) served personally on the individual; or

(2) mailed to the last known address of the individual.

(e) The individual may be represented at the hearing by counsel.

(f) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§9–313.

(a) Subject to any regulation that the Board adopts, the Board may reinstate a license that has been revoked.

(b) A license may be reinstated under this section only on:

(1) the affirmative vote of a majority of the members of the Board then serving; and

(2) payment to the Board of a reinstatement fee set by the Board.

§9–314.

(a) The Board shall reinstate the license of an individual who, for any reason, has failed to renew the license, if the individual:

(1) applies to the Board for reinstatement within 2 years after the license expires;

(2) meets the renewal requirements of § 9–309 of this subtitle; and

(3) pays to the Board a reinstatement fee set by the Board.

(b) (1) If an individual has failed to renew a license for any reason and then applies to the Board for reinstatement more than 2 years after the license has expired, the Board may:

(i) require the individual to reapply for a license in the same manner that an applicant applies for an original license under this subtitle; or

(ii) subject to paragraph (2) of this subsection, reinstate the license.

(2) The Board may reinstate a license under paragraph (1)(ii) of this subsection, if the individual:

(i) meets the renewal requirements of § 9–309 of this subtitle;

(ii) if required by the Board, states reasons why reinstatement should be granted; and

(iii) pays to the Board a reinstatement fee set by the Board.

(c) The Board may waive a reinstatement fee for a licensee who provides evidence satisfactory to the Board that the licensee did not practice landscape architecture during the time the license lapsed.

§9–401.

In this subtitle, "person in responsible charge" means a licensee who is appointed under § 9–404(b) of this subtitle.

§9–402.

(a) (1) Subject to the provisions of this subtitle, a licensed landscape architect may practice landscape architecture for others through:

(i) a corporation as an officer, employee, or agent of the corporation;

(ii) a partnership as a partner, an employee, or an agent of the partnership; or

(iii) a limited liability company as a member, an employee, or an agent of the limited liability company.

(2) Subject to the provisions of this subtitle, a corporation, partnership, or limited liability company may provide landscape architectural services through a licensed landscape architect.

(b) A licensed landscape architect who practices landscape architecture through a corporation, partnership, or limited liability company under this subtitle is subject to all of the provisions of this title that relate to practicing landscape architecture.

(c) (1) A corporation, partnership, or limited liability company that provides landscape architectural services to others under this subtitle is not, by its compliance with this subtitle, relieved of any responsibility that the corporation, partnership, or limited liability company may have for an act or omission of its officer, partner, member, employee, or agent.

(2) An individual who practices landscape architecture through a corporation, partnership, or limited liability company is not, by reason of the individual's employment or other relationship with the corporation, partnership, or limited liability company, relieved of any individual responsibility that the individual may have regarding that practice.

§9–403.

(a) Except as provided in subsection (b) of this section, a corporation, partnership, or limited liability company shall hold a permit issued by the Board

before the corporation, partnership, or limited liability company may operate a business through which landscape architecture is practiced.

(b) A corporation, partnership, or limited liability company may provide landscape architectural services for itself or for an affiliated corporation, partnership, or limited liability company without a permit issued by the Board.

§9–404.

(a) To qualify for a permit, a corporation, partnership, or limited liability company shall meet the requirements of this section.

(b) (1) A corporation, partnership, or limited liability company shall appoint at least one person in responsible charge of the landscape architectural services performed or offered to be performed through the corporation, partnership, or limited liability company.

(2) A person in responsible charge shall be:

(i) in direct control of landscape architectural services performed or offered to be performed through the corporation, partnership, or limited liability company;

(ii) in a position to act on behalf of, and be responsible for, the corporation, partnership, or limited liability company in matters related to the practice of landscape architecture; and

(iii) a licensed landscape architect in good standing.

(3) A licensee may not be designated as a person in responsible charge for more than one corporation, partnership, or limited liability company that provides or offers to provide landscape architectural services without the prior approval of the Board.

§9–405.

(a) An applicant for a permit shall:

(1) submit to the Board an application on the form that the Board provides; and

(2) pay to the Board the nonrefundable application fee set by the Board.

(b) In addition to any other information required on an application form, the form shall require the following:

(1) the name and address of at least one person in responsible charge of the landscape architectural services performed or offered to be performed through the corporation, partnership, or limited liability company; and

(2) evidence acceptable to the Board that a person in responsible charge is an employee, an owner, a director, an officer, a member, or a partner, as applicable, of the entity seeking a permit.

§9–406.

The Board shall issue a permit to each applicant who meets the requirements of this subtitle and pays to the Board a permit fee set by the Board.

§9–407.

(a) Subject to subsection (b) of this section and while a permit is in effect, it authorizes the holder to:

(1) operate a business through which a licensed landscape architect practices landscape architecture; and

(2) represent to the public that the business provides the services of a licensed landscape architect.

(b) A permit authorizes the holder to provide a service that constitutes practicing landscape architecture only if the service is performed by an individual who is licensed or otherwise authorized to practice landscape architecture under this title.

§9–408.

(a) Unless a permit is renewed for a 2–year term as provided in this section, the permit expires on the first June 30 that comes:

(1) after the effective date of the permit; and

(2) in an even–numbered year.

(b) (1) At least 1 month before a permit expires, the Board shall mail or electronically transmit to the permit holder:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current permit expires; and

2. the amount of the permit fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the permit holder, at the last known address of the permit holder, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(c) Before a permit expires, the permit holder periodically may renew it for an additional 2–year term, if the holder:

(1) otherwise is entitled to a permit;

(2) pays to the Board the permit fee set by the Board; and

(3) submits to the Board a renewal application on the form that the Board provides.

(d) The renewal application form shall require the same information required on the original application form under § 9–405(b) of this subtitle.

(e) The Board shall renew the permit of each permit holder that meets the requirements of this section.

§9–409.

Within 1 month after the effective date of the change or occurrence, a permit holder shall notify the Board in writing if there has been a change in:

(1) the identity of the person in responsible charge of landscape architectural services performed or offered to be performed through the corporation, partnership, or limited liability company; or

(2) the name of the corporation, partnership, or limited liability company.

§9–410.

(a) Subject to the hearing provisions of § 9–411 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a permit to any applicant, reprimand a permit holder, or suspend or revoke a permit if:

(1) the applicant or permit holder fraudulently or deceptively obtains or attempts to obtain a permit; or

(2) the permit holder fraudulently or deceptively uses a permit.

(b) (1) In addition to a sanction imposed under subsection (a) of this section, the Board may impose a penalty not exceeding $5,000 for:

(i) each violation for which a denial, reprimand, suspension, or revocation was imposed under subsection (a) of this section; and

(ii) each failure to meet or continue to meet the qualifications or requirements set forth in this subtitle.

(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 permit holder or the applicant; and

(iv) any history of previous violations by the permit holder or the applicant.

(c) The Board shall pay any penalty collected under subsection (b) of this section into the General Fund of the State.

§9–411.

(a) Except as otherwise provided in § 10–226 of the State Government Article, before the Board takes any final action under § 9–410 of this subtitle, it shall give the person 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) At least 30 days before the hearing, the hearing notice and a copy of the complaint shall be:

(1) served personally on the applicant or on a person in responsible charge of landscape architecture practiced through the entity holding the permit or a person designated as a resident agent to receive process on behalf of the entity; or

(2) mailed to the last known business address of the applicant or the entity holding the permit.

(d) If, after due notice, the person against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

§9–412.

(a) (1) For the limited purpose set forth in paragraph (2) of this subsection, a permit shall remain in effect and does not expire by operation of law while the permit holder is under investigation by the Board or awaiting a hearing or disposition on charges subject to disciplinary action under this subtitle.

(2) An extension of a permit term under this subsection is effective only for the purpose of retaining the jurisdiction of the Board over the permit holder during the course of disciplinary proceedings and does not prevent the permit from expiring for any other purpose.

(b) Unless the Board agrees to accept the surrender, a permit holder may not surrender a permit while the holder is under investigation or awaiting a hearing or disposition on charges subject to disciplinary action under this subtitle.

§9–413.

A corporation, partnership, or limited liability company whose permit has been suspended or revoked under § 9–410 of this subtitle may not offer or provide landscape architectural services until the suspension is lifted or the permit is reinstated.

§9–414.

(a) Subject to the provisions of this section, the Board may reinstate:

(1) a permit that has been revoked; or

(2) before fulfillment of the conditions of the suspension, a permit that has been suspended.

(b) A permit may be reinstated under this section only if:

(1) the corporation, partnership, or limited liability company whose permit has been revoked or suspended submits a written request to the Board; and

(2) the corporation, partnership, or limited liability company pays to the Board a reinstatement fee set by the Board.

(c) The Board, by an affirmative vote of a majority of its members then serving, shall vote on the request for reinstatement or lifting of the suspension within 60 days of receipt of the written request.

§9–415.

The Board may reinstate the permit of a corporation, partnership, or limited liability company that has failed to renew the permit for any reason if the corporation, partnership, or limited liability company:

(1) otherwise is entitled to a permit; and

(2) pays to the Board a reinstatement fee set by the Board.

§9–416.

After the Board reinstates a permit, the permit holder shall continue to comply with all applicable requirements set forth in this subtitle.

§9–501.

Before a licensed landscape architect issues to a client or submits to a public authority any final drawing, plan, specification, report, or other document, the licensed landscape architect who prepared or approved the document shall sign, seal, and date the document.

§9–601.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice landscape architecture in the State unless licensed by the Board.

§9–602.

Except for a licensed landscape architect who operates a business as a sole practitioner, a person may not operate a business through which landscape architecture is practiced unless:

(1) the business is a corporation, partnership, or limited liability company; and

(2) the corporation, partnership, or limited liability company holds a permit issued by the Board.

§9–603.

Unless authorized under this title to practice landscape architecture, a person may not represent to the public, by use of a title, including "landscape architect" or "licensed landscape architect", by description of services, methods, or procedures, or otherwise, that the person is authorized to practice landscape architecture in the State.

§9–604.

(a) Subject to subsection (b) of this section and unless a person holds a permit issued by the Board, the person may not represent to the public, by the use of a title, including "landscape architects", "licensed landscape architects", or "registered landscape architects", by the use of the term "landscape architecture", by description of services, methods, or procedures, or otherwise, that the person holds a permit or otherwise is authorized to operate a business through which landscape architecture is practiced in the State.

(b) Subsection (a) of this section does not apply to a licensed landscape architect who operates the business as a sole practitioner.

§9–604.1.

A person may not give false information to the Board in an attempt to obtain a license.

§9–605.

(a) A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $3,000 or imprisonment not exceeding 1 year or both.

(b) (1) The Board may impose on a person who violates any provision of this title a penalty not exceeding $5,000 for each violation.

(2) In setting the amount of the penalty, the Board shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the violator;

(iv) any history of previous violations by the violator; and

(v) any other relevant factors.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

§9–701.

This title may be cited as the "Maryland Landscape Architects Act".

§9–702.

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, 2034.

§9.5–101.

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

(b) "Certificate of Competence" means certification obtained by a person through any organization accredited by the American National Standards Institute (ANSI), or the National Commission for Certifying Agencies (NCCA) that states the holder of the certificate demonstrates knowledge of and training in safe crane operating procedures.

(c) "Commissioner" means the Commissioner of Labor and Industry in the Division of Labor and Industry in the Department.

(d) (1) "Crane" means a machine for lifting, lowering, and horizontally moving a load, that has a hoisting mechanism that is an integral part of the machine.

(2) "Crane" includes tower cranes.

(3) "Crane" does not include:

(i) aircraft;

(ii) a bucket truck;

(iii) a digger derrick truck;

(iv) a fork lift;

(v) a knuckle boom;

(vi) a trolley boom;

(vii) a hydraulic crane;

(viii) a power–operated derrick; or

(ix) a public utility company line truck used by a public utility company in the construction or maintenance of its transmission and distribution lines.

(e) "Crane operator" means a person who operates a crane.

(f) (1) "Operate a crane" means to use mechanisms inside a crane to guide the machine in:

(i) the lifting, moving, positioning, and placing of large and heavy objects, earth, or other materials; or

(ii) the driving of large objects or materials into the ground.

(2) "Operate a crane" includes:

(i) the inspection of a crane;

(ii) assisting in the erection, adding to, or dismantling of a crane; and

(iii) the performance of routine maintenance on a crane.

(3) "Operate a crane" does not include the movement of a crane on a State highway from one location to another location.

§9.5–102.

Notwithstanding any other provision of law, a person may not:

(1) operate a crane in the State for the purpose of construction work or demolition work unless the person holds a Certificate of Competence; or

(2) authorize a person to operate a crane in the State for the purpose of construction work or demolition work unless the operator holds a Certificate of Competence.

§9.5–103.

(a) A crane operator who holds a Certificate of Competence shall:

(1) carry the Certificate of Competence while operating a crane in the State; and

(2) make the Certificate of Competence available for inspection on request by the Commissioner, an agent of the Commissioner, or by a law enforcement officer.

(b) The failure of a crane operator to make the Certificate of Competence available for inspection on request as required under paragraph (a)(2) of this subsection shall be presumptive evidence that the crane operator does not hold a Certificate of Competence.

§9.5–104.

(a) In addition to the powers conferred under this title, the Commissioner may use all powers conferred by law to the Commissioner to implement and enforce the provisions of this title.

(b) (1) The Commissioner or an agent of the Commissioner who has reason to believe that a person is or has been operating a crane in the State without a valid Certificate of Competence shall require the crane operator to provide proof that the crane operator holds a Certificate of Competence.

(2) If a crane operator fails to provide proof of a valid Certificate of Competence under paragraph (1) of this subsection, the Commissioner or the agent of the Commissioner shall issue a written notice to the person that:

(i) states that there has been a violation of this title, or regulations adopted under it, if any; and

(ii) requires the operation of the crane to cease unless operated by a person holding a valid Certificate of Competence.

(3) If a person fails to comply with a written notice issued under paragraph (2) of this subsection, the Commissioner may bring an action to enforce the written notice in the county where the crane being operated is located or in the Circuit Court of Baltimore City.

(c) (1) A person aggrieved by a decision of the Commissioner under this section may appeal to a court of competent jurisdiction in accordance with the Maryland Rules.

(2) A decision of the Commissioner may not be stayed by the filing of an appeal under this subsection.

§9.5–105.

A person who violates this title or regulations adopted under this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000.

§9.5–106.

The Commissioner shall adopt regulations to implement, administer, and enforce this title.

§9.5–107.

This title shall be known as the "Maryland Safe Crane Operators Act".

§10–101.

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

(b) "Admission to the Bar" means, unless the context requires otherwise, authorization by the Supreme Court of Maryland to practice law in the State.

(c) "Attorney at law" means a lawyer who, while practicing law, represents another person.

(d) "Bar" means, unless the context requires otherwise, the Bar of the Supreme Court of Maryland.

(e) "Board" means the State Board of Law Examiners.

(f) (1) "Court" means, unless the context requires otherwise:

(i) the Supreme Court of Maryland;

(ii) the Appellate Court of Maryland;

(iii) a circuit court; or

(iv) the District Court of Maryland.

(2) "Court" does not include:

(i) an orphans' court; or

(ii) the Maryland Tax Court.

(g) "Lawyer" means an individual who is admitted to the Bar.

(h) (1) "Practice law" means to engage in any of the following activities:

(i) giving legal advice;

(ii) representing another person before a unit of the State government or of a political subdivision; or

(iii) performing any other service that the Supreme Court of Maryland defines as practicing law.

(2) "Practice law" includes:

(i) advising in the administration of probate of estates of decedents in an orphans' court of the State;

(ii) preparing an instrument that affects title to real estate;

(iii) preparing or helping in the preparation of any form or document that is filed in a court or affects a case that is or may be filed in a court; and

(iv) giving advice about a case that is or may be filed in a court.

§10–102.

This title does not limit the right of:

(1) an individual to appear on the individual's own behalf before a court or other unit of the State government;

(2) a title insurance company to examine and to insure titles to real property;

(3) a collection company to engage in the business of collecting or adjusting commercial claims; or

(4) a lawyer who is employed on a regular salaried basis by a corporation to represent the corporation before a court or other unit of the State government.

§10–103.

(a) Subject to this title, the Supreme Court of Maryland shall adopt rules that govern the standards and procedures for admission to the Bar.

(b) The rules under this section shall include provisions for:

(1) a uniform system of Bar examination in the State;

(2) the registration of each applicant for admission to the Bar;

(3) the qualifications of each applicant for admission to the Bar;

(4) the examination of the character of each applicant for admission to the Bar; and

(5) the fees to be paid by an applicant.

§10–201.

There is a State Board of Law Examiners.

§10–202.

(a) (1) The Board consists of 7 members.

(2) Each member shall be a lawyer.

(3) The Supreme Court of Maryland shall appoint the members of the Board.

(b) Each member of the Board shall have been a lawyer for at least 5 years.

(c) (1) The term of a member is 5 years and begins on January 1.

(2) The terms of members are staggered as required by the terms provided for members of the Board on October 1, 1989.

(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) The Supreme Court of Maryland may reappoint a member.

(d) A majority of the authorized membership of the Board is a quorum.

§10–203.

The Board shall pay all money collected under this title into the General Fund of the State.

§10–206.

(a) Except as otherwise provided by law, before an individual may practice law in the State, the individual shall:

(1) be admitted to the Bar; and

(2) meet any requirement that the Supreme Court of Maryland may set by rule.

(b) This section does not apply to:

(1) a person while representing a landlord in a summary ejectment or a rent escrow proceeding in the District Court of Maryland;

(2) a person while representing a tenant in a summary ejectment or a rent escrow proceeding in the District Court of Maryland if the person is:

(i) a law student practicing in a clinical law program at a law school accredited by the American Bar Association with the in–court supervision of a faculty member; or

(ii) employed by a nonprofit organization receiving grants from the Maryland Legal Services Corporation and:

1. the person has training and experience;

2. the person is supervised by a lawyer; and

3. the supervising lawyer's appearance is entered in the proceeding;

(3) an insurance company while defending an insured through staff counsel;

(4) an officer of a corporation, an employee designated by an officer of a corporation, a partner in a business operated as a partnership or an employee designated by a partner, a member of a limited liability company or an employee designated by a member of a limited liability company, or an employee designated by the owner of a business operated as a sole proprietorship while the officer, partner, member, or employee is appearing on behalf of the corporation, partnership, limited liability company, or business in a civil action in the District Court of Maryland or an appeal from the District Court of Maryland if:

(i) the action or appeal:

1. is based on a claim that does not exceed the amount set under § 4–405 of the Courts Article for a small claim action; and

2. is not based on an assignment, to the corporation, partnership, or business, of the claim of another;

(ii) in the case of a designated employee, the employee:

1. is not assigned on a full–time basis to appear in the District Court on behalf of the corporation, partnership, or business;

2. provides the court a power of attorney sworn to by the employer that certifies that the designated employee is an authorized agent of the corporation, partnership, limited liability company, or sole proprietorship and may bind the corporation, partnership, limited liability company, or sole proprietorship on matters pending before the court; and

3. is not an individual who is disbarred or suspended as a lawyer in any state; and

(iii) the corporation, partnership, limited liability company, or business does not contract, hire, or employ another business entity to provide appearance services;

(5) an individual who is authorized by a county employee to represent the employee at any step of the county's grievance procedure; or

(6) a director or an officer of a common ownership community while representing the common ownership community in a dispute, hearing, or other matter before a board or commission established to oversee one or more of the following common ownership communities:

(i) a development subject to a declaration enforced by a homeowners association as defined in § 11B–101 of the Real Property Article;

(ii) a residential condominium as defined in § 11–101 of the Real Property Article; or

(iii) a cooperative housing corporation as defined in § 5–6B–01 of the Corporations and Associations Article.

(c) (1) In this subsection, "practice patent law":

(i) means to perform professional services that the Patent and Trademark Office requires to be performed by an individual registered to practice before that Office; and

(ii) includes preparing a copyright application or assignment and submitting it to the Copyright Office of the Library of Congress.

(2) While there is a Patent and Trademark Office in the State, an individual may practice patent law in the State if the individual is:

(i) authorized to practice law in any other state; and

(ii) registered to practice patent law before the Patent and Trademark Office.

(3) Unless otherwise authorized under this title, an individual who practices patent law under this subsection may not:

(i) appear as an attorney at law in a court; or

(ii) practice law generally in the State.

(d) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Affiliate" means a person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with an employer.

(iii) "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of, whether through the ownership of voting securities, by contract, or by some other means, the management and policies of a person.

(2) Subject to paragraph (3) of this subsection, this section does not apply to an individual who is admitted to the bar of any other state, while giving legal advice to the individual's employer or the employer's organizational affiliates.

(3) An individual who gives legal advice under this subsection:

(i) is subject to disciplinary proceedings as the Maryland Rules provide; and

(ii) may not appear before a unit of the State government or of a political subdivision unless a court grants the individual a special admission in accordance with § 10–215 of this subtitle.

§10–207.

(a) To qualify for admission to the Bar, an applicant shall be an individual who meets the requirements of this section.

(b) An applicant shall be of good character and reputation.

(c) An applicant shall be at least 18 years old as of the date of admission.

(d) An applicant shall:

(1) have completed the academic work necessary to meet the minimum requirements for admission to an American Bar Association approved law school; and

(2) have a degree of juris doctor or its equivalent from a law school that the Board recognizes.

(e) An applicant shall pass a written examination given by the Board under this subtitle.

(f) An applicant shall meet any other qualification or requirement that the Supreme Court of Maryland establishes by rule.

§10–208.

(a) An applicant for admission to the Bar shall submit to the Board a petition to the Supreme Court of Maryland on the form that the Board provides.

(b) An applicant shall pay to the Board:

(1) an examination fee, as set by the Supreme Court of Maryland, not exceeding:

(i) $250 for fiscal year 2009; and

(ii) $400 for fiscal year 2010 and thereafter; and

(2) any other fee set by the Supreme Court of Maryland.

§10–209.

(a) (1) An applicant who otherwise qualifies for admission to the Bar is entitled to be examined as provided under this section.

(2) Notwithstanding § 10–207(c) of this subtitle, an individual under the age of 18 years may take the examination.

(b) Subject to the rules adopted by the Supreme Court of Maryland, the Board periodically shall give examinations to applicants at the times and places that the Board determines.

(c) The Board shall give each applicant notice of the time and place of examination.

(d) Subject to the rules adopted by the Supreme Court of Maryland, the Board shall determine the subjects, scope, and form of and the passing score for examinations.

(e) The Board shall report to the Supreme Court of Maryland:

(1) the results of each examination that the Board gives; and

(2) recommendations about the character and reputation of each applicant who passes the examination.

§10–210.

(a) An applicant who is a member of the bar of another state may become a member of the Bar of this State if the applicant:

(1) is of good character and reputation;

(2) provides adequate evidence that, for at least 5 of the 7 years immediately before applying for admission to the Bar, the applicant was practicing law or teaching law or was a judge;

(3) pays the application fee set by the Supreme Court of Maryland; and

(4) passes an examination given by the Board.

(b) The Supreme Court of Maryland may adopt rules to govern:

(1) the content and administration of an examination given under this section;

(2) the determination of the character and reputation of applicants; and

(3) any other matter necessary to provide for the admission to the Bar of applicants under this section.

§10–211.

If an applicant meets the requirements of this Part II of this subtitle, the Supreme Court of Maryland shall pass an order of admission of the applicant to the Bar.

§10–212.

On admission to the Bar, a lawyer shall take the following oath or affirmation in open court:

"I do solemnly (swear) (affirm) that I will at all times demean myself fairly and honorably as an attorney and practitioner at law; that I will bear true allegiance to the State of Maryland, and support the laws and Constitution thereof, and that I will bear true allegiance to the United States, and that I will support, protect and defend the Constitution, laws and government thereof as the supreme law of the land; any law, or ordinance of this or any state to the contrary notwithstanding."

§10–213.

(a) Subject to subsection (b) of this section and while an admission to the Bar is in effect, the admission authorizes a lawyer to practice law in any court.

(b) Before a lawyer may practice law, the lawyer shall satisfy any additional requirement set by rule of the Supreme Court of Maryland.

§10–214.

The Supreme Court of Maryland may revoke an order of admission to the Bar that is obtained fraudulently or deceptively.

§10–215.

(a) Subject to subsections (b) and (c) of this section, on a motion filed as required by rules adopted by the Supreme Court of Maryland, a court may grant special admission to practice law in a particular case to an individual who is:

(1) admitted to the bar of another state; and

(2) employed by a party in the case before:

(i) a court or other unit of the State government; or

(ii) a unit of a political subdivision of the State.

(b) A special admission to practice law may be granted only:

(1) by the court hearing the case for which an individual requests the special admission; or

(2) if the case is before a unit other than a court, by:

(i) the circuit court for the county where the unit has its principal office; or

(ii) any circuit court to which the case may be appealed.

(c) An individual may practice law under this section only in connection with the case for which the special admission is granted.

(d) An individual who practices law under this section is subject to disciplinary proceedings as the Maryland Rules provide.

§10–218.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this subtitle shall terminate and be of no effect after July 1, 2030.

§10–301.

(a) In this Part I of this subtitle the following words have the meanings indicated.

(b) (1) "Attorney trust account" means an account that a lawyer or law firm maintains at a financial institution for the deposit of trust money.

(2) "Attorney trust account" includes an escrow account.

(c) "Beneficial owner" means a person, other than the client of a lawyer, for whose benefit a lawyer is entrusted to hold trust money.

(d) "Trust money" means a deposit, payment, or other money that a person entrusts to a lawyer to hold for the benefit of a client or a beneficial owner.

§10–302.

(a) Unless a lawyer or the firm of the lawyer maintains an attorney trust account in accordance with this subtitle and the Maryland Rules, the lawyer may not accept trust money.

(b) Each attorney trust account shall be maintained at an approved financial institution, as provided in the Maryland Rules.

(c) (1) An attorney trust account may be an interest bearing or noninterest bearing account.

(2) An attorney trust account may be:

(i) a savings account;

(ii) a checking account;

(iii) an account that is subject to negotiable orders of withdrawal; or

(iv) any combination of these accounts.

(3) A lawyer who deposits trust money in a noninterest bearing account is not liable for damages that relate to the loss of interest on the trust money if the deposit is made in compliance with:

(i) the provisions of this Part I of this subtitle; and

(ii) the applicable provisions of the Maryland Rules of Professional Conduct.

§10–303.

(a) Subject to this section a lawyer shall deposit trust money in an attorney trust account, all interest on which is payable to the Maryland Legal Services Corporation Fund established under § 11–402 of the Human Services Article.

(b) A lawyer shall deposit trust money in an interest bearing account under this section whenever the lawyer reasonably expects that, for the period that the lawyer expects to hold the trust money, the interest that it would earn:

(1) would not exceed $50; or

(2) (i) would exceed $50; but

(ii) would not cover the cost of administering an interest bearing account on which interest is payable to the client or beneficial owner.

(c) The Administrative Office of the Courts, in consultation with the Maryland Legal Services Corporation, may waive the provisions of subsection (b) of this section with respect to a lawyer or law firm that demonstrates that it will cost the Maryland Legal Services Corporation Fund more in service charges to open and maintain an attorney trust account with the interest payable to the Maryland Legal

Services Corporation Fund than will be generated in interest by the attorney trust account.

(d) (1) At least quarterly, each financial institution that has an account described under this section shall:

(i) deduct from the total interest accumulated in the account any service charge due on the account; and

(ii) pay the net interest to the Maryland Legal Services Corporation Fund.

(2) A financial institution:

(i) may not charge against the individual accounts of a lawyer any service charges for trust money in an account under this section; and

(ii) may charge the Maryland Legal Services Corporation Fund.

§10–304.

(a) Except as provided in subsection (b) of this section, a lawyer expeditiously shall deposit trust money into an attorney trust account.

(b) Subsection (a) of this section does not apply if there is a court order to the contrary.

(c) Notwithstanding subsection (a) of this section or any other law, a lawyer may disburse, at settlement in a real estate transaction, trust money that the lawyer receives in the transaction.

§10–305.

Except for trust money that a lawyer is required to deposit in an attorney trust account that earns interest payable to the Maryland Legal Services Corporation, a lawyer may withdraw trust money from an attorney trust account and invest it:

(1) as the client or beneficial owner of the trust money instructs; or

(2) as the lawyer and the client or beneficial owner of the trust money agree.

§10–306.

A lawyer may not use trust money for any purpose other than the purpose for which the trust money is entrusted to the lawyer.

§10–307.

A lawyer who willfully violates any provision of this Part I of this subtitle, except for the requirement that a lawyer deposit trust money in an attorney trust account for charitable purposes under § 10–303 of this subtitle, is subject to disciplinary proceedings as the Maryland Rules provide.

§10–310.

In this Part II of this subtitle, "Fund" means the Client Protection Fund of the Bar of Maryland.

§10–311.

(a) The Supreme Court of Maryland may adopt rules that:

(1) establish a Client Protection Fund of the Bar of Maryland;

(2) provide for the appointment of trustees to administer the Fund; and

(3) provide for the operation of the Fund.

(b) The purpose of the Fund is to maintain the integrity of the legal profession by paying money to reimburse losses caused by defalcations of lawyers.

(c) By rule, the Supreme Court of Maryland may:

(1) require a lawyer to pay an annual fee, not exceeding $20, to the Fund; and

(2) specify the penalties, including suspension and disbarment, for practicing law without having paid the annual fee.

(d) The Fund may raise and collect money through voluntary contributions or other means.

§10–312.

(a) The trustees appointed under § 10-311 of this subtitle shall:

(1) receive contributions to the Fund; and

(2) manage the assets of the Fund.

(b) To the extent the trustees consider reimbursement proper and reasonable, the trustees may use the Fund to reimburse a person for a loss that was caused by a defalcation of a lawyer if:

(1) the lawyer caused the loss while acting for the person as an attorney at law or a fiduciary; and

(2) the person cannot recover the money under a bond.

(c) The trustees may enforce a claim for restitution arising by subrogation, assignment, or otherwise against any person whose actions gave rise to a claim that the Fund pays.

§10–313.

(a) By August 31 of each year, the Fund shall provide a list of lawyers who have paid an annual fee to the Fund during the previous fiscal year to:

(1) the Department of Assessments and Taxation, to assist the Department in identifying new businesses within the State; and

(2) the Comptroller, to assist the Comptroller in determining whether each lawyer on the list has paid all undisputed taxes and unemployment insurance contributions payable to the Comptroller or the Secretary of Labor.

(b) The list provided under this section shall:

(1) be provided free of charge; and

(2) include, for each person on the list:

(i) the name and mailing address of the person; and

(ii) the federal tax identification number of the person or, if the person does not have a federal tax identification number, the Social Security number of the person.

(c) If the Comptroller determines that a lawyer has not paid all undisputed taxes and unemployment insurance contributions payable to the Comptroller or the

Secretary of Labor and the lawyer does not make payment or provide for payment in a manner satisfactory to the unit responsible for collection within 60 days after receiving notice of the delinquency from the Comptroller, or within any longer period authorized for good cause by the unit responsible for collection, the Comptroller may refer the matter to Bar Counsel under Maryland Rule 16–731.

§10–401.

The Attorney General may investigate, as provided in this subtitle, a complaint of an unauthorized practice of law.

§10–402.

(a) (1) Each investigation conducted under this subtitle is confidential.

(2) Except as otherwise provided in this section, a person who participates in an investigation may not disclose the name of a person under investigation, the name of a witness, or any other information obtained in the investigation.

(b) A person who participates in an investigation may disclose information to:

(1) the person under investigation; and

(2) a person to whom disclosure is required in the discharge of an official duty.

§10–403.

Whenever the Attorney General conducts an investigation under this subtitle, the Attorney General shall provide to the person under investigation:

(1) a written statement that specifies the conduct under investigation; and

(2) an opportunity to be heard and to present evidence on the conduct under investigation.

§10–404.

(a) In an investigation under this subtitle, the Attorney General, a deputy attorney general, or any assistant attorney general whom the Attorney General designates may:

(1) issue a subpoena for the attendance of a witness to testify or the production of evidence;

(2) administer oaths; and

(3) examine witnesses.

(b) The laws that relate to civil actions govern the attendance and compensation of witnesses in an investigation under this subtitle.

(c) If a person fails to comply with a subpoena or refuses to testify about a material matter, on petition of the Attorney General, a circuit court may compel compliance with the subpoena.

§10–405.

In an investigation under this subtitle, an officer of the State or of a political subdivision of the State or a deputy, clerk, or employee of the officer shall provide the information and help requested by the Attorney General, a deputy attorney general, or any assistant attorney general whom the Attorney General designates.

§10–406.

(a) The Attorney General or Bar Counsel appointed under Maryland Rule 16-712 may sue to enjoin an unauthorized person from practicing, attempting to practice, or offering to practice law.

(b) (1) If the Attorney General brings an action under this section, Bar Counsel may intervene for good cause at any stage of the proceeding.

(2) If Bar Counsel brings an action under this section, the Attorney General may intervene for good cause at any stage of the proceeding.

§10–407.

The remedies and procedures set forth in this subtitle are in addition to and not in substitution for other remedies and procedures that address the unauthorized practice of law.

§10–501.

(a) Subject to subsection (b) of this section, an attorney at law has a lien on:

(1) a cause of action or proceeding of a client of the attorney at law from the time the cause of action arises or the proceeding begins; and

(2) a settlement, judgment, or award that a client receives as a result of legal services that the attorney at law performs.

(b) A lien under this section attaches only if, and to the extent that, under a specific agreement between an attorney at law and a client, the client owes the attorney at law a fee or other compensation for legal services that produced the settlement, judgment, or award.

(c) A lien under this section is subordinate only to:

(1) a prior lien for wages due to an employee of the client for work related to the settlement, judgment, or award; or

(2) a lien for taxes that the client owes the State.

(d) An attorney at law may retain property subject to a lien under this section and bring an action for execution under the lien only in accordance with rules that the Supreme Court of Maryland adopts.

§10–502.

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

(2) "Lawyer counseling committee" means a group of individuals that:

(i) is recognized by the Supreme Court of Maryland;

(ii) is a standing committee of the Maryland State Bar Association or of a local bar association;

(iii) consists of lawyers and other individuals necessary to carry out the functions of the committee; and

(iv) evaluates and helps a lawyer in need of treatment and rehabilitation for:

1. substance abuse; or

2. any other physical, emotional, or mental condition that adversely affects the ability of the lawyer to practice law in accordance with the rules adopted by the Supreme Court of Maryland.

(3) "Local bar association" means:

(i) in Baltimore City, the Bar Association of Baltimore City; or

(ii) in each county, the bar association with the greatest number of members who are residents of the county and who maintain their principal office for the practice of law in that county.

(b) (1) This subsection does not apply to a proceeding before the Attorney Grievance Commission or a disciplinary proceeding against a lawyer before a circuit court or the Supreme Court of Maryland.

(2) The proceedings, records, and files of a lawyer counseling committee are not admissible into evidence or discoverable in an action that arises out of a matter that the lawyer counseling committee is or has been reviewing.

(c) Notwithstanding any other law, a member of a lawyer counseling committee shall have the immunity from liability and may not be subject to any disciplinary proceeding as described in § 5–416 of the Courts and Judicial Proceedings Article.

§10–601.

(a) Except as otherwise provided by law, a person may not practice, attempt to practice, or offer to practice law in the State unless admitted to the Bar.

(b) While an individual is on inactive status or disbarred or while the individual's right to practice law is suspended or revoked, the individual may:

(1) discharge existing obligations;

(2) collect and distribute accounts receivable; or

(3) perform any other act that is necessary to conclude the affairs of a law practice but that does not constitute practicing law.

(c) It is not a defense to a charge of a violation of this section that the defendant acted through an officer, director, partner, trustee, agent, or employee who is a lawyer.

§10–602.

Unless authorized by law to practice law in the State, a person may not represent to the public, by use of a title, including "lawyer", "attorney at law", or "counselor at law", by description of services, methods, or procedures, or otherwise, that the person is authorized to practice law in the State.

§10–603.

(a) This section does not apply to:

(1) a lawyer while employed as a part–time magistrate for juvenile cases; or

(2) an individual while:

(i) performing an affirmative duty required by law; or

(ii) engaging in an activity related to a case in which the individual is a party or has a property interest.

(b) Even if an individual has been admitted to the Bar, the individual may not practice law while employed:

(1) except as provided in subsection (c) of this section, as a sheriff or deputy sheriff;

(2) in a jail or penitentiary, as:

(i) a warden or deputy warden; or

(ii) a superintendent or deputy superintendent;

(3) as a bailiff;

(4) as a clerk or deputy clerk of any court or an employee of a clerk;

(5) as a register or deputy register of wills or an employee of a register of wills; or

(6) as an officer or employee in a juvenile court.

(c) An individual employed as a sheriff or deputy sheriff in Washington County who has been admitted to the Bar may practice law in a county other than Washington County.

(d) (1) This subsection does not apply to the settlement of small estates as set forth in Title 5, Subtitle 6 of the Estates and Trusts Article.

(2) In Prince George's County, a sheriff, deputy sheriff, warden, deputy warden, clerk, or employee of any court may not prepare or help in the preparation of any form or document that is filed in a court in that county or that affects a case that is or may be filed in a court in that county.

§10–604.

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

(2) "Law enforcement agency" means an agency that is listed in § 3–101(e) of the Public Safety Article.

(3) "Motor vehicle accident" has the meaning stated in § 27–401 of the Insurance Article.

(4) "Report" means a report completed by a police officer of a law enforcement agency that:

(i) indicates that a motor vehicle accident occurred; and

(ii) includes information about a person involved in the motor vehicle accident, including the person's name, telephone number, and address.

(b) Without an existing relationship or interest in an issue:

(1) a person may not, for personal gain, solicit another person to sue or to retain a lawyer to represent the other person in a lawsuit;

(2) a person who is not a lawyer may not, for personal gain, access a report for the purpose of soliciting another person to sue or to retain a lawyer to represent the other person; and

(3) a lawyer, except as provided in the Rules of Professional Conduct, may not:

(i) for personal gain, solicit another person to sue or to retain the lawyer to represent the person in a lawsuit;

(ii) directly or indirectly employ or in any way compensate or agree to employ or compensate any person as an expert witness or otherwise for the purpose of having that person solicit or attempt to solicit clients for the lawyer;

(iii) knowingly represent a person who retained the lawyer as a result of solicitation prohibited under this section; or

(iv) cause a case to be instituted without the authority of a client.

(c) Any solicitation involving acts described in this section is prima facie evidence that the person soliciting is acting for gain.

§10–605.

A sheriff, deputy sheriff, constable, police officer, or other law enforcement official may not solicit clients for a lawyer in a place where individuals are held while awaiting trial for criminal offenses.

§10–605.1.

(a) This section applies only to the following forms of communication:

(1) an audio recording;

(2) a computer on-line transmission;

(3) a facsimile transmission;

(4) a letter or other form of written communication;

(5) a telegraphic transmission;

(6) a telephonic transmission; and

(7) a video recording.

(b) A lawyer may not send a communication, directly or through an agent, to a prospective client for the purpose of obtaining professional employment if the communication concerns an action for personal injury or wrongful death, or otherwise relates to an accident or disaster involving the person to whom the communication is sent or the person's relative, unless the accident or disaster occurred more than 30 days before the date the communication is sent.

(c) This section does not apply to a communication sent by a lawyer to a prospective client at the request of the prospective client.

§10–605.2.

(a) (1) This section applies only to a communication:

(i) in a form described under subsection (c) of this section;

(ii) sent by a lawyer, directly or through an agent or employee, to a prospective client for the purpose of obtaining professional employment; and

(iii) if the communication concerns:

1. an action for personal injury or wrongful death, or otherwise relates to an accident or disaster involving the person to whom the communication is sent or the person's relative; or

2. a criminal prosecution, or a prosecution of a traffic offense that is punishable by a period of incarceration, involving the person to whom the communication is sent or the person's relative.

(2) This section does not apply to a direct marketing communication that is not related to:

(i) a specific accident or disaster described under paragraph (1)(iii)1 of this subsection; or

(ii) a specific criminal prosecution or traffic offense described under paragraph (1)(iii)2 of this subsection.

(b) This section does not apply to a communication sent to a prospective client at the request of the prospective client.

(c) This section applies only to the following forms of communication:

(1) an audio recording;

(2) a computer on–line transmission;

(3) a facsimile transmission;

(4) a letter or other form of written communication;

(5) a telegraphic transmission;

(6) a telephonic transmission; and

(7) a video recording.

(d) (1) Each communication shall include the words "this is an advertisement" in a prominent place at the beginning and end of each communication as required in this subsection.

(2) In a communication sent by computer on–line transmission, facsimile, mail, or telegraph, the required wording shall appear in conspicuous print size and in a freestanding form:

(i) on the outside of the envelope, if any; and

(ii) at the beginning and end of the contents of the communication.

(3) If the form of the communication is a self–mailing brochure or pamphlet, the required wording shall appear on the address panel of the brochure or pamphlet.

(4) In a video recording communication, the required wording:

(i) shall appear conspicuously in the communication for at least five seconds at the beginning and for at least five seconds at the end of the communication; and

(ii) of the audio recording portion, if any, of the communication shall meet the requirements of paragraph (5) of this subsection.

(5) In an audio recording communication, the required wording shall appear, at the beginning and end of the communication, in a tone, volume, clarity, and speed of delivery at least substantially equivalent to the quality of the tone, volume, clarity, and speed of the audio elsewhere in the communication.

(e) A written communication may not be in the form of, or include, legal pleadings or legal documents.

(f) A communication may not reveal on the envelope, or on the outside of a self–mailing brochure or pamphlet, the nature of the prospective client's legal matter.

(g) In addition to meeting the requirements of this section, a communication shall comply with Rules 19–307.1 through 19–307.4 of the Maryland Rules.

(h) (1) In this subsection, "Bar Counsel" means the principal executive officer of the disciplinary system for lawyers under the Maryland Rules.

(2) Subject to the provisions of this subsection, a person who sends a communication shall, within 3 days after the date that the communication is sent, file the following with the Bar Counsel:

(i) a copy of the communication, together with a sample copy of the envelope, if any, used in conjunction with the communication; and

(ii) the name of the person to whom the communication was sent and the person's mailing address, telephone number, or telecommunication address to which the communication was sent.

(3) If communications identical in content are sent to two or more persons, a person may comply with the provisions of paragraph (2) of this subsection by filing with the Bar Counsel within 3 days after the date that the communication was sent a single copy of the communication together with a list of the names and the applicable mailing addresses, telephone numbers, or telecommunication addresses of the persons to whom the communication was sent.

(4) If the person periodically sends an identical communication to additional persons, the person may comply with the provisions of paragraph (2) of this subsection by filing with Bar Counsel lists of additional names and the applicable mailing addresses, telephone numbers, or telecommunication addresses not less than monthly.

(5) A communication may not state or imply that a communication is approved by the Bar Counsel, the State, or any unit of the State.

(i) A lawyer, or a person acting as an agent or employee of the lawyer, may not send, or knowingly permit to be sent, on a lawyer's behalf, on the behalf of a lawyer's firm, partner, or associate, or on behalf of any other lawyer affiliated with the lawyer, a communication that does not meet the requirements of this section.

§10–606.

(a) (1) A corporation, partnership, or any other association that violates § 10–601 or § 10–602 of this subtitle is subject to a fine not exceeding $5,000.

(2) An officer, director, partner, trustee, agent, or employee who acts to enable a corporation, partnership, or association to violate § 10–601 or § 10–602 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both.

(3) Except as provided in paragraphs (1) and (2) of this subsection, a person who violates § 10–601 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both.

(b) A person who willfully violates any provision of Subtitle 3, Part I of this title, except for the requirement that a lawyer deposit trust money in an attorney trust account for charitable purposes under § 10–303 of this title, is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 5 years or both.

(c) Except as provided in subsections (a) and (b) of this section, a person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

§10–701.

This title may be cited as the "Maryland Lawyers Act".

§10.5–101.

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

(b) (1) "Land professional" means a person that, acting on the person's own behalf or on behalf of a prospective lessee or buyer, negotiates with a property owner for the acquisition of mineral rights in oil or gas in the State.

(2) "Land professional" does not include a person that negotiates for the acquisition or divestiture of a lessee's interest in an existing lease for mineral rights in oil or gas.

(c) (1) "Mineral rights in oil or gas" means property rights that allow the holder of the rights to enter onto or under the property of another person for the extraction of crude oil, natural gas, or the constituents of crude oil or natural gas.

(2) "Mineral rights in oil or gas" includes an oil or gas lease.

§10.5–102.

A person may not operate as a land professional in the State unless the person registers with the Department and is issued a registration certificate under this title.

§10.5–103.

(a) A person shall register as a land professional by submitting to the Department:

(1) an initial registration application on the form required by the Department; and

(2) an initial registration fee set by the Department.

(b) The Department shall assign a registration number and issue a registration certificate to each person that meets the requirements of subsection (a) of this section.

(c) A registration under this title is valid for 2 years from the effective date of the registration and may be renewed by submitting to the Department:

(1) a registration renewal application on the form required by the Department; and

(2) a registration renewal fee set by the Department.

§10.5–104.

Before obtaining any mineral rights in oil or gas from a property owner, a land professional shall provide to the property owner proof that the land professional is registered under this title.

§10.5–105.

The Department shall adopt regulations that:

(1) establish a registration form for the initial and renewal registration of a land professional;

(2) set fees for the issuance of an initial registration and for a registration renewal;

(3) provide for the assignment of a registration number and the issuance of a registration certificate to each registered land professional; and

(4) establish any other requirements and procedures necessary to implement this title.

§10.5–106.

The Department shall develop a means for providing public access to relevant information relating to each person registered under this title.

§10.5–107.

(a) A person that violates any provision of this title or any regulation adopted under this title is guilty of a misdemeanor and on conviction is subject to:

(1) for a first violation, a fine of not less than $500 but not exceeding $1,000; and

(2) for a second or subsequent violation, a fine of not less than $1,000 but not exceeding $2,000.

(b) Any fines collected under this section shall be paid into the General Fund of the State.

§11–101.

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

(b) "Association" means the Association of Maryland Pilots.

(c) "Board" means the State Board of Pilots.

(d) (1) "License" means, unless the context requires otherwise, a license issued by the Board to provide pilotage.

(2) "License" includes, unless the context requires otherwise, a limited license.

(e) (1) "Licensed pilot" means a pilot who is licensed by the Board to provide pilotage.

(2) "Licensed pilot" includes the holder of a limited license.

(f) (1) "Limited license" means a license issued by the Board to provide pilotage as limited by § 11–407 of this title.

(2) "Limited license" includes a 40–foot–draft limited license, a 36–foot–draft limited license, and a 32–foot–draft limited license.

(g) "Pilot" means an individual who provides pilotage.

(h) "Pilot-in-training" means an individual who is engaged in training, under the supervision of a licensed pilot, to provide pilotage.

(i) (1) "Provide pilotage" means to pilot a vessel under the provisions of this title when the vessel is underway on the navigable waters of the State, including when the vessel is towing or being towed by another vessel.

(2) "Provide pilotage" includes:

(i) maneuvering a vessel during berthing or unberthing operations; and

(ii) shifting a vessel within a port with tug assistance.

§11–201.

There is a State Board of Pilots in the Department.

§11–202.

(a) (1) The Board consists of 9 members.

(2) Of the 9 members of the Board:

(i) 1 shall be the Secretary, as an ex officio member, or a designee of the Secretary;

(ii) 1 shall be the President of the Association;

(iii) 3 shall be retired or licensed pilots who have at least 5 years' experience providing pilotage;

(iv) 2 shall be members of the steamship industry who actively employ pilots;

(v) 1 shall be a representative of the ship docking tugboat industry in the Helen Delich Bentley Port of Baltimore; and

(vi) 1 shall be a consumer member.

(3) The Governor shall appoint each member under paragraph (2)(iii), (iv), (v), and (vi) of this subsection with the advice of the Secretary.

(b) A designee of the Secretary:

(1) may not be or ever have been employed in the shipping or maritime industry; and

(2) may not have or ever have had a financial interest in the shipping or maritime industry.

(c) The consumer member of the Board:

(1) shall be a member of the general public;

(2) may not be or ever have been employed or have or ever have had a financial interest in the shipping or maritime industry;

(3) may not be a licensee or otherwise be subject to regulation by the Board;

(4) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Board; and

(5) may not be required to meet the qualifications for the professional members of the Board.

(d) While a member of the Board, the consumer member may not:

(1) have a financial interest in or receive compensation from a person regulated by the Board; or

(2) grade any examination given by or for the Board.

(e) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) (1) The term of an appointed member is 2 years and begins on June 1.

(2) The terms of appointed members are staggered as required by the terms provided for members of the Board on October 1, 1989.

(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) An appointed member may not serve more than 2 terms consecutively.

(g) (1) The Governor may remove a member for incompetence or misconduct.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned who has been appointed to the Board by the Governor if the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chairperson shall provide notice to the Governor and the Governor shall appoint a successor.

§11–203.

From among the members of the Board, the Governor shall appoint a chairperson.

§11–204.

(a) A majority of the authorized membership of the Board is a quorum.

(b) The Board shall determine the times and places of its meetings.

(c) (1) Subject to paragraph (2) of this subsection and to the State budget, each member of the Board is entitled to:

(i) compensation of $500 per year, to be paid out of money that the Board collects; and

(ii) reimbursement for expenses under the Standard State Travel Regulations.

(2) The Secretary or designee of the Secretary is not entitled to compensation under this subsection.

(d) The Board may employ a staff in accordance with the State budget.

§11–205.

(a) In addition to any powers set forth elsewhere, the Board may adopt regulations and pass orders to govern and regulate licensed pilots.

(b) In addition to any duties set forth elsewhere, the Board shall:

(1) adopt a seal; and

(2) be responsible for safety in providing pilotage.

§11–206.

(a) The Board shall receive all fees and other charges collectible under §§ 11–406 and 11–408 of this title.

(b) Except as otherwise provided by law, the Board shall pay all money collected under this title into the General Fund of the State.

(c) The compensation of the Board and reimbursement for expenses under the Standard State Travel Regulations shall be as provided in the State budget.

§11–207.

The Board exercises its powers, duties, and functions subject to the authority of the Secretary.

§11–208.

(a) There is an incident committee within the Board.

(b) The chairperson of the Board shall appoint one pilot member of the Board and one steamship industry member of the Board to the incident committee.

(c) The incident committee shall:

(1) review all complaints filed with the Board and all reports of incidents filed by a licensed pilot; and

(2) make a recommendation to the full Board on the disposition of each matter.

(d) Before making a recommendation, the incident committee may request the Department to appoint an individual with experience in the investigation of maritime casualties to prepare a report on the underlying facts of a complaint or incident arising under § 11-409(a)(5) of this title.

§11–301.

An individual shall be appointed by the Board before the individual may serve as a pilot-in-training.

§11–302.

The Board shall keep a list of all applicants who qualify to be pilots-in-training.

§11–303.

To be included on the list of applicants who qualify to be pilots-in-training, an applicant shall:

(1) be at least 21 years old;

(2) provide the Board with proof of recent satisfactory completion of the physical requirements for a first-class pilot license, as determined by the U.S. Coast Guard;

(3) agree to participate in a U.S. Coast Guard approved random drug testing program;

(4) have one or more of the following maritime credentials:

(i) a degree from a 4-year course of study at an accredited maritime institution acceptable to the Board, and a current license as third mate, or greater grade, of steam and motor vessels, any gross tons upon oceans;

(ii) a current license as a master of steam and motor vessels, any gross tons upon oceans, that is issued by the U.S. Coast Guard and that contains an appropriate radar endorsement; or

(iii) a minimum of 5 years' experience in the maritime industry working on vessels in the deck department as a licensed master or mate on tugs or inspected vessels, of which at least 2 years' experience shall be as the master of a ship-assist harbor tug; and

(5) pass any mental or physical examination that the Board requires to verify that the applicant is mentally and physically capable of providing pilotage.

§11–304.

An applicant for appointment as a pilot-in-training shall:

(1) submit to the Board an application on the form that the Board provides; and

(2) pay to the Board an application fee set by the Board.

§11–305.

(a) The Board shall place the name of each applicant who meets the requirements of this subtitle on the list of qualified applicants.

(b) From the list of qualified applicants, the Board may choose and appoint the number of pilots-in-training that the Board considers necessary to protect the commercial interests of the State.

§11–306.

Appointment as a pilot-in-training authorizes the individual to engage in training, under the supervision of a licensed pilot, to provide pilotage.

§11–401.

(a) Except as otherwise provided in this subtitle, an individual shall be licensed by the Board before the individual may provide pilotage in the State.

(b) An individual may provide pilotage to a vessel in distress until a licensed pilot comes on board and offers to provide pilotage.

(c) A person who provides pilotage without a license is liable for any damages that result.

§11–402.

Subject to the provisions of this subtitle, the Board may issue:

(1) a license;

(2) a 40–foot–draft limited license;

(3) a 36–foot–draft limited license; and

(4) a 32–foot–draft limited license.

§11–403.

(a) To qualify for a limited license, an applicant shall be an individual who meets the requirements of this section.

(b) An applicant shall have trained as a pilot–in–training for at least 2 years.

(c) An applicant shall possess sufficient ability, skill, and experience for a 32–foot–draft limited license, a 36–foot–draft limited license, or a 40–foot–draft limited license as determined by the Board through observation of the applicant's performance providing pilotage.

(d) An applicant shall meet any other requirements that the Board establishes.

§11–404.

(a) To qualify for an unlimited license, an applicant shall be an individual who meets the requirements of this section.

(b) An applicant who did not hold a limited license prior to October 1, 2004, shall have held a limited license and have provided pilotage for at least 3 years.

(c) An applicant shall possess sufficient ability, skill, and experience for the unlimited license as determined by the Board through observation of the applicant's performance providing pilotage.

(d) An applicant shall meet any other requirements that the Board establishes.

§11–405.

To apply for a license, an applicant shall submit to the Board an application on the form that the Board provides.

§11–406.

(a) If an applicant qualifies for a license under this subtitle, the Board shall send the applicant a notice that states that:

(1) the applicant has qualified for a license; and

(2) the Board will issue the appropriate license to an applicant on receipt of a license fee of:

(i) $600 for an unlimited license;

(ii) $300 for a 40–foot–draft limited license;

(iii) $300 for a 36–foot–draft limited license; or

(iv) $200 for a 32–foot–draft limited license.

(b) On payment of the license fee, the Board shall issue an appropriate license to each applicant who meets the requirements of this subtitle.

(c) The Board shall seal each license that the Board issues with its official seal.

§11–406.1.

(a) An individual who holds an unlimited docking master license as of September 30, 2004, shall be issued an unlimited license upon completion of an application on the form that the Board provides.

(b) The Board shall set by regulation the training and experience requirements that must be met before a pilot who previously held a docking master license may be assigned work in addition to the berthing and unberthing of vessels with tug assistance and the shifting of a vessel within a port with tug assistance.

(c) The Board shall set by regulation the training and experience requirements that must be met before a pilot who previously provided pilotage service as defined in § 11-101(i)(1) of this title may be assigned work that includes the berthing and unberthing of vessels with tug assistance or the shifting of a vessel within a port with tug assistance.

§11–407.

(a) While an unlimited license is in effect, it authorizes the licensee to provide pilotage for vessels of any draft.

(b) (1) While a 40–foot–draft limited license is in effect, it authorizes the licensee to provide pilotage for vessels not exceeding 40–foot–draft.

(2) While a 36–foot–draft limited license is in effect, it authorizes the licensee to provide pilotage for vessels not exceeding 36–foot–draft.

(3) While a 32–foot–draft limited license is in effect, it authorizes the licensee to provide pilotage for vessels not exceeding 32–foot–draft.

§11–408.

(a) A license shall be effective for 2 years from the date it is issued.

(b) (1) At least 1 month before a license expires, the Board shall mail or electronically transmit to the licensee:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current license expires; and

2. the amount of the renewal fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the licensee, at the last known address of the licensee, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(c) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Board a renewal fee of:

(i) $600 for an unlimited license;

(ii) $300 for a 40–foot–draft limited license;

(iii) $300 for a 36–foot–draft limited license; or

(iv) $200 for a 32–foot–draft limited license; and

(3) submits to the Board a renewal application on the form that the Board provides.

(d) The Board shall renew the license of a licensee who meets the requirements of this section.

§11–409.

(a) Subject to the hearing provisions of § 11-410 of this subtitle, the Board may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

(1) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(2) fraudulently or deceptively uses a license;

(3) under the laws of the United States or of any state, is convicted of:

(i) a felony; or

(ii) a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to provide pilotage;

(4) pilots or attempts to pilot a vessel while under the influence of:

(i) alcohol;

(ii) narcotics; or

(iii) any other substance that impairs the physical or mental ability of the pilot to perform in a safe manner;

(5) pilots a vessel in a negligent or reckless manner;

(6) anchors a vessel during a pilotage transit unless:

(i) the anchorage was ordered by the master of the vessel; or

(ii) the anchorage was necessary for reasons of safety or prudent navigation;

(7) violates the conflict-of-interest provisions of § 11-603 of this title;

(8) violates any regulation adopted by the Board; or

(9) violates any order passed by the Board.

(b) (1) Subject to the hearing provisions of § 11-410 of this subtitle, the Board shall revoke the license of any pilot who does not provide pilotage for 1 year.

(2) Notwithstanding paragraph (1) of this subsection, the Board may not revoke a license under this subsection if the failure of the pilot to provide pilotage was due to:

(i) sickness of the pilot; or

(ii) assignment to administrative duties.

(c) Subject to the hearing provisions of § 11-410 of this subtitle, the Board shall revoke the license of a pilot who, after receiving notice, refuses to aid a vessel in distress:

(1) within 18 nautical miles south of Cape Henry;

(2) within 18 nautical miles east of Cape Henry;

(3) in the Chesapeake Bay; or

(4) in the ports of Maryland.

(d) (1) Instead of or in addition to suspending or revoking a license under subsection (a) of this section, the Board may impose a penalty not to exceed $2,000 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 licensee; and

(iv) any history of previous violations by the licensee.

(e) The Board shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or misdemeanor described in subsection (a)(3) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to provide pilotage;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

§11–410.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Board takes any final action under § 11-409 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) The Board may administer oaths in connection with any proceeding under this section.

(d) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§11–411.

Any person 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.

§11–501.

(a) Each American vessel engaged in foreign trade and each foreign vessel shall employ a licensed pilot to pilot the vessel when it is underway on the navigable waters of the State, including when the vessel is towing or being towed by another vessel.

(b) (1) In this subsection, "recreational vessel" means a vessel manufactured or operated for the pleasure of the user or that is leased, rented, or chartered to another for the pleasure of the lessor, renter, or charterer, as set forth in 46 U.S.C. § 2101.

(2) A recreational vessel may not be required to employ a licensed pilot to pilot the vessel when underway on the navigable waters of the State if the vessel:

(i) is both less than 200 feet in overall length and has less than a 12–foot draft;

(ii) except for pleasure use charters, is not engaged in a commercial service, as defined in 46 U.S.C. § 2101;

(iii) is not carrying a passenger for hire, as defined in 46 U.S.C. § 2101; and

(iv) possesses a cruising license issued in accordance with 19 C.F.R. § 4.94.

(c) A vessel that is not required to employ a licensed pilot under subsection (a) of this section may voluntarily employ a licensed pilot when the vessel is underway on the navigable waters of the State.

§11–502.

(a) The Public Service Commission shall establish pilotage fees in accordance with § 4–303 of the Public Utilities Article.

(b) (1) Regardless of whether the employment is required under § 11–501(a) of this subtitle or voluntary under § 11–501(c) of this subtitle, a vessel that

employs a licensed pilot to provide pilotage shall pay the licensed pilot the full pilotage fee.

(2) Regardless of whether the vessel uses the services of the pilot for the entire pilotage, a vessel that employs a licensed pilot to provide pilotage shall pay the licensed pilot the full pilotage fee.

(c) Notwithstanding any contract between a licensed pilot who has provided pilotage for a vessel and the master, owner, charterer, or agent of the vessel or any other party, the vessel, its tackle, apparel, and furniture, and the master, owner, charterer, and agent of the vessel shall be jointly and severally liable for payment of the pilotage fee to the licensed pilot.

(d) A licensed pilot who has provided pilotage for a vessel shall have a lien for the amount of the pilotage fee due, enforceable in a court of competent jurisdiction, on the vessel and its tackle, apparel, and furniture.

(e) If a vessel fails to employ a licensed pilot to provide pilotage as required under § 11–501(a) of this subtitle, the vessel and its master, owner, charterer, and agent shall be jointly and severally liable for payment of the full pilotage fee as if a licensed pilot had been employed.

§11–503.

Pilotage fees due shall be paid to the Association as collection agent for its members.

§11–504.

(a) A pilot is eligible for payments as an inactive pilot under § 11-505 of this subtitle if the pilot:

(1) (i) chooses to be placed on the list of inactive pilots maintained by the Association; and

(ii) has been, for at least 25 years:

1. a member in good standing of the Association; and

2. licensed by the Board to provide pilotage for vessels of unlimited draft; or

(2) (i) 1. has been certified by two physicians chosen by the Board to be permanently incapable of providing pilotage; or

2. has had a federal or State pilot's license revoked for physical disability; and

(ii) before becoming permanently disabled, the pilot was:

1. a member in good standing of the Association; and

2. licensed by the Board to provide pilotage for vessels of any draft.

(b) A pilot is eligible for reduced payments as an inactive pilot under § 11-505 of this subtitle if the pilot:

(1) chooses to be placed on the list of inactive pilots maintained by the Association; and

(2) has been, for at least 20 years:

(i) a member in good standing of the Association; and

(ii) licensed by the Board to provide pilotage for vessels of unlimited draft.

(c) Eligibility for payments as an inactive pilot shall cease if:

(1) a pilot who was declared permanently incapable of providing pilotage becomes capable of providing pilotage; or

(2) a pilot who had a federal or State pilot's license revoked for physical disability has the license reissued.

(d) Time of service as a licensed docking master on or before September 30, 2004, shall be included in determining a pilot's eligibility for payment as an inactive pilot.

(e) A pilot who held an unlimited docking master license on October 1, 2000, is eligible for reduced payments as an inactive pilot under § 11-505 of this subtitle if the pilot:

(1) chooses to be placed on the list of inactive pilots maintained by the Association; and

(2) has been, for at least 5 years:

(i) a member in good standing of the Association or of the Association of Maryland Docking Pilots; and

(ii) licensed by the Board to provide pilotage for vessels of unlimited draft.

§11–505.

(a) Each month, the Association shall distribute the pilotage fees that the Association collects in the following order:

(1) within 10 days after the close of each month, the Association shall:

(i) account to the Board for that month for the amount determined under subsections (b) and (c) of this section for distribution to the pilots who, at the beginning of that month, were eligible for payments as inactive pilots; and

(ii) distribute that money on behalf of the Board; and

(2) the balance of the pilotage fees collected shall be:

(i) first, used by the Association to pay its expenses;

(ii) second, paid to the Maintenance and Replacement Fund under § 11–506 of this subtitle; and

(iii) finally, in accordance with the bylaws of the Association, paid to the regularly working licensed pilots who are members in good standing of the Association.

(b) The amount to be distributed by the Association on behalf of the Board to eligible inactive pilots described under § 11–504(a) of this subtitle shall be computed by:

(1) determining the greater of:

(i) $200; or

(ii) 40% of the share payable under this subtitle for the month for which the payment is to be made to a regularly working licensed pilot; and

(2) multiplying the figure determined under item (1) of this subsection by the number of pilots in the Association who, at the beginning of the month for which the payment is to be made, were eligible for payments as inactive pilots under this subsection.

(c) The amount to be distributed by the Association on behalf of the Board to eligible inactive pilots described under § 11–504(b) of this subtitle shall be computed as follows:

(1) for each pilot determining the greater of:

(i) $200; or

(ii) 1. 32% of the share payable under this subtitle for the month for which the payment is to be made to a regularly working licensed pilot; and

2. 1.6% of the share payable under this subtitle for the month for which the payment is to be made to a regularly working licensed pilot in addition for each year of service in excess of 20 years and up to 25 years; and

(2) totaling the sums determined under item (1) of this subsection for each pilot in the Association who, at the beginning of the month for which the payment is to be made, was eligible for payment as an inactive pilot under this subsection.

(d) The amount to be distributed by the Association on behalf of the Board to eligible inactive pilots described under § 11–504(e) of this subtitle shall be 1.6% of the share payable under this subtitle for the month for which the payment is to be made to a regularly working licensed pilot for each full year of service following October 1, 2000.

§11–506.

(a) The Board of Supervisors of the Association shall maintain a Maintenance and Replacement Fund for the replacement and repair of the major equipment of the Association.

(b) The State Board of Pilots shall determine a percentage of the pilotage fees collected by the Association to be set aside in the Fund.

(c) The Board of Supervisors of the Association shall obtain written approval from the State Board of Pilots for any expenditures from the Fund.

(d) (1) Except as provided in paragraph (2) of this subsection, the balance in the Fund shall remain at or above $500,000.

(2) (i) The balance of the Fund may fall below $500,000 for expenditures authorized by the Board.

(ii) The balance of the Fund may not remain below $500,000 for more than 10 consecutive years.

(iii) At no time shall the balance of the Fund fall below $100,000.

(e) The Board of Supervisors of the Association shall deposit the money authorized under subsection (b) of this section into the Maintenance and Replacement Fund.

(f) (1) The Board of Supervisors of the Association shall hold the Maintenance and Replacement Fund in trust.

(2) The Association:

(i) may invest or hold the Fund in any manner that the Association finds desirable, in light of the nature and purpose of the Fund;

(ii) may place control and management of the Fund, or a part of the Fund, with a bank or trust company that is subject to State or federal regulation; and

(iii) is not limited to investments in property that has been designated, under any law of the State, as strictly suitable for investment of a trust fund.

(g) Assets held in trust under this section are not subject to attachment or execution.

§11–507.

If an individual who is not a licensed pilot assists a vessel in distress and then turns the vessel over to a licensed pilot as provided in § 11-401(b) of this title, the Association shall pay the individual 50% of any pilotage fee received for the pilotage of the vessel.

§11–508.

(a) The Association shall submit to the Board:

(1) an annual financial audit of payments to pilots under § 11-505 of this subtitle; and

(2) an annual financial audit of the Maintenance and Replacement Fund under § 11-506 of this subtitle.

(b) The Board shall keep copies of the financial audits received under subsection (a) of this section.

§11–601.

(a) For purposes of subsection (b) of this section, the Department of the Environment shall prepare copies of the State regulations that govern the disposal of waste from vessels in the Chesapeake Bay.

(b) Whenever a licensed pilot boards a vessel to provide pilotage, the licensed pilot shall present to the master of the vessel a copy of the State regulations that govern the disposal of waste from vessels in the Chesapeake Bay.

§11–602.

(a) If a licensed pilot is detained for any reason on a vessel that has employed the pilot to provide pilotage, the master of the vessel shall pay the cost of the pilot's maintenance and the daily rate of pay for an unlimited license pilot as determined by the bylaws of the Association for each day the pilot is detained.

(b) If a licensed pilot is quarantined by order of a health officer because of conditions on a vessel that has employed the pilot to provide pilotage, the master of the vessel shall pay the pilot the cost of the pilot's maintenance and the daily rate of pay for an unlimited license pilot as determined by the bylaws of the Association for each day that the pilot is quarantined.

(c) If a master of a vessel carries a licensed pilot to sea under circumstances that are beyond the control of the pilot, the master shall:

(1) pay the pilot the daily rate of pay for an unlimited license pilot as determined by the bylaws of the Association until the return of the pilot;

(2) provide first class accommodations and maintenance for the pilot; and

(3) at the first opportunity, return the pilot by first class passage to the home port of the pilot.

(d) The master, owner, charterer, and agent of a vessel shall be jointly and severally liable for any payments due under this section.

§11–603.

(a) A licensed pilot may not engage in conduct that constitutes a conflict of interest.

(b) A conflict of interest exists in situations in which:

(1) except as provided in subsection (c) of this section, a licensed pilot solicits or accepts financial or other consideration of value from a tugboat, towing, vessel-assist, vessel-owning, or vessel-chartering company, or an agent or officer of that company, or from any other entity providing services in the port community;

(2) a licensed pilot takes any action with the intent to benefit or harm the economic interests of a tugboat, towing, vessel-assist, vessel-owning, or vessel-chartering company, or any other entity providing services in the port community;

(3) a licensed pilot allows personal financial interests to conflict with professional responsibilities;

(4) a licensed pilot solicits business for a tugboat, towing, vessel-assist, vessel-owning, or vessel-chartering company, or any other entity providing services in the port community; or

(5) a licensed pilot discourages a person from engaging the services of a tugboat, towing, vessel-assist, vessel-owning, or vessel-chartering company, or any other entity providing services in the port community.

(c) A conflict of interest does not exist in situations in which:

(1) remuneration is paid to the pilot through the Association in return for the provision of pilotage services; or

(2) there is an exchange of nominal social pleasantries between the licensed pilot and any entity providing services to the port community.

§11–701.

Except as otherwise provided in this title, a person may not provide, attempt to provide, or offer to provide pilotage in the State unless licensed by the Board.

§11–702.

Unless authorized under this title to provide pilotage, a person may not represent to the public, by use of a title, including "pilot", "bay pilot", "licensed pilot", "State licensed pilot", or "Maryland pilot", by description of services, methods, or procedures, or otherwise, that the person is authorized by the State to provide pilotage.

§11–703.

After receiving notice, a licensed pilot may not refuse to aid a vessel that is in distress:

(1) within 18 nautical miles south of Cape Henry;

(2) within 18 nautical miles east of Cape Henry;

(3) in the Chesapeake Bay; or

(4) in ports of Maryland.

§11–703.1.

A licensed pilot may not take part in a port-wide job action or strike.

§11–704.

Unless a person is a licensed pilot, the person may not use a boat as a pilot boat.

§11–705.

The master of a vessel may not fail to employ a pilot as required under § 11-501 of this title.

§11–706.

(a) Except as provided in subsection (b) of this section, a person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 6 months or both.

(b) A licensed pilot who violates any provision of § 11-601(b) of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $100.

§11–801.

This title may be cited as the "Maryland Pilots Act".

§11–802.

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, 2032.

§12–101.

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

(b) "Apprentice natural gas fitter" means, unless the context requires otherwise, an individual who is licensed by the Board to assist a master natural gas fitter in providing natural gas services while:

(1) under the direction and control of the master natural gas fitter; and

(2) in training to become a journeyman natural gas fitter.

(c) "Apprentice plumber" means, unless the context requires otherwise, an individual who is licensed by the Board to assist a master plumber or a holder of a limited master plumber license in providing plumbing services while:

(1) under the direction and control of the master plumber or holder of the limited master plumber license; and

(2) in training to become a journey plumber.

(d) "Board" means the State Board of Plumbing.

(e) "Certified propane gas fitter" means an individual who has been certified by the Board to provide propane gas services.

(f) "Gas" means natural gas, propane gas, or any other gas used for any purpose, including residential, medical, commercial, or industrial purposes.

(g) "Journey plumber" means, unless the context requires otherwise, an individual who is licensed by the Board to provide plumbing services while under the direction and control of a master plumber or holder of a limited master plumber license.

(h) "Journeyman natural gas fitter" means, unless the context requires otherwise, an individual who is licensed by the Board to provide natural gas services while under the direction and control of a master natural gas fitter.

(h–1) "Lead–free" means:

(1) containing not more than 0.2% lead for solder and flux;

(2) except as provided in item (3) of this subsection, containing not more than:

(i) 4% lead by dry weight for individual plumbing fittings and fixtures; or

(ii) 8% lead by dry weight for individual pipes and pipe fittings;

(3) containing a percentage of lead for plumbing fittings and fixtures that is in compliance with standards established under 42 U.S.C.A. § 300g–6(e) of the federal Safe Drinking Water Act; and

(4) containing not more than a weighted average lead content of 0.25% for the wetted surfaces of a pipe, pipe fitting, plumbing fitting, or fixture intended to dispense water for human consumption through drinking or cooking.

(i) (1) "License" means, unless the context requires otherwise, a license issued by the Board to:

(i) provide plumbing services;

(ii) assist in providing plumbing services;

(iii) provide propane gas services; or

(iv) provide natural gas services.

(2) "License" includes, unless the context requires otherwise, each of the following licenses:

(i) a master plumber license;

(ii) a journey plumber license;

(iii) an apprentice plumber license;

(iv) a limited license;

(v) a propane gas fitter certificate;

(vi) a master natural gas fitters license;

(vii) a journeyman natural gas fitters license; and

(viii) an apprentice natural gas fitters license.

(j) (1) "Limited license" means a license issued by the Board as limited by § 12–310 of this title to:

(i) provide plumbing services as a master plumber; or

(ii) provide plumbing services as a journey plumber.

(2) "Limited license" includes:

(i) a limited master plumber license; and

(ii) a limited journey plumber license.

(k) "Master natural gas fitter" means, unless the context requires otherwise, an individual who is licensed by the Board to provide natural gas services.

(l) (1) "Master plumber" means, unless the context requires otherwise, an individual who is licensed by the Board to provide plumbing services and natural gas services.

(2) "Master plumber" includes a master plumber gas fitter.

(m) (1) "Provide natural gas services" means the installation, maintenance, extension, alteration, and removal of piping, gas–fired equipment, appliances, or appurtenances in connection with a natural gas supply system downstream of the gas utility point of delivery.

(2) "Provide natural gas services" does not include the installation, maintenance, extension, alteration, or removal of any of the following with respect to the plumbing water supply and drainage system:

(i) fixtures that require additional energy sources, including clothes washers, dishwashers, food grinders, humidifiers, ice pumps, sterilizers, water coolers, and water heaters; and

(ii) operational devices, including aerators, backflow preventers, expansion tanks, filters, flow controls, heat exchangers, interceptors, meters, separators, and relief valves.

(n) (1) "Provide plumbing services" means to install, maintain, extend, alter, or remove piping, a plumbing fixture, a plumbing appliance, a plumbing appurtenance, or other plumbing apparatus:

(i) within or adjacent to a building, structure, or property; and

(ii) in connection with:

1. a public or private disposal system, sanitary drainage facility, or storm drainage facility;

2. a venting system; or

3. a public or private water supply system.

(2) "Provide plumbing services" includes installing, repairing, servicing, and replacing gas piping, gas utilization equipment, and associated accessories.

(3) Except for the first connection to a potable water supply that is downstream of a backflow preventer and the final connection that discharges indirectly into a public or private disposal system, sanitary drainage facility, or storm drainage facility, "providing plumbing services" does not include using piping, equipment, or material only for:

(i) environmental control;

(ii) the incorporation of a liquid or gas into a product or into a process, including product development, in the manufacture or storage of a product;

(iii) the installation, alteration, repair, or removal of an automatic sprinkler system, related apparatus, or standpipe that is used only for fire protection; or

(iv) an overhead or underground fire line beginning from where water is used only for fire protection.

(o) "Provide propane gas services" means to install, repair, service, and replace propane gas piping, propane gas utilization equipment, and associated accessories.

(p) "State Plumbing Code" means the regulations adopted by the Secretary, as amended by the Board, to provide standards that:

(1) are based on principles of environmental sanitation and safety; and

(2) provide for properly designed, acceptably installed, and adequately maintained plumbing systems.

(q) "Weighted average lead content" means a calculation determined by:

(1) identifying each component of a pipe, pipe fitting, plumbing fitting, or fixture that water flows through and comes into contact with during normal operation;

(2) identifying the percentage of lead content of each component of the pipe, pipe fitting, plumbing fitting, or fixture;

(3) determining the wetted surface area of each component of the pipe, pipe fitting, plumbing fitting, or fixture;

(4) determining the percent of total wetted surface area of the pipe, pipe fitting, plumbing fitting, or fixture, represented in each component;

(5) calculating the contributing percent lead for each component that comes into contact with water by multiplying the percentage of lead content of the component by the percent of total wetted surface area represented by the component; and

(6) calculating the sum of each contributing percent lead value determined for each component under item (5) of this subsection.

§12–102.

The purposes of this title are to:

(1) protect the integrity of the potable water supply;

(2) provide for the efficient and safe discharge of storm drainage and sanitary drainage; and

(3) ensure that qualified individuals carry out items (1) and (2) of this section.

§12–103.

(a) Except as expressly provided in §§ 12–305, 12–307, and 12–503(b) of this title, this title does not apply to Baltimore County.

(b) Except as expressly provided in §§ 12–305, 12–307, and 12–503(b) of this title, this title does not apply to areas of Montgomery and Prince George's counties that are under the jurisdiction of the Washington Suburban Sanitary Commission.

§12–104.

This title does not limit the right of an individual to practice well drilling if the individual is licensed or otherwise authorized under Title 13 of the Environment Article to practice well drilling.

§12–201.

There is a State Board of Plumbing in the Department.

§12–202.

(a) (1) The Board consists of 9 members.

(2) Of the 9 members of the Board:

(i) 7 shall be plumbers; and

(ii) 2 shall be consumer members.

(3) Of the 7 plumber members of the Board:

(i) at least 6 shall be master plumbers; and

(ii) 1 may be a journey plumber or a master plumber.

(4) Subject to paragraph (6) of this subsection, of the 7 plumber members of the Board:

(i) 2 shall be from Baltimore City;

(ii) 1 shall be from the area that consists of Anne Arundel, Calvert, Charles, Prince George's, and St. Mary's counties;

(iii) 1 shall be from the area that consists of Caroline, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester counties;

(iv) 1 shall be from the area that consists of Allegany, Frederick, Garrett, Montgomery, and Washington counties;

(v) 1 shall be from the area that consists of Carroll and Howard counties; and

(vi) 1 shall be from the area that consists of Cecil and Harford counties.

(5) A consumer member may not reside in the same county as a plumber member.

(6) A member may not reside in a county or area of a county that is exempted from this title.

(7) The Governor shall appoint the members with the advice of the Secretary and with the advice and consent of the Senate.

(b) Each consumer member of the Board:

(1) shall be a member of the general public;

(2) may not be a licensee or otherwise be subject to regulation by the Board;

(3) may not be required to meet the qualifications for the professional members of the Board; and

(4) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Board.

(c) While a member of the Board, a consumer member may not:

(1) have a financial interest in or receive compensation from a person regulated by the Board; or

(2) grade an examination given by or for the Board.

(d) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(e) (1) The term of a member is 3 years and begins on May 1.

(2) The terms of members are staggered as required by the terms provided for members of the Board on October 1, 1989.

(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.

(f) (1) The Governor may remove a member for incompetence or misconduct.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned if the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§12–203.

(a) From among the members of the Board and with the advice of the Secretary, the Governor shall appoint a chairman.

(b) Except for the chairman, the manner of election of officers and their terms of office shall be as the Board determines.

§12–204.

(a) A majority of the members then serving on the Board is a quorum.

(b) The Board shall determine the times and places of its meetings.

(c) Subject to the State budget, each member of the Board is entitled to:

(1) an annual salary of $3,600; and

(2) reimbursement for reasonable expenses under the Standard State Travel Regulations.

(d) The Board may employ a staff in accordance with the State budget.

§12–205.

(a) The Board may adopt regulations to amend the State Plumbing Code.

(b) (1) The Board may adopt, as part of the State Plumbing Code, regulations to carry out the purposes of and to enforce §§ 12–605 and 12–606 of this title.

(2) The Board may adopt standards of the American National Standards Institute or any other nationally recognized organization.

(3) The Board shall adopt, as part of the State Plumbing Code, regulations to carry out the purposes of and to enforce §§ 12–605.1 and 12–605.2 of this title.

(c) (1) At least once a year, the Board shall review:

(i) new and existing standards of the American National Standards Institute and any other organization listed in the State Plumbing Code or the Model Performance Building Code for water conserving appliances, devices, fittings, and fixtures; and

(ii) the availability and cost of water conserving appliances, devices, fittings, and fixtures that conform to the standards.

(2) If the Board finds that a water conserving appliance, device, fitting, or fixture that conforms to the standards of the American National Standards Institute or any other organization listed in the State Plumbing Code or the Model Performance Building Code is readily available at reasonable cost, the Board shall amend the State Plumbing Code to:

(i) incorporate the standards for and require use of the water conserving appliance, device, fitting, or fixture; and

(ii) require the use of a water supply system and a drainage and venting system that are designed based on the hydraulic requirements of the required water conserving appliances, devices, fittings, and fixtures.

(3) Notwithstanding the availability and cost of the appliance, device, fitting, or fixture, the Board may allow, under the State Plumbing Code, the installation of a water conserving appliance, device, fitting, or fixture that meets the standards of the American National Standards Institute or any other organization listed in the State Plumbing Code or the Model Performance Building Code, subject to the use of a water supply system and a venting and drainage system design based on the hydraulic requirements of the appliance, device, fitting, or fixture.

(d) The Board shall:

(1) periodically publish an updated version of the State Plumbing Code; and

(2) make available on request of any person a copy of the State Plumbing Code for a reasonable fee.

§12–206.

(a) A county shall:

(1) enforce the State Plumbing Code; or

(2) adopt and enforce a local plumbing code that meets or exceeds the minimum standards of the State Plumbing Code for the proper design, acceptable installation, and adequate maintenance of plumbing systems.

(b) (1) In this subsection:

(i) "greywater" means used, untreated water generated by:

1. a clothes washing machine;

2. a shower; or

3. a bathtub; and

(ii) "greywater" does not include water from:

1. a toilet;

2. a kitchen sink; or

3. a dishwashing machine.

(2) A county may not adopt or enforce a provision of a local plumbing code that prohibits a system that recycles greywater, as authorized under the State Plumbing Code.

(c) Unless the Board determines that a county is adequately enforcing the State Plumbing Code or a local plumbing code that meets or exceeds the minimum standards of the State Plumbing Code, the Board shall enforce the State Plumbing Code in that county.

(d) The Board may make a cooperative agreement with a county for the county to enforce:

(1) the State Plumbing Code; or

(2) if the county has adopted a local plumbing code, that code.

§12–207.

(a) In addition to any powers set forth elsewhere, the Board may adopt regulations to carry out the provisions of this title.

(b) In addition to any duties set forth elsewhere, the Board shall enforce the provisions of this title.

§12–208.

(a) The Board may conduct investigations into and, subject to the State budget, may employ an investigative staff to investigate any complaint that alleges facts that constitute:

(1) a ground for disciplinary action under § 12-312 of this title; or

(2) a violation of this title.

(b) (1) On receipt of the results of an investigation made under this section, the Board promptly shall take the action that is appropriate under this title to ensure compliance with this title.

(2) If a complaint is made to the Board from a county, municipal corporation, or unit of the State government, the Board reasonably and promptly shall give the county, municipal corporation, or unit notice of the action taken.

(c) (1) If the Board concludes that conduct alleged to be a violation of this title may result in irreparable harm to any person, the Board may sue to enforce any provision of this title by ex parte, interlocutory, or final injunction.

(2) In seeking an injunction under this subsection, the Board need not:

(i) post bond, if the injunction is sought against a person who does not hold a license issued under this title; or

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

(3) The Board shall bring suit under this subsection in the circuit court for the county where:

(i) the violation allegedly is occurring;

(ii) the principal place of business of the alleged violator is located; or

(iii) the alleged violator resides.

§12–209.

(a) (1) The Board may set by regulation reasonable fees for its services.

(2) The fees charged shall be:

(i) set so as to produce funds to approximate the cost of maintaining the Board; and

(ii) based on the calculations performed by the Secretary under § 2–106.10 of the Business Regulation Article.

(b) The Board shall publish a schedule of the fees set by the Board.

(c) (1) The Board shall pay all fees collected under this title to the Comptroller.

(2) The Comptroller shall distribute the fees to the Occupational Mechanical Licensing Boards' Fund established in § 2–106.9 of the Business Regulation Article.

§12–210.

The Board exercises its powers, duties, and functions subject to the authority of the Secretary.

§12–301.

(a) (1) Except as otherwise provided in this title, an individual shall be licensed by the Board to provide plumbing services before the individual may provide plumbing services in the State.

(2) Except as otherwise provided in this title, an individual shall be licensed by the Board to provide or to assist in providing plumbing services before the individual may assist in providing plumbing services in the State.

(3) Except as otherwise provided in this title, an individual shall be licensed by the Board to provide plumbing services or certified by the Board to provide propane gas services before the individual may provide propane gas services in the State.

(4) Except as otherwise provided in this title, an individual shall be licensed by the Board to provide natural gas services before the individual may provide natural gas services in the State.

(b) (1) Subject to paragraph (2) of this subsection, this section does not apply to an individual who personally provides plumbing services in the residence of the individual.

(2) An individual may not provide plumbing services that make a final connection between the residence of the individual and a public or private disposal system or water supply system.

(c) This section does not apply to an employee of a gas company regulated by the Public Service Commission while making a connection to a gas appliance for domestic purposes or while installing, repairing, maintaining, replacing, or performing any other work on a natural gas, propane gas, or other gas distribution system, including customer-owned gas piping systems.

(d) This section does not apply to an individual performing work that is only incidental to the licensee providing or assisting in providing plumbing services.

(e) This section does not apply to an individual who, without compensation, provides plumbing services that the Board defines by regulation to be only incidental plumbing services.

(f) This section does not apply to an employee of a building owner, manager, or maintenance company who provides plumbing services that the Board defines by regulation to be only minor plumbing repair services.

(g) This section does not apply to an individual who is licensed as an appliance installer in Allegany County, Frederick County, Garrett County, or Washington County while acting within the scope of the license.

(h) This section does not apply to an individual who is licensed in Washington County to work as or for a septic system installer or an on-site utility contractor installing water or sewer service in the county at least 5 feet from a building being served.

(i) Subsection (a)(3) and (4) of this section does not apply to an individual licensed by the State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors while servicing an existing propane gas or existing natural gas appliance if the individual has completed a manufacturer's training course certifying competence to work on that particular type of appliance.

§12–302.

(a) In this section, "licensed master plumber" means an individual who holds:

(1) a master plumber license or a limited master plumber license issued by the Board;

(2) a master plumber license issued by the Baltimore County Plumbing Board;

(3) a master plumber license issued by the Washington Suburban Sanitary Commission; or

(4) a master plumber license issued by another state, if the individual became licensed in that state after passing an examination that is equivalent to the examination for a master plumber license given in this State.

(b) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(c) (1) An applicant for a journey plumber license:

(i) 1. shall have held, for a period of at least 4 years, an apprentice plumber license or a license of equal stature, as determined by the Board, that is issued by another state; and

2. during that period, shall have completed at least 7,500 hours of training in providing plumbing services under the direction and control of a licensed master plumber; and

(ii) shall have completed at least 32 hours of training in the testing of backflow prevention devices, in a manner approved by the Board.

(2) The Board may allow the applicant to apply up to 1,500 hours of accredited, approved school study toward the experience requirement of paragraph (1)(i)2 of this subsection.

(d) An applicant for a master plumber license:

(1) shall have completed at least 3,750 hours of training in providing plumbing services as a journey plumber licensed in this State or another state and under the direction and control of a licensed master plumber;

(2) (i) if an applicant resides in this State, shall have a journey plumber license for at least 2 years; or

(ii) shall have been licensed in another state as a journey plumber after:

1. completing at least 7,500 hours of training in providing plumbing services under the direction and control of a licensed master plumber; and

2. passing a written examination that is equivalent to the examination for a journey plumber license given in this State; and

(3) shall have completed at least 32 hours of training in the testing of backflow prevention devices, in a manner approved by the Board.

(e) Except as otherwise provided in this subtitle, an applicant for a master plumber license or a journey plumber license shall pass an examination given by the Board under this subtitle.

(f) An applicant for a propane gas fitter certificate shall:

(1) hold a current certification of completion of the National Propane Gas Association Certified Training Program for Distribution Systems Operations;

(2) hold a gas fitters license from a county or municipal corporation authorizing the individual to provide propane gas services under a licensing program that is in existence prior to July 1, 1995 and that is acceptable to the Board; or

(3) otherwise demonstrate qualifications that are satisfactory to the Board and that are at least equivalent to the qualifications required by the National Propane Gas Association Certified Training Program for Distribution Systems Operations.

(g) (1) An applicant for a journeyman natural gas fitters license:

(i) shall have acquired 3,750 working hours as an apprentice natural gas fitter over a period of at least 2 years; and

(ii) shall have demonstrated successful completion of a training course approved by the Board relating to natural gas services.

(2) Except as otherwise provided in this subtitle, an applicant for a journeyman natural gas fitters license shall pass an examination given by the Board under this subtitle.

(h) An applicant for a master natural gas fitters license shall:

(1) hold a gas fitters license from a county or municipal corporation authorizing the individual to provide natural gas services under a licensing program that is in existence prior to July 1, 1999, is acceptable to the Board, and at a minimum requires:

(i) successful completion of the licensing examination with a passing score of no less than 70; and

(ii) 2 years of work experience as a journeyman natural gas fitter under the direction of a:

1. licensed master plumber; or

2. licensed master gas fitter;

(2) apply to the Board for a master natural gas fitters license before October 1, 2002 and provide proof that:

(i) the applicant has completed a natural gas certification program offered by a third party that:

1. was in existence prior to July 1, 1999;

2. is approved by the Board; and

3. provides theoretical and practical training relating to natural gas services; and

(ii) the applicant has acquired 4 years of work experience in providing natural gas services; or

(3) pass a written examination given by the Board and meet any other requirements specified by the Board, and at a minimum requires:

(i) proof of a current master or master restricted heating license in good standing issued by the State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors that is deemed acceptable by the Board; and

(ii) 2 years of work experience as a journeyman natural gas fitter under the direction of a:

1. licensed master plumber;

2. licensed master gas fitter; or

3. holder of a master or master restricted heating license in good standing issued by the State Board of Heating, Ventilation, Air-

Conditioning, and Refrigeration Contractors, who demonstrates qualification as a natural gas fitter that is deemed acceptable by the Board.

§12–303.

An applicant for a license shall:

(1) submit to the Board an application on the form that the Board provides; and

(2) except as otherwise provided in this subtitle, pay to the Board or the Board's designee an examination fee set by the Board for:

(i) a master plumber license, a journey plumber license, or a master natural gas fitters license, in an amount not to exceed the cost of the required examination;

(ii) an apprentice plumber license or apprentice natural gas fitters license;

(iii) a propane gas fitter certificate;

(iv) a journeyman natural gas fitters license; or

(v) a master natural gas fitters license without examination.

§12–304.

(a) Except as otherwise provided in § 12-304.1 of this subtitle, an applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) (1) Subject to paragraph (2) of this subsection, the Board shall give examinations to qualified applicants at the times and places that the Board determines.

(2) The Board shall give an examination at least once a year in Baltimore City.

(c) The Board shall give each qualified applicant notice of the time and place of examination.

(d) (1) The Board shall determine the subjects, scope, and form of and the passing score for examinations given under this subtitle.

(2) The Board shall provide examination questions that test the competency and qualifications of the applicant.

(3) When testing an applicant for a master plumber license or a master natural gas fitters license, the examination given by the Board shall include at a minimum the following areas:

(i) gas fitting regulations;

(ii) safety regulations;

(iii) pipe sizing;

(iv) common principles of mathematics and physics relating to gas fitting;

(v) interpretation of plans and drawings showing the arrangement and connection of natural gas pipes, fixtures, or equipment;

(vi) design and construction of natural gas systems for buildings; and

(vii) venting gas appliances.

(e) (1) If an applicant fails an examination given by the Board, the Board shall give the applicant notice of the right of the applicant to have the papers of the applicant regraded.

(2) On written request to the Board, an applicant who failed an examination may:

(i) review the examination questions and the answers given by the applicant; and

(ii) have the examination regraded.

(f) If an applicant fails to appear for a scheduled examination, the Board may require the applicant to pay another examination fee under § 12-303 of this subtitle before rescheduling an examination for the applicant.

§12–304.1.

(a) The Board may use a testing service to administer an examination given under this subtitle.

(b) If the Board uses a testing service, the testing service, subject to the requirements set by the Board, may:

(1) set the time and place of examinations;

(2) give qualified applicants notice of the time and place of examinations; and

(3) furnish any other information that the Board may require the testing service to provide.

(c) An examination shall be given at least once per year in Baltimore City.

§12–305.

(a) Subject to the limitations in this section, the Board may waive any of the qualifications for a journey plumber license or a master plumber license for an individual who holds a journey plumber license or a master plumber license issued by Baltimore County or by the Washington Suburban Sanitary Commission.

(b) The Board may grant a waiver under this section only if the applicant:

(1) pays the appropriate license fee required under § 12-306 of this subtitle;

(2) holds a license that is similar to the license for which the applicant is seeking a waiver;

(3) if contracting to provide plumbing services in the name of the applicant or another person, submits proof of the liability insurance as required under § 12-501 of this title; and

(4) provides adequate evidence that the applicant:

(i) meets the qualifications otherwise required by this subtitle; and

(ii) at the time that the applicant became licensed in Baltimore County or by the Washington Suburban Sanitary Commission, the applicant:

1. passed an examination that was given by Baltimore County or the Washington Suburban Sanitary Commission and was substantially equivalent to the examination that then was required by the Board; and

2. met qualifications for licensing that were set by Baltimore County or the Washington Suburban Sanitary Commission and were substantially equivalent to the qualifications that then were required by the Board.

(c) (1) Subject to paragraph (2) of this subsection, the Board may grant a waiver of the qualification and examination requirements of § 12-302 of this subtitle only if Baltimore County or the Washington Suburban Sanitary Commission waives the qualifications and examination required for individuals licensed by the Board to a similar extent as the Board waives those requirements for individuals licensed by Baltimore County or the Washington Suburban Sanitary Commission.

(2) An agreement may be made with Baltimore County that, if an individual who is licensed by the Board as a journey plumber or a master plumber resides in Baltimore County, the individual may be required to pass a licensing examination for a journey plumber or master plumber given by Baltimore County.

§12–305.1.

(a) Subject to the provisions of this section, the Board may waive the examination requirements for a master plumber license or a journey plumber license for an individual who is licensed to provide plumbing services in another state on the affirmative vote of at least a majority of the authorized membership of the Board.

(b) The Board may grant a waiver under this section only if an applicant:

(1) pays the appropriate fee required under § 12–306 of this subtitle; and

(2) provides adequate evidence that the applicant:

(i) meets the qualifications otherwise required by this title;

(ii) holds an active license in good standing in the other state;

(iii) holds a license that is equivalent to the State license; and

(iv) became licensed in the other state after meeting requirements that are at least equivalent to the licensing requirements of this State.

(c) The Board may grant a waiver only if the state in which the applicant is licensed waives the examination of licensees of this State to a similar extent as this State waives the examination requirements for individuals licensed in that state.

(d) (1) In this subsection, "BRAC" means the Base Realignment and Closure process as announced by the United States Department of Defense.

(2) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, the Board shall grant a waiver to an applicant who files a request before July 1, 2012, if the applicant:

(i) pays the appropriate fee required under § 12–306 of this subtitle;

(ii) holds an active Virginia or New Jersey master plumber's license or an active Virginia journey plumber's license in good standing that is equivalent to the State license;

(iii) has experience in the provision of plumbing services that meets the time requirements of § 12–302 of this subtitle; and

(iv) has relocated to the State as a family member of a BRAC employee.

§12–305.2.

(a) (1) In this section, "BRAC" means the Base Realignment and Closure process as announced by the United States Department of Defense.

(2) Subject to the provisions of this section, the Board shall waive the examination requirements for a journey natural gas fitters license for an individual who is licensed to provide gas fitting services as a journeyman in Virginia.

(b) The Board shall grant a waiver under this section to an applicant who files a request before July 1, 2012, if the applicant:

(1) pays the appropriate fee required under § 12–306 of this subtitle;

(2) provides adequate evidence that the applicant:

(i) meets the qualifications otherwise required by this title;

(ii) holds an active license in good standing in Virginia;

(iii) holds a license that is equivalent to the State license; and

(iv) has experience in the provision of natural gas services that meets the time requirements of § 12–302 of this subtitle; and

(3) has relocated to the State as a family member of a BRAC employee.

§12–306.

(a) If an applicant qualifies for a journey plumber license, a master plumber license, a limited license, a master natural gas fitters license, a journeyman natural gas fitters license, an apprentice natural gas fitters license, or a propane gas fitter certificate under this subtitle, the Board shall send the applicant a notice that states that:

(1) the applicant has qualified for a license; and

(2) the Board will issue a license to the applicant on receipt of:

(i) if contracting in the name of the applicant or another person to provide plumbing services, proof of the liability insurance as required under § 12–501 of this title; and

(ii) a license fee set by the Board.

(b) On payment of the appropriate license fee and, if applicable, receipt of the proof of the insurance required under § 12–501 of this title, the Board shall issue a license to each applicant who meets the requirements of this subtitle.

(c) (1) Any master plumber, journey plumber, or apprentice holding a valid license is eligible to participate in a Board–approved cross connection/backflow prevention certification program to be certified as an approved cross connection/backflow prevention technician.

(2) Only a master plumber or journey plumber possessing certification shall be authorized to certify the installation and testing of mechanical cross connection control devices.

(3) For the purpose of certification of the installation and testing of mechanical cross connection control devices, a local jurisdiction may adopt regulations or enact laws that have qualifications comparable to or more stringent than paragraph (2) of this subsection.

§12–307.

(a) While a master plumber license is in effect, it authorizes the licensee to provide plumbing services.

(b) While a journey plumber license is in effect, it authorizes the licensee to provide plumbing services only under the direction and control of a master plumber or a holder of a limited master plumber license.

(c) While an apprentice plumber license is in effect, it authorizes the licensee to assist in providing plumbing services only under the direction and control of a master plumber or a holder of a limited master plumber license.

(d) While a propane gas fitter certificate is in effect, it authorizes the certificate holder to provide propane gas services and to directly supervise others in the provision of those services in every political subdivision of the State.

(e) While a master natural gas fitters license is in effect, it authorizes the licensee to provide natural gas services.

(f) While a journeyman natural gas fitters license is in effect, it authorizes the licensee to provide natural gas services only under the direction and control of a licensed master natural gas fitter.

(g) While an apprentice natural gas fitters license is in effect, it authorizes the licensee to provide natural gas service only under the direction and control of a licensed master natural gas fitter.

§12–308.

(a) Subject to § 12–308.1 of this subtitle, unless a license is renewed for a 2–year term as provided in this section, the license expires on the first May 1 that comes:

(1) after the effective date of the license; and

(2) in an odd–numbered year.

(b) (1) At least 1 month before a license expires, the Board shall mail or electronically transmit to the licensee:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current license expires; and

2. the amount of the renewal fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the licensee, at the last known address of the licensee, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(c) Before a license expires, the licensee may renew it for an additional 2–year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Board a renewal fee set by the Board; and

(3) submits to the Board:

(i) if contracting in the name of the licensee or another person to provide plumbing services, proof of the liability insurance required under § 12–501 of this title; and

(ii) a renewal application on the form that the Board provides.

(d) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

(e) The Secretary may determine that licenses and certificates issued under this subtitle shall expire on a staggered basis.

§12–308.1.

(a) Except as provided in subsection (b) of this section, for an apprentice plumber or apprentice natural gas fitter issued an initial license on or after October 1, 2012, the Board may not renew the license for more than three consecutive terms if the licensee has not taken or registered to take a journey plumber examination or journeyman gas fitters examination.

(b) Notwithstanding subsection (a) of this section, if an apprentice plumber or apprentice natural gas fitter fails a journey plumber examination or journeyman gas fitters examination, the Board shall renew the apprentice plumber license or

apprentice natural gas fitters license for an additional 2–year term for each failed examination.

§12–309.

(a) The Board shall reinstate the license of an individual who has failed to renew the license for any reason if the individual:

(1) applies to the Board for reinstatement within 4 years after the license expires; and

(2) meets the renewal requirements for the appropriate license under § 12-308 of this subtitle.

(b) The Board may not reinstate a journey plumber license, a master plumber license, a limited license, a propane gas fitter certificate, a master natural gas fitters license, a journeyman natural gas fitters license, or an apprentice natural gas fitters license of an individual who for any reason fails to apply for reinstatement within 4 years after the license expired unless the individual:

(1) meets the renewal requirements for the appropriate license under § 12-308 of this subtitle; and

(2) passes the appropriate examination for obtaining a license under this subtitle.

§12–310.

(a) Subject to the limitations in this section, the Board may issue a limited license to provide plumbing services as a master plumber or a journey plumber to any applicant who:

(1) meets the qualifications that the Board establishes for:

(i) a limited master plumber license; or

(ii) a limited journey plumber license;

(2) passes an examination given by the Board for:

(i) a limited master plumber license; or

(ii) a limited journey plumber license;

(3) submits to the Board an application on the form that the Board requires;

(4) pays the appropriate application fee under § 12-303 of this subtitle for:

(i) a master plumber license; or

(ii) a journey plumber license; and

(5) if contracting in the name of the applicant or another person to provide plumbing services, submits to the Board proof of the liability insurance as required under § 12-501 of this title.

(b) (1) While a limited master plumber license is in effect, it authorizes the licensee to provide plumbing services only in a specified geographical area of the State.

(2) While a limited journey plumber license is in effect, it authorizes the licensee to provide plumbing services under the direction and control of a master plumber only in a specified geographical area of the State.

(c) A limited license expires on the first May 1 that comes:

(1) after the effective date of the limited license; and

(2) in an odd-numbered year.

(d) After June 30, 1991, the Board may not issue a limited license to provide plumbing services to any individual.

(e) Notwithstanding subsection (d) of this section, an individual who is issued a limited license to provide plumbing services on or before June 30, 1991, may continue to renew the limited license for a 2-year term as provided under § 12-308 of this subtitle if the individual meets the appropriate renewal requirements for:

(1) a master plumber license; or

(2) a journey plumber license.

§12–310.1.

(a) A person who is engaged in the business of providing propane gas services under § 12-401(b) of this title shall meet the insurance requirements set forth in § 12-501 of this title.

(b) A person who holds a master natural gas fitters license and provides natural gas services under § 12-401(c) of this title shall meet the insurance requirements set forth in § 12-501 of this title.

§12–311.

(a) (1) Each master plumber shall display:

(i) the master plumber license and the license number conspicuously in the principal place of business of the master plumber; and

(ii) the license number of the master plumber license on each vehicle used on the job for providing plumbing services.

(2) Each holder of a limited master plumber license shall display:

(i) the limited master plumber license and the license number conspicuously in the principal place of business of the holder of the limited master plumber license; and

(ii) the license number of the limited master plumber license on each vehicle used on the job for providing plumbing services.

(3) Each holder of a propane gas fitter certificate shall display:

(i) the propane gas fitter certificate and the certificate number conspicuously in the principal place of business of the certificate holder; and

(ii) the certificate number of the propane gas fitter certification on each vehicle used on the job in providing propane gas services.

(4) Each holder of a master natural gas fitters license shall display:

(i) the master natural gas fitters license and the license number conspicuously in the principal place of business of the license holder; and

(ii) the license number of the master natural gas fitters license on each vehicle used on the job for providing natural gas services.

(b) (1) Except as provided in paragraph (2) of this subsection, a county or municipal corporation may not require a person licensed under this subtitle to display a county or municipal corporation certificate number on each vehicle used on the job for providing plumbing, natural gas fitting, or propane gas fitting services.

(2) This subsection does not apply to Baltimore County or the areas in the State under the jurisdiction of the Washington Suburban Sanitary Commission.

(c) Each licensee shall give the Board and any appropriate licensing authority written notice of any change of name, address, or employment from that which appears on the current license, at least 10 working days before the change is to take effect.

§12–312.

(a) (1) Subject to the hearing provisions of § 12-313 of this subtitle, the Board may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

(i) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(ii) fraudulently or deceptively uses a license;

(iii) is guilty of gross negligence, incompetence, or misconduct while providing plumbing services or assisting in providing plumbing services;

(iv) is guilty of violating the State Plumbing Code or applicable local plumbing code while providing plumbing services or assisting in providing plumbing services;

(v) under the laws of the United States or of any state, is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to provide plumbing services;

(vi) is guilty of an unfair or deceptive trade practice, as defined in § 13-301 of the Commercial Law Article;

(vii) fails to train and control adequately any person who, while under the direction and control of the master plumber or holder of a limited master plumber license, sells or gives estimates for providing plumbing services or provides or assists in providing plumbing services;

(viii) fails to maintain the liability insurance required under § 12-501 of this title for a master plumber, holder of a limited master plumber license who contracts to provide plumbing services on behalf of the master plumber, holder of a limited master plumber license, or another, holder of a propane gas fitter certificate, or holder of a master natural gas fitters license;

(ix) is guilty of violating § 12-605 of this title;

(x) as the holder of a limited license, propane gas fitter certificate, master natural gas fitters license, journey plumber license, journeyman natural gas fitters license, apprentice plumber license, or apprentice natural gas fitters license, performs plumbing, propane gas fitting, or natural gas fitting services outside the scope of that license;

(xi) knowingly allows or permits another licensee to perform plumbing, propane gas fitting, or natural gas fitting services outside the scope of that individual's license;

(xii) violates any other provision of this title; or

(xiii) violates any regulation adopted under this title.

(2) (i) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Board may impose a penalty not exceeding $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Board shall consider:

1. the seriousness of the violation;

2. the harm caused by the violation;

3. the good faith of the licensee; and

4. any history of previous violations by the licensee.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(b) The Board shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or misdemeanor described in subsection (a)(1)(v) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to provide plumbing services;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

§12–313.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Board takes any final action under § 12-312 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) The Board may administer oaths in connection with any proceeding under this section.

(d) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§12–314.

Any person 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.

§12–401.

(a) A person may engage in the business of providing plumbing services if:

(1) the person is a master plumber or holder of a limited master plumber license; or

(2) the person:

(i) designates a master plumber or holder of a limited master plumber license who actively directs, controls, and is responsible for all plumbing services; and

(ii) otherwise provides the plumbing services in accordance with this title.

(b) A person may engage in the business of providing propane gas services if:

(1) the person is the holder of a propane gas fitter certificate; or

(2) the person:

(i) designates a holder of a propane gas fitter certificate who actively directs, controls, and is responsible for all propane gas services; and

(ii) otherwise provides the propane gas services in accordance with this title.

(c) A person may engage in the business of providing natural gas services if:

(1) the person is the holder of a master natural gas fitters license; or

(2) the person:

(i) designates a holder of a master natural gas fitters license who actively directs, controls, and is responsible for all natural gas services; and

(ii) otherwise provides natural gas services in accordance with this title.

§12–402.

(a) A master plumber, holder of a limited master plumber license, or other person who engages in the business of providing plumbing services under this subtitle

may employ an individual who is not a master plumber or holder of a limited master plumber license to provide or assist in providing plumbing services if the individual:

(1) is licensed:

(i) as an apprentice plumber, to assist in providing plumbing services; or

(ii) as a journey plumber or holder of a limited journey plumber license, to provide plumbing services; and

(2) provides or assists in providing the services only within the scope of the license.

(b) This section does not apply to an individual performing work that is only incidental to the licensee providing or assisting in providing plumbing services.

§12–403.

(a) (1) Before a master plumber or holder of a limited master plumber license may provide plumbing services through a person who engages in the business of providing plumbing services under this subtitle, a holder of a propane gas fitter certificate may provide propane gas services through a person who engages in the business of providing propane gas services under this subtitle, or a master plumber or a holder of a master natural gas fitters license may provide natural gas services through a person who engages in the business of providing natural gas services under this subtitle, the master plumber, holder of a limited master plumber license, holder of a propane gas fitter certificate, or holder of a master natural gas fitters license shall submit to the Board a notice stating the intent of the master plumber, holder of a limited master plumber license, holder of a propane gas fitter certificate, or holder of a master natural gas fitters license to do so.

(2) The notice shall include:

(i) the name of the master plumber, holder of a limited master plumber license, holder of a propane gas fitter certificate, or holder of a master natural gas fitters license submitting the notice;

(ii) a statement that the named individual has been designated as the master plumber, holder of a limited master plumber license, holder of a propane gas fitter certificate, or holder of a master natural gas fitters license of the person;

(iii) the address of the principal place of business of the person;

(iv) any trade or fictitious name that the person intends to use while conducting the business of the person;

(v) the name of the person who carries insurance as required under § 12-501 of this title; and

(vi) any other information that the Board requires by regulation.

(b) The Board may set by regulation procedures for keeping current information about any person through whom plumbing services are provided.

§12–501.

(a) A master plumber or holder of a limited master plumber license may not contract to provide plumbing services on behalf of the master plumber, holder of a limited master plumber license, or another person who engages in the business of providing plumbing services unless the plumbing work of the master plumber or holder of a limited master plumber license is covered by liability insurance, including completed operations:

(1) for bodily injury in the amount of at least $300,000; and

(2) for property damage in the amount of at least $100,000.

(b) (1) The insurance required under this section may be bought:

(i) by a master plumber or holder of a limited master plumber license; or

(ii) for a master plumber or holder of a limited master plumber license, by the person who engages in the business of providing plumbing services and employs the master plumber or holder of a limited master plumber license.

(2) The insurance requirement of this section is not met for work that a master plumber or holder of a limited master plumber license does outside the scope of employment for the person who carries the insurance.

(c) An apprentice plumber, journey plumber, or holder of a limited journey plumber license need not obtain separate insurance while providing or assisting in providing plumbing services within the scope of the license.

(d) (1) An applicant for a master plumber license or limited master plumber license shall submit proof of the insurance required under this section to the Board with the license application.

(2) The Board may not issue a master plumber license or limited master plumber license to an applicant to whom the insurance requirements of this section would apply unless the applicant submits proof of the insurance.

(e) Unless an applicant meets the insurance requirements of this section, the Board may not renew the master plumber license or limited master plumber license of the applicant to whom the insurance requirements of this section would apply.

(f) A master plumber or holder of a limited master plumber license shall give the Board notice of the cancellation of insurance at least 10 days before the effective date of the cancellation.

(g) If a county, municipal corporation, special taxing district, or other political subdivision requires a master plumber, holder of a limited master plumber license, or other person who engages in the business of providing plumbing services to execute a surety bond under local plumbing requirements, the person may satisfy the bond requirement by submitting proof of the insurance required under this section.

(h) The Board shall specify on the master plumber license or limited master plumber license whether the master plumber or holder of the limited master plumber license meets the insurance requirements of this section.

§12–502.

(a) Regardless of whether plumbing services are provided for compensation, a person who provides or assists in providing plumbing services shall comply with the State Plumbing Code or any applicable local plumbing code.

(b) To ensure that plumbing services provided in a State building meet or exceed the standards of the State Plumbing Code, the plumbing work shall be inspected:

(1) to the extent money is provided in the State budget, by a State plumbing inspector; or

(2) if not inspected by a State plumbing inspector, by an inspector of the county or local government where the plumbing services are provided.

§12–503.

(a) Each individual whom the State, a county, or a local government appoints or employs as a plumbing inspector shall:

(1) each year attend a continuing education course that the Board or, with the approval of the Board, a county or local government conducts; and

(2) meet minimum standards that:

(i) adequately ensure that the plumbing inspector is qualified to inspect in accordance with the State Plumbing Code;

(ii) are established:

1. by the county or local government in consultation with the Board; or

2. if there is no standard established by the county or local government, by the Board; and

(iii) are administered:

1. for a county or local government inspector, by the county or local government that appoints or employs the inspector; and

2. for a State inspector, by the State.

(b) (1) Except as provided in paragraph (2) of this subsection, a county or local government may employ an individual as a plumbing inspector only if the individual holds a master plumber license issued by the Board, the Baltimore County Plumbing Board, or the Washington Suburban Sanitary Commission.

(2) Paragraph (1) of this subsection does not apply to a county or local government that uses combination building code inspectors to conduct concurrent trade–specific inspections on residential or commercial buildings to determine compliance with adopted plumbing codes and building codes if the combination building code inspector, as part of the inspector's training, has passed:

(i) a master plumber examination given by the Board, the Baltimore County Plumbing Board, or the Washington Suburban Sanitary Commission; or

(ii) the plumbing inspector's test administered by the Board.

(c) An individual may not have any financial interest in any plumbing business while employed by the State, a county, or any local government as a plumbing inspector.

(d) (1) On appointment or employment, the individual shall place the master plumber license, journey plumber license, or limited license on inactive status.

(2) The Board may issue a plumbing inspector identification card to a plumbing inspector who has placed the appropriate license on inactive status.

(3) On termination of the appointment or employment of an individual as a plumbing inspector, the Board shall reactivate the master plumber license, journey plumber license, or limited license of an individual who is on inactive status, without examination, if the individual:

(i) makes a written request to the Board; and

(ii) pays to the Board a reactivation fee set by the Board.

(e) The Board may impose a reasonable fee to cover the costs of conducting the continuing education courses under subsection (a) of this section.

§12–504.

Each plumbing advertisement in the name of a person who engages in the business of providing plumbing services shall contain the license number and name of a master plumber or holder of a limited master plumber license whom the person employs and designates to direct and control the provision of plumbing services through the business of the person.

§12–601.

(a) Except as otherwise provided in this title, a person may not provide, attempt to provide, or offer to provide plumbing services unless licensed by the Board to provide plumbing services.

(b) Except as otherwise provided in this title, a person may not assist, attempt to assist, or offer to assist in providing plumbing services in the State unless licensed by the Board to provide or assist in providing plumbing services.

(c) Except as otherwise provided in this title, a person may not provide, attempt to provide, or offer to provide propane gas services unless licensed by the

Board to provide plumbing services or certified by the Board to provide propane gas services.

(d) Except as otherwise provided in this title, a person may not provide, attempt to provide, or offer to provide natural gas services unless licensed by the Board to provide plumbing services or natural gas services.

§12–602.

(a) Except as otherwise provided in this title, a master plumber, holder of a limited master plumber license, or other person who engages in the business of providing plumbing services may not employ an individual to provide or assist in providing plumbing services unless the individual:

(1) is licensed by the Board as a master plumber or holder of a limited master plumber license; or

(2) (i) is licensed by the Board as a journey plumber, holder of a limited journey plumber license, or apprentice plumber; and

(ii) provides or assists in providing the plumbing services within the scope of the license.

(b) A person may not employ an individual to provide or assist in providing plumbing services under a public work contract subject to Title 17, Subtitle 2 of the State Finance and Procurement Article unless the individual is licensed by the Board, the Baltimore County Plumbing Board, or the Washington Suburban Sanitary Commission.

(c) A person may not classify an employee under a public work contract subject to Title 17, Subtitle 2 of the State Finance and Procurement Article who is licensed under this title at a specific work classification that is higher than the employee's license type.

§12–603.

Except as otherwise provided in this title, regardless of whether a person is engaged in the business of providing plumbing services, the person may not knowingly employ an individual to provide or assist in providing plumbing services in the State unless the individual is licensed by the Board.

§12–604.

Unless authorized under this title to provide plumbing services, a person may not represent to the public, by use of a title, including "master plumber", "registered plumber", "licensed master plumber", "holder of limited master plumber license", "licensed journey plumber", "journey plumber", "holder of a limited journey plumber license", "holder of a propane gas fitter certificate", "holder of a master natural gas fitters license", "holder of a journeyman natural gas fitters license", or "holder of an apprentice natural gas fitters license", by description of services, methods, or procedures, or otherwise, that the person is authorized to provide plumbing services in the State.

§12–605.

(a) (1) A person may not install a plumbing fixture or other device that does not meet the standards for approval as set out in the State Plumbing Code or any applicable local plumbing code.

(2) A person may not sell or install a fixture or other device that does not limit water consumption in accordance with the standards adopted by the Board.

(b) Subject to subsection (c) of this section, each local plumbing inspector shall enforce the prohibition against the installation of a plumbing fixture that is not water-conserving under the State Plumbing Code or any applicable local plumbing code to ensure that the capacity for waste water treatment of municipal sewage treatment facilities and private on-site wastewater disposal systems is not exceeded.

(c) Enforcement of this section may be suspended for a specified period if a local plumbing inspector determines that:

(1) there is an inadequate supply of fixtures and devices that are required by and meet the standards for approval as set out in the State Plumbing Code or any applicable local plumbing code;

(2) the configuration of a drainage system for a building requires a greater quantity of water to flush the system adequately than is delivered by fixtures and devices that are required by and meet the standards for approval as set out in the State Plumbing Code or any applicable local plumbing code; or

(3) historic restoration would be affected adversely.

§12–605.1.

(a) In the installation or repair of plumbing intended to dispense water for human consumption, a person shall use only pipes, pipe fittings, plumbing fittings, or fixtures that are lead–free.

(b) In the installation or repair of plumbing intended to dispense water for human consumption, a person shall use only solder or flux that is lead–free.

(c) Only the individual pipes, pipe fittings, plumbing fittings, or fixtures that are installed or repaired may be considered when calculating the weighted average lead content.

§12–605.2.

(a) A person engaged in the business of selling plumbing supplies in the State may not sell pipes, pipe fittings, plumbing fittings, or fixtures that will be used in the installation or repair of any plumbing that dispenses water for human consumption, unless the pipes, pipe fittings, plumbing fittings, or fixtures are lead–free.

(b) A person engaged in the business of selling plumbing supplies in the State may not sell solder or flux that is not lead–free unless the solder or flux bears a label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing that dispenses water for human consumption.

§12–606.

(a) Except as provided in subsection (b) of this section, a person who builds or remodels a building or structure shall ensure installation, in the building or structure, of fixtures and devices that are required by and meet the standards for approval as set out in the State Plumbing Code or any applicable local plumbing code.

(b) Enforcement of this section may be suspended for a specified period if a local plumbing inspector determines that:

(1) there is an inadequate supply of fixtures and devices that are required by and meet the standards for approval as set out in the State Plumbing Code or any applicable local plumbing code;

(2) the configuration of a drainage system for a building requires a greater quantity of water to flush the system adequately than is delivered by fixtures and devices that are required by and meet the standards for approval as set out in the State Plumbing Code or any applicable local plumbing code; or

(3) historic restoration would be affected adversely.

§12–607.

(a) (1) In this subsection, "officer" includes a superintendent, manager, and agent of a corporation regardless of whether it engages in the business of providing plumbing services.

(2) A person, including an officer, who violates any provision of the following sections of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $50 for each day or part of each day that the violation continues:

(i) § 12-602;

(ii) § 12-603; and

(iii) § 12-604.

(b) (1) A person who violates any provision of the following sections of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $100 or imprisonment not exceeding 6 months or both for each day or part of each day that the violation continues:

(i) § 12–601;

(ii) except as provided in paragraph (2) of this subsection, § 12–605; and

(iii) § 12–606.

(2) This subsection does not apply to a violation of any prohibition on the sale or installation of a fixture or other device that is not water–conserving.

(c) Any person who knowingly and willfully violates any provision of § 12-501(a) of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 6 months or both.

(d) (1) In addition to any other penalties under this title, the Board may impose on a person who violates any provision of this subtitle a penalty not exceeding $5,000 for each violation.

(2) In setting the amount of the penalty, the Board shall consider:

(i) the gravity of the violation;

(ii) the good faith of the violator;

(iii) the quantity and gravity of previous violations by the same violator;

(iv) the harm caused to the complainant, the public, and the plumbing profession;

(v) the assets of the violator; and

(vi) any other factors that the Board considers relevant.

§12–701.

This title may be cited as the "Maryland Plumbing Act".

§12–702.

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, 2033.

§13–101.

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

(b) "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(c) "Certification card" means a card issued by the Secretary under § 13-406 of this title to an individual certified as a private detective.

(d) "Firm" means a partnership or corporation.

(e) "Firm member" means a partner of a partnership or an officer or director of a corporation.

(f) "License" means, unless the context requires otherwise, a license issued by the Secretary to conduct a business to provide private detective services.

(g) "Licensed private detective agency" means, unless the context requires otherwise, a person who is licensed by the Secretary to conduct a business that provides private detective services.

(h) "Private detective" means an individual who personally provides private detective services.

(i) "Private detective agency" means a person who conducts a business that provides private detective services.

(j) (1) "Provide private detective services" means to provide, for compensation, the service of:

(i) conducting an investigation that concerns:

1. a crime or wrong committed, assumed to have been committed, or threatened to be committed;

2. the identity, habits, conduct, movement, location, affiliations, associations, transactions, reputation, or character of any person;

3. the credibility of a witness or of any other individual;

4. the location of a missing individual;

5. the location or recovery of lost or stolen property;

6. the origin or cause of or responsibility for:

A. a fire;

B. an accident;

C. any damage to or loss of property; or

D. an injury to an individual;

7. the affiliation, connection, or relation of any person with an organization or other person; or

8. the activities, conduct, efficiency, loyalty, or honesty of any employee, agent, contractor, or subcontractor;

(ii) securing evidence for use before any investigating committee, board of award, or board of arbitration or for use in the trial of any civil or criminal cause;

(iii) nonuniformed personal protection; or

(iv) conducting an investigation to locate or apprehend a fugitive from justice, unless the person:

1. conducting the investigation is a property bail bondsman or licensed by the Insurance Commissioner of the State or a similar licensing body of another state as a bail bondsman;

2. is an employee of a property bail bondsman or a licensed bail bondsman for the purpose of locating or apprehending fugitives from justice; or

3. is authorized as an agent by a property bail bondsman or licensed bail bondsman in advance of the apprehension of a fugitive from justice.

(2) "Provide private detective services" does not include:

(i) performing any activity of a person who is engaged exclusively in the business of making investigations and reports that relate to the financial standing, creditworthiness, or financial responsibility of any person;

(ii) performing any activity of a person who is engaged exclusively in the business of making a report for an insurance or credit purpose, except if the making of the report involves an investigation or surveillance of a sort normally performed by a person who otherwise is subject to this title;

(iii) monitoring an electronically controlled burglar or fire alarm system with a central unit; or

(iv) making a marketing survey.

(k) "Representative member" means a firm member who is appointed under § 13-302(b) of this title to act on behalf of the firm.

(l) "Secretary" means the Secretary of State Police.

§13–102.

This title does not apply:

(1) to an officer or employee of any unit of the United States, of any state, or of any county, municipal corporation, or other political subdivision of any state, while performing a duty of the office or employment;

(2) to a lawyer, while performing any activity that relates to the lawyer's regular practice of law in the State;

(3) to an individual who, as a regular part-time or full-time employee of a lawyer, provides services that relate to the lawyer's regular practice of law in the State;

(4) to an individual who is regularly and exclusively employed as an investigator or in any other capacity by a person who is not engaged in the business of providing private detective services, while performing any duty of the employment;

(5) to a person who is licensed to engage in insurance business of any kind in the State, while conducting that business, or to any employee or licensed agent of that person, while conducting that business;

(6) to an independent insurance adjuster, while conducting the business of an insurance adjuster;

(7) to a person while conducting an investigation solely for the person's own account; or

(8) to a special police officer appointed and while performing under Title 3, Subtitle 3 of the Public Safety Article or § 16-16 of the Code of Public Local Laws of Baltimore City.

§13–201.

Subject to the provisions of this title, the Secretary is responsible for the licensing of private detective agencies and the regulation of those persons who provide private detective services in the State.

§13–202.

(a) In addition to any powers set forth elsewhere, the Secretary may:

(1) adopt regulations to carry out this title;

(2) use any member of the Department of State Police, as necessary, to carry out and enforce this title; and

(3) make inquiries and conduct an investigation regarding any applicant:

(i) for a license; or

(ii) for employment with a licensee as a private detective.

(b) In addition to any duties set forth elsewhere, the Secretary shall:

(1) adopt regulations that set standards for the certification of employees of private detective agencies as private detectives;

(2) keep a roster of the individuals certified as private detectives under this title, including on the roster:

(i) the names of individuals certified;

(ii) the name of the licensed private detective agency with or by which each individual is associated or employed; and

(iii) any other information that the Secretary considers appropriate; and

(3) adopt by regulation a schedule of fines for violations of this title that may be assessed by the Secretary under §§ 13-313 and 13-409 of this title.

§13–203.

The Secretary and all members of the Department of State Police:

(1) shall treat as confidential any information obtained through an investigation of an applicant for a license or for certification under this title; and

(2) unless required by a court order or subpoena, may not divulge to a person who is not a member of the Department of State Police or a member of any other law enforcement agency that is conducting an official investigation any information obtained through an investigation of an applicant for a license or for certification under this title.

§13–204.

On the request of the Secretary, the Police Commissioner of Baltimore City shall assist and advise the Secretary regarding the investigation in Baltimore City of any applicant for a license or for certification under this title.

§13–205.

The Secretary shall pay all money collected under this title into the General Fund of the State.

§13–206.

Any person aggrieved by a final decision of the Secretary 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.

§13–301.

(a) Except as otherwise provided in this title, a person shall be licensed by the Secretary as a private detective agency before the person may:

(1) conduct a business that provides private detective services in the State; and

(2) solicit to engage in a business that provides private detective services in the State.

(b) An individual or a firm may qualify for a license as a private detective agency.

§13–302.

(a) To qualify for a license, an applicant shall meet the requirements of this section.

(b) If the applicant is a firm, the firm shall appoint a firm member as the representative member to make the application on behalf of the firm.

(c) (1) If the applicant is an individual, the applicant shall be of good character and reputation.

(2) If the applicant is a firm, each firm member shall be of good character and reputation.

(d) The individual applicant or the representative member shall be at least 25 years old.

(e) The applicant shall meet the experience requirements of § 13-303 of this subtitle.

§13–303.

(a) In this section, "organized police agency" means:

(1) a police department of the State or of a county or municipal corporation of the State;

(2) a private police department that is allowed to enroll its officers in approved Maryland Police Training and Standards Commission schools and academies; or

(3) a law enforcement agency of the United States, of any state, or of any county or municipal corporation of any state.

(b) An individual applicant or, if the applicant is a firm, the representative member shall have:

(1) at least 5 years of experience as a full–time certified or licensed private detective;

(2) at least:

(i) 5 years of experience as a full–time police officer with an organized police agency; and

(ii) completed successfully a police officer training course that is recognized and approved by the Maryland Police Training and Standards Commission;

(3) at least 3 years of experience in an investigative capacity as a detective while serving as a police officer with an organized police agency;

(4) at least:

(i) 3 years of experience in an investigative capacity in any unit of the United States, of the State, or of a county or municipal corporation of the State for the purpose of law enforcement; and

(ii) completed successfully the police officer training required by the Maryland Police Training and Standards Commission; or

(5) at least:

(i) 5 years of experience as a full–time fire investigator for a fire department or law enforcement agency of the State or of a county or municipal corporation of the State; and

(ii) completed successfully the training certified by the Maryland Police Training and Standards Commission or the Maryland Fire–Rescue Education and Training Commission.

§13–304.

(a) (1) An applicant for a license shall:

(i) submit to the Secretary an application in the manner and format designated by the Secretary;

(ii) submit the documents required under this section; and

(iii) pay to the Secretary, in a method approved by the Secretary, the fees required under subsection (b) of this section.

(2) If the applicant is a firm, the representative member shall complete the application and otherwise be responsible for the firm's compliance with this section.

(b) (1) An applicant for a license shall pay to the Secretary an application fee of:

(i) 1. $200, if the applicant is an individual; or

2. $375, if the applicant is a firm; and

(ii) the fees authorized under subsection (c)(2) of this section.

(2) (i) As part of the application for a license, the applicant shall submit to the Secretary the fingerprints required under subsection (c)(2)(i) of this section.

(ii) If the applicant is a firm, the applicant shall pay the cost of the fingerprint card record checks for each firm member.

(c) (1) The Department of State Police shall apply to the Central Repository for a State and national criminal history records check for each applicant.

(2) As part of the application for a criminal history records check, the Department of State Police shall submit to the Central Repository:

(i) two complete sets of the applicant's legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(3) In accordance with §§ 10–201 through 10–234 of the Criminal Procedure Article, the Central Repository shall forward to the applicant and the Department of State Police a printed statement of the applicant's criminal history record information.

(4) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

(d) (1) If the applicant is an individual, the application provided by the Secretary shall require:

(i) the name of the applicant;

(ii) the age of the applicant;

(iii) the address of the applicant; and

(iv) the current and previous employment of the applicant.

(2) If the applicant is a firm, the application provided by the Secretary shall require:

(i) a list of all of the firm members; and

(ii) for each firm member, the same information required regarding an individual applicant under paragraph (1) of this subsection.

(3) For all applicants, the application shall require:

(i) the address of the applicant's proposed principal place of business and of each proposed branch office;

(ii) any trade or fictitious name that the applicant intends to use while conducting the business of the private detective agency;

(iii) the submission of a facsimile of any trademark that the applicant intends to use while conducting the business of the private detective agency; and

(iv) as the Secretary considers appropriate, any other information to assist in the evaluation of:

1. an individual applicant; or

2. if the applicant is a firm, any firm member.

(e) The application provided by the Secretary shall contain a statement advising the applicant that willfully making a false statement on an application is a misdemeanor, subject to a fine or imprisonment or both, as provided under §§ 13–705 and 13–707 of this title.

(f) (1) If the applicant is an individual, the application shall be signed, under oath, by the individual.

(2) If the applicant is a firm, the application shall be signed, under oath, by the representative member, as the representative member, and by all the other firm members.

(g) (1) If the applicant is an individual, the application shall be accompanied by at least three names of individuals who can attest to the character of the applicant.

(2) If the applicant is a firm, the application shall be accompanied by at least three names of individuals who can attest to the character of each firm member.

(h) An applicant for a license who intends to employ at least 5 individuals as private detectives shall submit with the application proof of commercial general liability insurance, including errors and omissions and completed operations with a $1,000,000 total aggregate minimum, as required under § 13–604 of this title.

(i) In addition to meeting the other requirements of this section, a nonresident applicant shall submit a consent and any related document, as required by § 13–605 of this title.

§13–305.

The Secretary may not issue a license to an applicant whose trade or fictitious name or trademark is so similar to that used by another licensee that the public may be confused or misled by the similarity.

§13–306.

(a) (1) The Secretary shall issue a license to each applicant who meets the requirements of this subtitle.

(2) The Secretary shall issue an agency license certificate to each licensed private detective agency and a branch office certificate for each proposed branch office.

(b) (1) The Secretary shall include on each agency license certificate that the Secretary issues:

(i) the full name of the licensee;

(ii) the location of the principal office and of each branch office of the licensed private detective agency;

(iii) the date of issuance of the license;

(iv) the date on which the license expires; and

(v) the name and address of the representative member, if the licensee is a firm.

(2) The Secretary shall include on each branch office certificate:

(i) the full name of the licensee;

(ii) the location of the principal office of the licensee and of the agency branch office for which the certificate is issued;

(iii) the date of issuance of the branch office certificate;

(iv) the date on which the license of the licensee expires; and

(v) the name and agency address of the representative member, if the licensee is applying on behalf of a firm.

§13–307.

While a license is in effect, it authorizes the licensee to:

(1) conduct a business that provides private detective services for compensation;

(2) maintain an office for the conduct of the business at each location stated in the agency license certificate;

(3) employ individuals as private detectives to provide private detective services to the public on behalf of the licensee; and

(4) represent the licensee to the public as a private detective agency.

§13–308.

(a) By regulation, the Secretary shall stagger the terms of the licenses.

(b) Unless a license is renewed for a 3–year term as provided in this section, the license expires on the day that the Secretary sets.

(c) At least 1 month before a license expires, the Secretary shall electronically transmit to the licensee a notice that states:

(1) the date on which the current license expires;

(2) that the Secretary must receive the renewal application and the statements required under § 13–309 of this subtitle, at least 15 days before the license expiration date, for the renewal to be issued and mailed before the license expires;

(3) the amount of the renewal fee;

(4) that, if the statements required under § 13–309 of this subtitle are not received at least 15 days before the license expiration date, a fee of $10 per day shall be charged against the licensee until the statements are received; and

(5) that the submission of a false statement in the renewal application or in the annual statements is cause for revocation of the license.

(d) A licensee periodically may renew the license for an additional 3–year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Secretary in a method approved by the Secretary:

(i) a renewal fee of:

1. $200, if the licensee is an individual; or

2. $400, if the licensee is a firm; and

(ii) any late fee required under § 13–309 of this subtitle; and

(3) submits to the Secretary:

(i) a renewal application in the manner and format designated by the Secretary; and

(ii) the statements required under § 13–309 of this subtitle.

(e) The Secretary shall renew the license of each licensee who meets the requirements of this section.

§13–309.

(a) As a condition for license renewal, a licensee shall submit to the Secretary with the renewal application:

(1) a certification or, as authorized by the Secretary, other documentation that the licensed private detective agency has paid, for the past 3 years, all withholding and Social Security taxes;

(2) a certification or, as authorized by the Secretary, other documentation that the licensed private detective agency has paid, for the past 3 years, all other obligations payable for the employees of the licensed private detective agency to the State or the federal government;

(3) a certificate from an insurance carrier or, as authorized by the Secretary, other documentation showing that the licensed private detective agency has in effect workers' compensation insurance for its covered employees, as defined in § 9-101 of the Labor and Employment Article; and

(4) a receipt from the Comptroller's Office or, as authorized by the Secretary, other documentation showing that the State income tax of the licensed private detective agency has been paid for the past 3 years.

(b) If the Secretary does not receive the documents required under subsection (a) of this section at least 15 days before the license expiration date, the Secretary shall charge the licensee a late fee of $10 per day until the documents are received.

(c) The Secretary may inspect any of the business records of a licensee that relate to any matter that is subject to certification or documentation under this section.

§13–310.

(a) Each licensee shall maintain an office in the State.

(b) Each licensee shall keep in an office in the State all files or other records that:

(1) are made in the State; and

(2) relate to an investigation in the State.

§13–311.

(a) (1) Within 5 days after the change, a licensee shall submit to the Secretary written notice of:

(i) the addition of a branch office; and

(ii) any change in the address of an existing office.

(2) The licensee shall submit with the notice:

(i) the agency license certificate; and

(ii) if the proposed change affects an existing branch office, the branch office certificate for that office.

(3) The Secretary may:

(i) endorse the change on the agency license certificate and, if applicable, on the branch office certificate of the affected branch office; or

(ii) issue a new agency license certificate and, if applicable, a new branch office certificate, both of which shall set forth the same date as the original agency license certificate.

(b) Within 5 days after the occurrence, a firm shall submit to the Secretary written notice of:

(1) the withdrawal of any firm member; and

(2) the death of any firm member.

§13–312.

(a) Each licensee shall display at all times:

(1) the agency license certificate in a conspicuous place in the principal office of the private detective agency; and

(2) each branch office certificate in a conspicuous place in the agency branch office for which the certificate was issued.

(b) (1) If an agency license certificate or branch office certificate is lost or destroyed, the licensee immediately shall notify the Secretary.

(2) On receipt of notice of the loss or destruction of an agency license certificate or branch office certificate, the Secretary may issue a duplicate.

§13–313.

(a) Subject to the hearing provisions of § 13-315 of this subtitle, the Secretary may deny a license to any applicant, reprimand any licensee, fine any licensee or agency, or suspend or revoke a license if the applicant or licensee:

(1) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(2) fraudulently or deceptively uses a license;

(3) aids an individual to obtain or to attempt to obtain fraudulently or deceptively certification under this title as a private detective;

(4) while not licensed, solicits to engage in or willfully engages in a business providing private detective services in the State;

(5) while not licensed, willfully advertises:

(i) as a private detective agency; or

(ii) the provision of private detective services;

(6) willfully makes a false statement or misrepresentation that an individual is or was in the employ of the applicant or licensee;

(7) willfully makes a false statement or misrepresentation in any renewal application, in any annual statement, or in any other report or document that the Secretary requires to be submitted;

(8) fails to notify the Secretary about any change among the firm members or in the address of the principal office or any branch office of a licensee;

(9) fails to maintain the liability insurance required under § 13-604 of this title; or

(10) violates any other provision of this title.

(b) For purposes of this section, an act or omission of any principal, agent, or employee of an applicant or licensee may be construed to be the act or omission of the applicant or licensee, as well as of the principal, agent, or employee.

§13–314.

(a) Subject to this section, the Secretary shall commence proceedings under § 13-313 of this subtitle on the Secretary's own complaint or on a complaint made to the Secretary by any person.

(b) (1) A complaint shall:

(i) be in writing;

(ii) be signed by the complainant; and

(iii) state specifically the facts on which the complaint is based.

(2) If a complaint is made by any person other than the Secretary, the complaint shall be made under oath by the person who submits the complaint.

(c) (1) On receipt of a complaint that alleges facts that are grounds for action under § 13-313 of this subtitle, the Secretary shall appoint an officer of the Department of State Police, with the rank of lieutenant or above, as the investigating officer for the complaint.

(2) The investigating officer may assign responsibility for conducting the investigation to other members of the Department of State Police.

(d) (1) On conclusion of the investigation, the investigating officer shall determine whether there is a reasonable basis to believe that there are grounds for disciplinary action under § 13-313 of this subtitle.

(2) If the investigating officer finds a reasonable basis as provided under paragraph (1) of this subsection, the Secretary shall act on the complaint as provided under § 13-315 of this subtitle.

§13–315.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Secretary takes any final action under § 13-313 of this subtitle, the Secretary shall give the person against whom the action is contemplated an opportunity for a hearing before the Secretary.

(b) The Secretary shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Secretary may administer oaths in connection with any proceeding under this section.

(d) The hearing notice to be given to the person shall be written and sent at least 10 days before the hearing.

(e) The person may be represented at the hearing by counsel.

(f) If, after due notice, the person against whom the action is contemplated fails or refuses to appear, nevertheless the Secretary may hear and determine the matter.

§13–316.

(a) Within 5 days after the Secretary suspends or revokes the license of a person, the person shall surrender to the Secretary the agency license certificate and each branch office certificate of the person.

(b) The Secretary may not refund to a person whose license is suspended or revoked any fee paid under this title.

§13–401.

(a) Except as provided under subsection (b) of this section, an individual shall be certified by the Secretary as a private detective before the individual personally may provide any private detective service in the State.

(b) An individual who is not certified as a private detective may provide private detective services in the State if:

(1) the individual is employed by or has applied for employment with a licensed private detective agency;

(2) the licensed private detective agency has submitted to the Secretary the application of the individual for certification as a private detective, fingerprint cards, and fees required under § 13-403 of this subtitle;

(3) after a preliminary background investigation, the Secretary determines that the provision of private detective services by the individual would not result in a potential threat to public safety; and

(4) the Secretary has not denied the application.

§13–402.

An individual qualifies for certification as a private detective if the individual:

(1) holds a license;

(2) is a firm member of a licensed private detective agency; or

(3) (i) is an employee of or an applicant for employment with a licensed private detective agency; and

(ii) meets the qualifications set forth under § 13-403 of this subtitle.

§13–403.

To qualify for certification as a private detective, an employee of or applicant for employment with a licensed private detective agency shall:

(1) meet the standards set by the Secretary;

(2) submit to the Secretary:

(i) a sworn application in the manner and format designated by the Secretary; and

(ii) the fingerprints required under § 13–304(c)(2)(i) of this title; and

(3) pay to the Secretary in a method approved by the Secretary:

(i) an application fee of $15; and

(ii) the fees required under § 13–304(c)(2) of this title.

§13–404.

The Secretary shall certify as a private detective each individual who meets the requirements of this subtitle.

§13–404.1.

(a) By regulation, the Secretary shall stagger the terms of the certifications under this subtitle.

(b) Unless a certification is renewed for a 3–year term as provided in this section, the certification expires on the date the Secretary sets.

(c) At least 90 days before a certification expires, the applicant shall submit to the Secretary in the manner and format designated by the Secretary:

(1) a renewal application;

(2) the amount of the renewal fee in a method approved by the Secretary; and

(3) the amount of any late fee, as determined by the Secretary.

(d) An individual periodically may renew the certification for an additional 3–year term, if the individual:

(1) is otherwise entitled to be certified;

(2) pays to the Secretary in a method approved by the Secretary:

(i) a renewal fee of $10;

(ii) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records;

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check; and

(iv) any late fee required under this subtitle; and

(3) submits to the Secretary:

(i) a renewal application in the manner and format designated by the Secretary; and

(ii) two complete sets of the applicant's legible fingerprints taken in a format approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation.

(e) In accordance with §§ 10–201 through 10–234 of the Criminal Procedure Article, the Central Repository shall forward to the applicant and the Department of State Police a printed statement of the applicant's criminal history records information.

(f) (1) Subject to paragraph (2) of this subsection, if a complete application for renewal of certification as required under this subtitle is not received by the Secretary at least 30 calendar days before the certification expires, the Secretary shall assess a late fee of $5 per day until the application is received by the Secretary, unless the applicant did not make timely renewal because of incapacity, hospitalization, being called to active military duty, or other hardship.

(2) The total amount of late fees assessed under this subsection may not exceed $150.

(3) The Secretary may not certify any applicant under this title if the applicant has outstanding late fee obligations.

(g) (1) The Secretary shall renew the certification of each individual who meets the requirements of this section.

(2) Within 5 days after the Secretary refuses to renew the certification of an individual as a private detective, the Secretary shall send written notice of the refusal to the individual who submitted the renewal application.

§13–405.

While certification of an individual as a private detective is in effect, the certification authorizes the individual to provide private detective services only:

(1) on behalf of the private detective agency through which the individual obtained the certification; and

(2) while that private detective agency is licensed under this title.

§13–406.

(a) The Secretary shall issue to each individual who is certified as a private detective under this subtitle a certification card that identifies the individual as a certified private detective.

(b) (1) Subject to this subsection, the Secretary shall determine the form and content of the certification card.

(2) The certification card shall be of a size and made of materials appropriate for its intended use, as provided under § 13-407 of this subtitle.

(3) The certification card shall contain:

(i) a statement that in substance specifies that the individual is certified by the Secretary as a private detective;

(ii) the name of the licensed private detective agency with or by which the individual is associated or employed; and

(iii) any information that the Secretary considers appropriate to:

1. identify the individual; or

2. specify the authority of the individual.

§13–407.

(a) At any time that a certified private detective provides a private detective service, the private detective shall carry the certification card issued under § 13-406 of this subtitle.

(b) On request of a law enforcement officer, a certified private detective shall show the private detective's certification card.

§13–408.

A certified private detective may wear or carry a badge only if:

(1) the Secretary authorizes the wearing or carrying of the badge;

(2) the design of the badge is approved by the Secretary; and

(3) the badge is issued by the licensed private detective agency through which the private detective is certified.

§13–409.

Subject to the hearing provisions of § 13-411 of this subtitle, the Secretary may deny certification as a private detective to any applicant, reprimand or fine any individual certified as a private detective, or suspend or revoke the certification of an individual:

(1) for any applicable ground under § 13-313 of this title;

(2) if the applicant or individual fraudulently or deceptively obtains or attempts to obtain certification as a private detective for the applicant or individual or for another; or

(3) if the applicant or individual fails to maintain the standards set by the Secretary for certification as a private detective.

§13–410.

(a) Subject to this section, the Secretary shall commence proceedings under § 13-409 of this subtitle on the Secretary's own complaint or on a complaint made to the Secretary by any person.

(b) (1) A complaint shall:

(i) be in writing;

(ii) be signed by the complainant; and

(iii) state specifically the facts on which the complaint is based.

(2) If a complaint is made by any person other than the Secretary, the complaint shall be made under oath by the person who submits the complaint.

(c) (1) On receipt of a complaint that alleges facts that are grounds for action under § 13-409 of this subtitle, the Secretary shall appoint an officer of the Department of State Police, with the rank of lieutenant or above, as the investigating officer for the complaint.

(2) The investigating officer may assign responsibility for conducting the investigation to other members of the Department of State Police.

(d) (1) On conclusion of the investigation, the investigating officer shall determine whether there is a reasonable basis to believe that there are grounds for disciplinary action under § 13-409 of this subtitle.

(2) If the investigating officer finds a reasonable basis as provided under paragraph (1) of this subsection, the Secretary shall act on the complaint as provided under § 13-411 of this subtitle.

§13–411.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Secretary takes any final action under § 13-409 of this subtitle, the Secretary shall give the individual against whom the action is contemplated an opportunity for a hearing before the Secretary.

(b) The Secretary shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Secretary may administer oaths in connection with any proceeding under this section.

(d) The hearing notice to be given to the individual shall be written and sent at least 10 days before the hearing.

(e) The individual may be represented at the hearing by counsel.

(f) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Secretary may hear and determine the matter.

§13–412.

Within 5 days after the Secretary suspends or revokes the certification of an individual as a private detective, the individual shall surrender to the Secretary the certification card and badge, if any, of the individual.

§13–601.

A private detective agency is responsible for the acts of each of its employees while the employee is conducting the business of the agency.

§13–602.

(a) The offices of each private detective agency shall be supervised by an individual who:

(1) holds, as an individual, the license of the private detective agency; or

(2) is the representative member of the private detective agency appointed under § 13-302(b) of this title.

(b) If a private detective agency is a firm, the agency shall notify the Secretary about:

(1) the identity of the individual serving as the representative member of the agency; and

(2) each vacancy in that position.

(c) (1) Except as provided in paragraph (2) of this subsection, a private detective agency shall appoint a representative member within 90 days after a vacancy occurs in the position.

(2) If the vacancy is caused by the death of or an incapacitating injury to the representative member, the private detective agency shall appoint a replacement within 180 days after the vacancy occurs.

(d) If a licensed private detective agency fails to appoint a representative member as required under subsection (c) of this section, the license of the private detective agency:

(1) is suspended automatically; and

(2) shall remain suspended until the agency complies with the requirements.

(e) The Secretary may adopt regulations to carry out this section.

§13–604.

(a) A private detective agency that employs 5 or more individuals as private detectives shall:

(1) maintain commercial general liability insurance, including errors and omissions and completed operations with a $1,000,000 total aggregate; and

(2) submit proof of the required insurance to the Secretary.

(b) (1) If an applicant for a license intends to employ 5 or more individuals as private detectives, the applicant shall submit proof of the liability insurance required under subsection (a) of this section to the Secretary with the license application.

(2) The Secretary may not issue a license to an applicant to whom the insurance requirements of this section would apply unless the applicant submits proof of the insurance.

(c) If the insurance required for a private detective agency under this section is canceled, forfeited, or otherwise terminated, both the private detective agency and the insurer shall notify the Secretary.

(d) If a private detective agency fails to maintain the liability insurance required under this section, the license of the private detective agency:

(1) is suspended automatically;

(2) shall remain suspended until the agency complies with the requirements under subsection (a) of this section; and

(3) may not be reinstated until the agency submits proof of the required insurance to the Secretary.

§13–605.

(a) A nonresident applicant for a license shall submit to the Secretary of State a consent, as provided under this section.

(b) The consent required under this section shall:

(1) specify that service of process on the Secretary of State shall bind the applicant in any action, suit, or proceeding brought against the applicant;

(2) specify that an action, suit, or proceeding may be brought against the applicant in any county where:

(i) the cause of action arose; or

(ii) the plaintiff resides; and

(3) be signed by the representative member of the applicant.

(c) In addition to submitting a consent, a nonresident applicant shall submit to the Secretary of State a certified copy of a resolution adopted by the firm that confirms that the firm members, board of directors, or other managing board of the firm authorized the representative member to execute and submit the consent on behalf of the firm.

(d) An applicant who is required under this section to submit a consent or a consent and authorization to the Secretary of State shall submit copies of the signed documents to the Secretary.

(e) The Secretary may not issue a license to a nonresident applicant, unless the nonresident applicant complies with the requirements of subsections (a) through (d) of this section.

(f) (1) Subject to paragraph (2) of this subsection, service of process on the Secretary of State binds a person who has submitted a consent to the Secretary of State, as required under this section.

(2) If service of process is made on the Secretary of State as authorized under this section, the person initiating the action, suit, or proceeding immediately shall send a copy, by certified mail, return receipt requested, to the principal office in the State of the person against whom the action, suit, or proceeding is directed.

(3) As to any person who submits a consent as required under this section, any action, suit, or proceeding may be brought in any county where:

(i) the cause of action arose; or

(ii) the plaintiff resides.

§13–606.

(a) A private detective agency may not divulge information obtained while providing services unless:

(1) directed by the client for whom the services are provided;

(2) authorized by subsection (b) of this section; or

(3) required by law.

(b) If, while providing services, a private detective agency obtains any information about a criminal offense, the private detective agency may divulge the information to:

(1) a law enforcement officer;

(2) the Attorney General or a representative of the Attorney General; or

(3) a State's Attorney or a representative of a State's Attorney.

(c) Except as provided in subsection (d) of this section, an individual who is employed by a private detective agency may not divulge to anyone other than to authorized staff of the agency any information that:

(1) was acquired by the employee or other agency staff while providing services for the agency; and

(2) relates to the assignment for which services are provided.

(d) An employee of a private detective agency may divulge information that is restricted under subsection (c) of this section:

(1) as directed by the private detective agency; or

(2) on a request made by the Secretary in the course of an investigation by the Secretary.

§13–607.

(a) In this section, "agency equipment" means a badge, clothing, or other equipment that:

(1) belongs to a private detective agency; and

(2) bears the name, trade name, or trademark of the private detective agency.

(b) If a private detective agency issues agency equipment for use by an individual who is associated with or employed by the agency, the individual shall return the agency equipment to the agency within 10 days after:

(1) the termination of the individual's association or employment with the agency; or

(2) the written request of an authorized representative of the agency.

§13–608.

If a certified private detective loses a certification card, the private detective immediately shall give the Secretary notice of the loss and the circumstances regarding the loss.

§13–701.

(a) A person may not engage in, attempt to engage in, offer to engage in, or solicit to engage in a business for the purpose of providing private detective services in the State unless licensed as a private detective agency by the Secretary.

(b) An individual may not provide, attempt to provide, offer to provide, or solicit to provide private detective services in the State unless certified as a private detective by the Secretary.

§13–702.

(a) Unless authorized under this title to engage in business for the purpose of providing private detective services, a person may not represent to the public, by use of a title, including "licensed private detective agency", "private detective agency", "private detectives", or "private investigators", by description of services, methods, or procedures, or otherwise, that the person is authorized to engage in the business of providing private detective services in the State.

(b) Unless an individual is certified as a private detective under this title, the individual may not represent to the public, by use of a title, including "certified

private detective", "licensed private detective", "private detective", or "private investigator", by use of a badge or identification card, by description of services, methods, or procedures, or otherwise, that the individual is authorized to provide private detective services in the State.

§13–703.

(a) Except as authorized under this title, a private detective agency may not provide any person with a badge or a certification card or other document indicating that any individual is a private detective.

(b) A certified private detective may not lend the private detective's certification card or badge to another person or allow another person to use or display the card or badge.

(c) Regardless of any association that an individual may have with a private detective agency, unless authorized under this title, the individual may not wear or carry a badge that:

(1) represents that the individual is a private detective; or

(2) otherwise represents that the individual is associated with a private detective agency.

§13–704.

(a) (1) A licensee may not display or allow to be displayed the agency license certificate at any location other than the principal office of the licensee, as specified in the certificate.

(2) A licensee may not display or allow to be displayed a branch office certificate at any location other than the branch office specified in the certificate.

(b) A licensee may not knowingly alter, deface, or destroy or knowingly allow the alteration, defacement, or destruction of an agency license certificate or branch office certificate.

§13–705.

A person may not willfully make a false statement on any application form, annual statement, or other document submitted to the Secretary under this title.

§13–706.

An individual whom a licensee employs as a private detective may not willfully make a false statement or report to the licensee about any case conducted or services provided by the licensee.

§13–707.

(a) A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(b) The fines assessed under §§ 13-313 and 13-409 of this title may not exceed $5,000 per violation, or a maximum aggregate of $10,000 for a 2-year license term, and shall be paid to the Secretary within 10 days after final adjudication of any hearing or upon the waiver of any hearing.

(c) Notwithstanding the provisions of §§ 13-313 and 13-409 of this title, the Secretary may fine either the licensed agency or the individual working on behalf of the licensed agency, but not both, for the same violation.

§13–801.

This title may be cited as the "Maryland Private Detectives Act".

§14–101.

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

(b) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, a permit holder.

(c) "Board" means the State Board for Professional Engineers.

(d) "Council" means the National Council of Examiners for Engineering and Surveying.

(e) "Design coordination" means the review and coordination of services provided by individuals licensed or certified under Titles 3, 8, 9, 14, and 15 of this article.

(f) "License" means, unless the context requires otherwise, a license issued by the Board to practice engineering.

(g) "License fee" means, as applicable, the fee paid in connection with the issuance and renewal of a license and the issuance of a reciprocal license.

(h) "Managing agent" means a professional engineer designated as the managing agent by a permit holder under § 14–403 of this title.

(i) "Permit" means, unless the context requires otherwise, a permit issued by the Board to allow a corporation, partnership, or limited liability company to operate a business through which one or more professional engineers may practice engineering.

(j) (1) "Practice engineering" means to provide any service or creative work the performance of which requires education, training, and experience in the application of:

(i) special knowledge of the mathematical, physical, and engineering sciences; and

(ii) the principles and methods of engineering analysis and design.

(2) In regard to a building or other structure, machine, equipment, process, works, system, project, or public or private utility, "practice engineering" includes:

(i) consultation;

(ii) design;

(iii) evaluation;

(iv) inspection of construction to ensure compliance with specifications and drawings;

(v) investigation;

(vi) planning; and

(vii) design coordination.

(3) "Practice engineering" does not include the exclusive and sole performance of nontechnical management activities.

(k) "Professional engineer" means, unless the context requires otherwise, an engineer who is licensed by the Board to practice engineering.

(l) (1) "Responsible charge" means direct control and personal supervision of engineering that requires initiative, professional skill, and independent judgment.

(2) "Responsible charge" includes responsible engineering teaching.

§14–102.

The purposes of this title are to safeguard life, health, and property and to promote the public welfare by regulating persons who practice engineering in the State.

§14–103.

(a) All engineering documents prepared in connection with the alteration, construction, design, or repair of a building, structure, building engineering system and its components, machine, equipment, process, works, subsystem, project, public or private utility, or facility in the built or economic environment, including an engineering document prepared at the request of the State or a political subdivision of the State, where the skills of a professional engineer are required, shall be signed, sealed, and dated by the professional engineer who prepared or approved the documents.

(b) A professional engineer may perform design coordination for a project or portion of a project provided that the professional engineer:

(1) holds a current license issued by the Board; and

(2) has adequate experience in, and understanding of, achieving the purpose of the project or portion of the project being coordinated.

§14–201.

There is a State Board for Professional Engineers in the Department.

§14–202.

(a) (1) The Board consists of eight members.

(2) Of the eight members of the Board:

(i) six shall be engineers; and

(ii) two shall be consumer members.

(3) Of the six engineer members of the Board:

(i) one shall be a chemical engineer;

(ii) two shall be civil engineers;

(iii) one shall be an electrical engineer;

(iv) one shall be a mechanical engineer; and

(v) one shall be a professional engineer appointed without regard to specific professional practice who shall represent other designations of professional engineering.

(4) The Governor shall appoint the members with the advice of the Secretary and with the advice and consent of the Senate.

(5) (i) The Governor shall appoint each of the engineer members from a single list of at least 3 names of engineers submitted by the local chapters of the applicable professional organization, as set forth in this paragraph and any list of qualified individuals that may have been submitted to the Governor by any person who is a resident of the State.

(ii) For the chemical engineer member, the list shall be submitted by the American Institute of Chemical Engineers.

(iii) For the civil engineer members, the list shall be submitted by the American Society of Civil Engineers.

(iv) For the electrical engineer member, the list shall be submitted by the Institute of Electrical and Electronics Engineers.

(v) For the mechanical engineer member, the list shall be submitted by the American Society of Mechanical Engineers.

(vi) For the one engineer member identified in paragraph (3)(v) of this subsection, the list shall be submitted by the Maryland Society of Professional Engineers.

(b) Each member of the Board shall be:

(1) a citizen of the United States; and

(2) a resident of the State.

(c) (1) Each engineer member of the Board shall have:

(i) practiced engineering for at least 10 years; and

(ii) been in responsible charge of important engineering work for at least 5 years.

(2) Each engineer member of the Board shall be licensed as a professional engineer in this State at all times during the member's term on the Board.

(d) Each consumer member of the Board:

(1) shall be a member of the general public;

(2) may not be a licensee or otherwise be subject to regulation by the Board;

(3) may not be required to meet the qualifications for the professional members of the Board; and

(4) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Board.

(e) While a member of the Board, a consumer member may not:

(1) have a financial interest in or receive compensation from a person regulated by the Board; or

(2) grade any examination given by or for the Board.

(f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(g) (1) The term of a member is 5 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 October 1, 2011.

(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.

(h) (1) The Governor may remove a member for incompetence, misconduct, neglect of duties, or other sufficient cause.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned if the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§14–203.

(a) From among its members, the Board annually shall elect a chairman, a vice chairman, and a secretary.

(b) The manner of election of officers shall be as the Board determines.

§14–204.

(a) A majority of the authorized membership of the Board is a quorum.

(b) (1) The Board shall meet at least twice a year, at the times and places that the Board determines.

(2) The Board may hold special meetings as provided in its bylaws.

(3) Notice of meetings of the Board shall be given as required in its bylaws.

(c) A member of the Board:

(1) may not receive compensation; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) The Board may employ a staff in accordance with the State budget.

§14–204.1.

At least annually, the chairman of the Board, the chairman of the State Board of Architects, the chairman of the State Board of Certified Interior Designers, the chairman of the State Board of Examiners of Landscape Architects, and the chairman of the State Board for Professional Land Surveyors shall meet to discuss issues of mutual importance to the design professions.

§14–205.

(a) With the advice of the established engineering societies, the Board shall adopt, by regulation, a code of ethics for practicing engineering.

(b) The Board shall distribute:

(1) to each applicant for a license, a copy of the Maryland Professional Engineers Act and the Board's rules and regulations; and

(2) on each renewal of a license, to each licensee, a copy of any amendments to the Maryland Professional Engineers Act and the Board's rules and regulations that took effect during the 2-year period ending on the date of renewal.

§14–206.

(a) Subject to the State budget, the Board may employ an investigative staff to:

(1) investigate a complaint; and

(2) perform any other related duty, as assigned by the Board.

(b) (1) The Board may issue a subpoena for the attendance of a witness to testify or the production of evidence in connection with:

(i) any disciplinary action under § 14-317 of this title; or

(ii) any proceeding brought for an alleged violation of this title.

(2) A subpoena shall be signed by the chairman of the Board and sealed with the seal of the Board.

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

(c) (1) The Board may sue in the name of the State to enforce any provision of this title by injunction.

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

(i) post bond; or

(ii) allege or prove either that:

1. an adequate remedy at law does not exist; or

2. substantial or irreparable damage would result from the continued violation of the provision.

(3) A member of the Board may not be held personally liable for any action taken under this subsection in good faith and with reasonable grounds.

§14–207.

(a) On request of any person and payment of a verification fee set by the Board, the Board shall certify the licensing status and qualifications of any individual who is the subject of the request.

(b) Each certification under this section:

(1) shall include a statement of the licensing 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 and renewal of the license of that individual;

(iii) information about any disciplinary action taken against that individual; and

(iv) if authorized by that individual, information about any complaint against that individual.

§14–208.

(a) (1) In addition to any powers set forth elsewhere, the Board may adopt:

(i) any bylaw for the conduct of the proceedings of the Board; and

(ii) any regulation to carry out this title, subject to the limitation under paragraph (2) of this subsection.

(2) The Board may not adopt any regulation that would restrict or otherwise would affect competitive bidding for engineering services.

(b) In addition to any duties set forth elsewhere, the Board shall:

(1) administer this title;

(2) adopt a seal;

(3) keep a record of its proceedings; and

(4) keep a file on each applicant for:

(i) a license; and

(ii) certification under § 14-310 of this title.

§14–208.1.

(a) In this section, "code official" means a public official responsible for the review of building permit documents or the issuance of building permits.

(b) The Board shall:

(1) keep a list of the names and mailing addresses of all licensees and certificate holders;

(2) provide each code official with a copy of the list annually; and

(3) provide any other person who makes a request with a copy of the list at a reasonable fee set by the Board.

(c) (1) The Board shall provide all licensees, certificate holders, and code officials with a periodic newsletter not less than semiannually on the activities of the Board.

(2) The Board shall publish, on the Department website, the newsletter jointly with the State Board of Architects, the State Board of Examiners of Landscape Architects, the State Board of Certified Interior Designers, and the State Board for Professional Land Surveyors.

(d) The Board shall distribute:

(1) to each applicant for a license or a certificate and each code official, a copy of the Maryland Professional Engineers Act and the Board's rules and regulations;

(2) on each renewal of a license or certificate, to each licensee or certificate holder, a copy of any amendments to the Maryland Professional Engineers Act and the Board's rules and regulations that took effect during the 2-year period ending on the date of renewal; and

(3) to each code official, a copy of any amendments to the Maryland Professional Engineers Act and the Board's rules and regulations.

(e) A licensee or certificate holder shall designate the licensee's or certificate holder's mailing address at the time of issuance of the license or certificate and on each renewal of the license or certificate.

§14–209.

(a) (1) The Board may set reasonable fees for its services.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the Board and shall be based on the calculations performed by the Secretary under § 2–106.2 of the Business Regulation Article.

(b) The Board shall publish the fee schedule set by the Board by regulation.

(c) (1) The Board shall pay all fees collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Occupational and Professional Licensing Design Boards' Fund established in § 2–106.1 of the Business Regulation Article.

§14–210.

Any person aggrieved by any final action of the Board may take an appeal as allowed in §§ 10-222 and 10-223 of the State Government Article.

§14–211.

The Board exercises its powers, duties, and functions subject to the authority of the Secretary.

§14–301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice engineering in the State.

(b) This section does not apply to:

(1) an individual who practices engineering while performing official duties as an officer or employee of the federal government;

(2) a regular employee of a public utility company while providing engineering services to any facility of the company that the State or federal government regulates to safeguard life, health, and property;

(3) an officer or employee of a corporation, while the officer or employee practices engineering under the conditions authorized under § 14-302 of this subtitle;

(4) an employee or other subordinate of a professional engineer, while the subordinate practices engineering under the conditions authorized under § 14-303(a)(1) of this subtitle; or

(5) an employee of an individual who is not a professional engineer but who, nevertheless, is authorized to practice engineering, while the employee practices engineering under the conditions authorized under § 14-303(a)(2) of this subtitle.

§14–302.

(a) An officer or employee of a corporation may practice engineering without a license if:

(1) the corporation is engaged in research and development engineering for the federal government; and

(2) the work of the officer or employee relates to that research and development engineering.

(b) An officer or employee of a corporation may practice engineering without a license if:

(1) the corporation is engaged in:

(i) manufacturing;

(ii) industrial processes;

(iii) industrial engineering; or

(iv) maintenance and repair of structures or equipment used in industrial processes or manufacturing; and

(2) the work of the officer or employee relates to the products or systems of the corporation or its subsidiaries or affiliates.

(c) An officer or employee of a corporation may practice engineering under this section only as the practice relates to the officer's or employee's work for the corporation.

§14–303.

(a) Subject to this section, the following individuals may practice engineering without a license:

(1) an employee or other subordinate of a professional engineer; and

(2) an employee of an individual who is not licensed but is otherwise authorized under this title to practice engineering without supervision.

(b) The authority to practice engineering under this section applies only while the employee or other subordinate works under the responsible charge of the licensee or other authorized individual.

§14–304.

(a) To qualify for a license, an 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 meet the educational and experience requirements under and, except as otherwise provided in this subtitle, shall pass each examination required under § 14-305 of this subtitle.

§14–305.

(a) In addition to the other qualifications for a license set forth in this subtitle, an applicant shall qualify under this section by meeting the educational and experience requirements set forth in subsection (b), (c), or (d) of this section.

(b) (1) An applicant qualifies under this section if the applicant:

(i) has been graduated from a college or university on completion of at least a 4–year curriculum in engineering, or its equivalent, that the Board approves;

(ii) subject to paragraph (2) of this subsection, has at least 4 years of work experience in engineering that is satisfactory to the Board and that indicates to the Board that the applicant may be competent to practice engineering;

(iii) has passed the examination in the fundamentals of engineering given by the Board under this subtitle; and

(iv) after passing the examination in fundamentals, has passed the examination in the principles and practice of engineering given by the Board under this subtitle.

(2) If an applicant has completed graduate study in engineering that is satisfactory to the Board, it may allow the applicant up to a 1–year credit toward the experience requirement of paragraph (1)(ii) of this subsection.

(c) An applicant qualifies under this section if the applicant:

(1) has been graduated from a college or university on completion of at least a 4–year curriculum in engineering, or its equivalent, that the Board has not approved;

(2) has at least 8 years of work experience in engineering that is satisfactory to the Board and that indicates to the Board that the applicant may be competent to practice engineering;

(3) has passed the examination in the fundamentals of engineering given by the Board under this subtitle; and

(4) after passing the examination in fundamentals, has passed the examination in the principles and practice of engineering given by the Board under this subtitle.

(d) (1) An applicant qualifies under this section if the applicant:

(i) subject to paragraph (2) of this subsection, has at least 12 years of work experience in engineering that is satisfactory to the Board and that indicates to the Board that the applicant may be competent to practice engineering; and

(ii) 1. has passed the examination in the fundamentals of engineering given by the Board under this subtitle; and

2. after passing the examination in the fundamentals of engineering, has passed the examination in the principles and practice of engineering given by the Board under this subtitle.

(2) If an applicant has completed 1 or more years of a college or university curriculum in engineering that the Board approves, it may allow, for each of those years, a 1–year credit towards the experience requirement of paragraph (1)(i) of this subsection.

(3) If an applicant has completed 1 or more years of a college or university curriculum in engineering that has not been approved by the Board, the Board may allow, for each of those years, a credit of up to 6 months towards the experience requirement under paragraph (1)(i) of this subsection.

(e) If an applicant has taught undergraduate or graduate courses in the practice of engineering or has directed engineering research and projects in the applicant's field in a college or university offering an engineering curriculum that is approved by the Board, the Board may count the teaching experience as work experience for purposes of the experience requirements under any subsection of this section.

§14–306.

(a) An applicant for a license shall:

(1) submit to the Board:

(i) an application on the form that the Board provides; and

(ii) any relevant document that the Board requires; and

(2) pay to the Board or the Board's designee:

(i) a nonrefundable application fee set by the Board; and

(ii) an examination fee set by the Board in an amount not to exceed the cost of the required examinations.

(b) (1) The application form shall require:

(i) a statement about the education of the applicant;

(ii) a statement about the engineering experience of the applicant;

(iii) a list of at least 5 references, which, unless excused by the Board, shall include at least 3 professional engineers who have personal knowledge of the applicant's engineering experience; and

(iv) any other relevant information that the Board requires.

(2) An application shall be made under oath.

(c) If the Board finds that an application form and the accompanying documentation do not demonstrate that the applicant meets the requirements for a license under this subtitle, the Board may require the applicant to submit additional information or documentation.

§14–307.

(a) (1) Except as otherwise provided in § 14-307.1 of this subtitle, an applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(2) Subject to § 14-310 of this subtitle, an individual may take the examination in the fundamentals of engineering before meeting other qualifications for a license.

(b) The Board periodically shall give the examinations required under this subtitle to qualified applicants 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) As provided under § 14–305 of this subtitle, the Board shall give the following 2 separate examinations:

(i) the examination in the fundamentals of engineering; and

(ii) the examination in the principles and practice of engineering.

(2) The Board shall determine the subjects, scope, and form of and method of grading and passing scores for examinations given under this subtitle.

(3) The Board shall structure the examinations to test the ability of an applicant to design, plan, and direct engineering works in order to ensure the safety of life, health, and property.

§14–307.1.

(a) The Board may use a testing service to administer the examinations required under this subtitle.

(b) If the Board uses a testing service, the testing service, subject to the requirements set by the Board, may:

(1) set the time and place of examinations;

(2) give qualified applicants notice of the time and place of examinations; and

(3) furnish any other information that the Board may require the testing service to provide.

§14–308.

(a) If an applicant fails an examination given under this subtitle, the Board or its designee shall provide notice of the failure to the applicant.

(b) (1) Subject to the provisions of this subsection, an applicant who fails an examination may review the applicant's examination in accordance with the Council's review policies unless the policies have been otherwise amended by the Board.

(2) To conduct a review under this subsection, an applicant shall submit a written request to the Board within 60 days after the date the applicant is notified of the applicant's failure of the examination.

(3) An applicant who does not request review in accordance with paragraph (2) of this subsection waives the right to review under this subsection.

(c) The Board shall confirm the test score of any applicant who fails an examination given under this subtitle if the applicant:

(1) submits a written request to the Board in accordance with its regulations; and

(2) pays to the Board the fee set by the Board.

(d) (1) Subject to this subsection, an applicant who fails an examination 3 times may have a conference with a member of the Board.

(2) To have a conference under this subsection, an applicant shall submit a written request to the Board within 45 days after the date on which the Board mails notice of the applicant's 3rd failure.

(3) An applicant who does not request a conference in accordance with paragraph (2) of this subsection waives the right to have a conference under this subsection.

§14–309.

(a) Subject to this section, if an applicant fails an examination given under this subtitle, the applicant may retake the examination in accordance with the Council's reexamination policies unless the policies have been otherwise amended by the Board.

(b) An applicant for reexamination shall:

(1) submit to the Board a request for reexamination on the form that the Board provides; and

(2) pay to the Board or the Board's designee the reexamination fee set by the Board in an amount not to exceed the cost of the examination.

(c) The Board may adopt regulations to set conditions for retaking examinations, including requirements that an applicant:

(1) wait a reasonable period after failing an examination; and

(2) provide evidence acceptable to the Board of updated experience or education.

(d) A reexamination fee paid under subsection (b)(2) of this section is not refundable.

§14–310.

(a) An individual may apply to the Board or the Board's designee to take the Fundamentals of Engineering examination before the individual completes the requirements set forth in § 14–305(b) and (c) of this subtitle.

(b) If an individual passes the Fundamentals of Engineering examination and elects to obtain from the Board, on payment of a certification fee set by the Board, a certificate that states that the individual is an engineer–in–training, the Board shall:

(1) keep a record that the individual passed the examination; and

(2) issue to the individual a certificate that states that the individual is an engineer–in–training because the individual has passed the examination and that sets forth:

(i) the full name of the individual;

(ii) a certificate number assigned by the Board to the individual; and

(iii) the signature of an authorized official of the Board, under seal of the Board.

§14–311.

(a) Subject to the provisions of this section, the Board may issue a license by reciprocity to practice engineering in this State to an individual who is currently

licensed to practice engineering in another state or territory of the United States or in a foreign country.

(b) The Board may issue a license under this section only if the applicant:

(1) is of good character and reputation;

(2) pays to the Board:

(i) a nonrefundable application fee set by the Board; and

(ii) a license fee set by the Board; and

(3) provides adequate evidence that:

(i) at the time the applicant was licensed by the other state, territory, or foreign country, the applicant met requirements that were equivalent to those then required by the laws of this State; or

(ii) at the time of application for licensure by reciprocity under this section, the applicant meets the requirements currently required by the laws of this State.

(c) An engineer who is licensed by the Board by reciprocity may not be required to maintain licensure in any other state, territory, or foreign country as a condition of maintaining the license granted by the Board.

§14–312.

(a) If an applicant qualifies for a license under this subtitle, the Board shall send the applicant a notice that states that:

(1) the applicant has qualified for a license; and

(2) on receipt of a license fee set by the Board, the Board will issue a license to the applicant.

(b) On payment of the license fee, the Board shall issue a license to each applicant who meets the requirements of this subtitle.

(c) The Board shall include on each license that the Board issues:

(1) the full name of the licensee; and

(2) the registration number assigned by the Board to the licensee.

(d) Subject to any regulation that the Board adopts, it shall replace any lost, mutilated, or destroyed license certificate on:

(1) request of the licensee; and

(2) payment of the replacement fee set by the Board.

§14–313.

While a license is in effect, it authorizes the licensee to practice engineering.

§14–314.

(a) Unless a license is renewed for a 2–year term as provided in this section, the license expires on the first June 30 that comes:

(1) after the effective date of the license; and

(2) in an even–numbered year.

(b) (1) At least 1 month before a license expires, the Board shall mail or electronically transmit to the licensee:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current license expires; and

2. the amount of the license fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the licensee, at the last known address of the licensee, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(3) The failure of a licensee to receive the notice for which this subsection provides does not prevent the license from expiring as specified under subsection (a) of this section.

(c) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Board a license fee set by the Board; and

(3) submits to the Board a renewal application on the form that the Board provides.

(d) (1) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

(2) The Board shall include on each renewal certificate that the Board issues:

(i) the date on which the current license expires; and

(ii) the signatures of the chairman and secretary of the Board, under seal of the Board.

(e) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

(f) The Board shall adopt regulations to require a demonstration of continuing professional competency for a licensee as a condition of renewal of a license under this section in accordance with the following:

(1) continuing professional competency requirements do not apply to the first renewal of a license;

(2) if a license expires on or before September 30, 2012, a licensee is not required to fulfill the continuing professional competency requirements;

(3) if a license expires between October 1, 2012, and September 30, 2013, a licensee is required to fulfill 50% of the continuing professional competency requirements as provided in the regulations adopted by the Board under this subsection; and

(4) if a license expires on or after October 1, 2013, a licensee is required to fulfill the full continuing professional competency requirements as provided in the regulations adopted by the Board under this subsection.

§14–315.

(a) The Board shall reinstate the license of an individual who, for any reason, has failed to renew the license if the individual:

(1) applies to the Board for reinstatement within 2 years after the license expires;

(2) meets the renewal requirements of § 14–314 of this subtitle; and

(3) except as otherwise provided in subsection (c) of this section, pays to the Board a reinstatement fee set by the Board.

(b) (1) If an individual has failed to renew a license for any reason and then applies to the Board for reinstatement more than 2 years after the license has expired, the Board may:

(i) require the individual to reapply for a license in the same manner as an applicant applies for an original license under this subtitle; or

(ii) subject to paragraph (2) of this subsection, reinstate the license.

(2) The Board may reinstate a license under paragraph (1)(ii) of this subsection only if the individual:

(i) meets the renewal requirements of § 14–314 of this subtitle;

(ii) if required by the Board, states reasons why reinstatement should be granted; and

(iii) except as otherwise provided in subsection (c) of this section, pays to the Board a reinstatement fee set by the Board.

(c) The Board may waive a reinstatement fee for a licensee who provides evidence satisfactory to the Board that the licensee did not practice engineering during the time the license lapsed.

§14–316.

(a) The Board may issue a retired status license to an individual who:

(1) is currently licensed in Maryland as a professional engineer;

(2) has been licensed as a professional engineer for at least 25 years, of which at least 5 years were in Maryland;

(3) is not the subject of a pending disciplinary action related to the practice of engineering in this or any other state;

(4) submits to the Board an application on the form approved by the Board; and

(5) pays to the Board a fee as set by the Board.

(b) (1) The holder of a retired status license issued under this section may not engage in the practice of professional engineering.

(2) The holder of a retired status license shall be permitted to use the designation of "Professional Engineer, Retired".

(c) The Board may reactivate the license of the holder of a retired status license if that individual:

(1) submits to the Board an application for reactivation on the form approved by the Board;

(2) meets all applicable continuing competency requirements determined by the Board;

(3) is not the subject of a pending disciplinary action related to the practice of engineering in this or any other state; and

(4) pays to the Board a reactivation fee as set by the Board.

§14–317.

(a) (1) Subject to the hearing provisions of § 14–319 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if:

(i) the applicant or licensee fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(ii) the applicant or licensee fraudulently or deceptively uses a license;

(iii) under the laws of the United States or of any state, the applicant or licensee is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to practice engineering;

(iv) the applicant or licensee is guilty of gross negligence, incompetence, or misconduct while practicing engineering;

(v) the applicant or licensee has had a license to practice engineering in another state revoked or suspended by the other state for a cause that would justify revocation or suspension under this title, except for the failure to pay a license fee;

(vi) the applicant or licensee violates any regulation adopted by the Board; or

(vii) the applicant or licensee violates any provision of this title.

(2) (i) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Board may impose a penalty not exceeding $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Board shall consider:

1. the seriousness of the violation;

2. the harm caused by the violation;

3. the good faith of the licensee; and

4. any history of previous violations by the licensee.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(b) The Board shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or misdemeanor described in subsection (a)(1)(iii) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to practice engineering;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

§14–318.

(a) Subject to the provisions of this section, the Board shall commence proceedings under § 14-317 of this subtitle on a complaint made to the Board by a member or any other person.

(b) (1) A complaint shall:

(i) be in writing;

(ii) state specifically the facts on which the complaint is based; and

(iii) be submitted to the secretary of the Board.

(2) If the complaint is made by any person other than a member of the Board, the complaint shall be made under oath by the person who submits the complaint.

(c) If the Board finds that a complaint alleges facts that are adequate grounds for action under § 14-317 of this subtitle, the Board shall act on the complaint as provided under § 14-319 of this subtitle. If the Board does not make that finding, it shall dismiss the complaint.

§14–319.

(a) (1) Except as otherwise provided in § 10-226 of the State Government Article, before the Board takes any final action under § 14-317 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

(2) A hearing shall be set down within a reasonable time, not exceeding 6 months, after the Board brings charges against a licensee.

(b) The Board shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Board may administer oaths in connection with any proceeding under this section.

(d) At least 30 days before the hearing, the hearing notice and a copy of the complaint shall be:

(1) served personally on the individual; or

(2) mailed to the last known address of the individual.

(e) The individual may be represented at the hearing by counsel.

(f) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§14–320.

(a) Subject to any regulation that the Board adopts, it may reinstate a license that has been revoked.

(b) A license may be reinstated under this section only on:

(1) the affirmative vote of a majority of the members of the Board then serving; and

(2) payment to the Board of a reinstatement fee set by the Board.

§14–401.

(a) (1) Subject to the provisions of this subtitle, a professional engineer may practice engineering for others through:

(i) a corporation as an officer, employee, or agent of the corporation;

(ii) a limited liability company as a member, employee, or agent of the limited liability company; or

(iii) a partnership as a partner, employee, or agent of the partnership.

(2) Subject to the provisions of this subtitle, a corporation, limited liability company, or partnership may provide engineering services through one or more professional engineers.

(b) A professional engineer who practices engineering through a corporation, limited liability company, or partnership under this subtitle shall be subject to all of the provisions of this title that relate to practicing engineering.

(c) (1) A corporation, limited liability company, or partnership that provides engineering services under this subtitle is not, by its compliance with this subtitle, relieved of any responsibility that the corporation, limited liability company, or partnership may have for an act or omission of its officer, member, partner, employee, or agent.

(2) An individual who practices engineering through a corporation, limited liability company, or partnership is not, by reason of the individual's employment or other relationship with the corporation, limited liability company, or partnership, relieved of any professional responsibility that the individual may have regarding that practice.

§14–402.

(a) Beginning on October 1, 2015, except as provided in subsection (b) of this section, a corporation, partnership, or limited liability company shall hold a permit issued by the Board before the corporation, partnership, or limited liability company may operate a business through which engineering is practiced.

(b) A corporation, partnership, or limited liability company may provide engineering services for itself or its affiliate without a permit issued by the Board.

§14–403.

(a) To qualify for a permit, a corporation, partnership, or limited liability company shall meet the requirements of this section.

(b) (1) A corporation, partnership, or limited liability company shall designate a Maryland professional engineer in good standing to be the managing agent for the entity.

(2) The managing agent shall be:

(i) in a position to act on behalf of the corporation, partnership, or limited liability company in matters related to the practice of or the offering of the practice of engineering; and

(ii) an employee, an owner, a director, an officer, a member, or a partner, as applicable, of the entity seeking a permit.

(c) A licensee may not be designated as a managing agent for more than one corporation, partnership, or limited liability company that provides or offers to provide engineering services, except if the other entity is an affiliate of a permit holder.

§14–404.

(a) An applicant for a permit shall:

(1) submit to the Board an application on the form that the Board provides; and

(2) pay to the Board a nonrefundable application fee set by the Board.

(b) In addition to any other information required on an application form, the form shall require:

(1) the name and address of the managing agent; and

(2) a notarized statement that the managing agent is an employee, an owner, a director, an officer, a member, or a partner, as applicable, of the entity seeking a permit.

§14–405.

The Board shall issue a permit to each applicant that meets the requirements of this subtitle and pays to the Board a permit fee set by the Board.

§14–406.

(a) Subject to subsection (b) of this section and while a permit is in effect, the permit authorizes the holder to:

(1) operate a business through which one or more professional engineers or individuals authorized to practice engineering under § 14–303 of this title practice or offer to practice engineering; and

(2) represent to the public that the business provides or offers to provide the services of a professional engineer.

(b) A permit authorizes the holder to provide a service that constitutes the practice of engineering only if the service is performed by an individual who is licensed or otherwise authorized to practice engineering under this title.

§14–407.

(a) Unless a permit is renewed for a 2–year term as provided in this section, the permit expires on the first June 30 that comes:

(1) after the effective date of the permit; and

(2) in an even–numbered year.

(b) (1) At least 1 month before a permit expires, the Board shall mail or electronically transmit to the permit holder:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current permit expires; and

2. the amount of the permit fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the permit holder, at the last known address of the permit holder, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(c) Before a permit expires, the permit holder may renew the permit periodically for an additional 2–year term if the holder:

(1) otherwise is entitled to a permit;

(2) pays to the Board a permit fee set by the Board; and

(3) submits to the Board a renewal application on the form that the Board provides.

(d) The renewal application form shall require the same information required on the original application form under § 14–404(b) of this subtitle.

(e) The Board shall renew the permit of each permit holder that meets the requirements of this section.

(f) The Secretary may determine that permits issued under this subtitle shall expire on a staggered basis.

§14–408.

Within 60 days after the effective date of the change or occurrence, a permit holder shall notify the Board in writing if there has been a change in:

(1) the identity of the managing agent; or

(2) the name of the corporation, partnership, or limited liability company.

§14–409.

(a) Subject to the hearing provisions of § 14–410 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a permit to any applicant, reprimand a permit holder, or suspend or revoke a permit if:

(1) the applicant or permit holder fraudulently or deceptively obtains or attempts to obtain a permit; or

(2) the permit holder fraudulently or deceptively uses a permit.

(b) (1) In addition to a sanction imposed under subsection (a) of this section, the Board may impose a penalty not exceeding $5,000 for each:

(i) violation for which a denial, reprimand, suspension, or revocation was imposed under subsection (a) of this section; and

(ii) failure to meet or continue to meet the qualifications or requirements set forth in this subtitle.

(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 permit holder; and

(iv) any history of previous violations by the permit holder.

(c) The Board shall pay any penalty collected under subsection (b) of this section into the General Fund of the State.

§14–410.

(a) Except as otherwise provided in § 10–226 of the State Government Article, before the Board takes any final action under § 14–409 of this subtitle, it shall give the person 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) At least 30 days before the hearing, the hearing notice and a copy of the complaint shall be:

(1) served personally on the applicant or on the managing agent of the entity holding the permit; or

(2) mailed to the last known business address of the applicant or the entity holding the permit.

(d) If, after due notice, the person against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

§14–411.

(a) (1) For the limited purpose set forth in paragraph (2) of this subsection, a permit shall remain in effect and does not expire by operation of law while the permit holder is under investigation by the Board or awaiting a hearing or disposition on charges subject to disciplinary action under this subtitle.

(2) An extension of a permit term under this subsection is effective only for the purpose of retaining the jurisdiction of the Board over the permit holder during the course of disciplinary proceedings and does not prevent the permit from expiring for any other purpose.

(b) Unless the Board agrees to accept the surrender, a permit holder may not surrender a permit while the holder is under investigation or awaiting a hearing or disposition on charges subject to disciplinary action under this subtitle.

§14–412.

A corporation, partnership, or limited liability company whose permit has been suspended or revoked under § 14–409 of this subtitle may not offer or provide engineering services until the suspension is lifted or the permit is reinstated.

§14–413.

(a) Subject to the provisions of this section, the Board may reinstate:

(1) a permit that has been revoked; or

(2) before fulfillment of the conditions of the suspension, a permit that has been suspended.

(b) A permit may be reinstated under this section only if:

(1) the corporation, partnership, or limited liability company whose permit has been revoked or suspended submits a written request to the Board; and

(2) the corporation, partnership, or limited liability company pays to the Board a reinstatement fee set by the Board.

(c) The Board, by an affirmative vote of a majority of its members then serving, shall vote on the request for reinstatement or lifting of the suspension within 60 days after receipt of the request.

§14–414.

The Board may reinstate the permit of a corporation, partnership, or limited liability company that has failed to renew the permit for any reason if the corporation, partnership, or limited liability company:

(1) otherwise is entitled to a permit; and

(2) pays to the Board a reinstatement fee set by the Board.

§14–415.

After the Board reinstates a permit, the permit holder shall continue to comply with all applicable requirements set forth in this subtitle.

§14–4A–01.

(a) Each professional engineer may obtain a seal for use as required under § 14–403 of this title.

(b) The seal shall:

(1) be of a design determined by the Board; and

(2) include:

(i) the legend "professional engineer"; and

(ii) the name and license number of the professional engineer who holds the seal.

§14–4A–02.

(a) Before a professional engineer issues to a client or submits to a public authority any plan, specification, or report, the professional engineer who prepared or approved the document shall endorse on the document the professional engineer's:

(1) original signature and date of signature; and

(2) seal or a facsimile of the seal.

(b) A public authority may not accept any engineering plan, specification, or report unless the document is endorsed as required under subsection (a) of this section.

§14–501.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice engineering in the State unless licensed by the Board.

§14–501.1.

Except for a professional engineer who operates a business as a sole practitioner, a person may not operate a business through which engineering services are performed or offered to be performed unless:

(1) the business is a corporation, partnership, or limited liability company; and

(2) the corporation, partnership, or limited liability company holds a permit issued by the Board.

§14–502.

Unless authorized under this title to practice engineering without the supervision required under § 14-303 of this title, a person may not represent to the public, by use of a title, including "engineer", "professional engineer", "licensed engineer", or "registered engineer", by use of the term "engineering" in the name of the person's business activity, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice engineering in this State.

§14–502.1.

(a) Subject to subsection (b) of this section and unless a person holds a permit issued by the Board, the person may not represent to the public, by the use of a title, including "licensed professional engineers", "professional engineers", or "registered engineers", by the use of the term "professional engineering" or "engineering", by description of services, methods, or procedures, or otherwise, that the person holds a permit or otherwise is authorized to operate a business through which engineering is practiced in the State.

(b) Subsection (a) of this section does not apply to a professional engineer who operates the business as a sole practitioner.

§14–503.

A person may not:

(1) use or attempt to use the license of another individual; or

(2) impersonate another individual who holds a license.

§14–504.

(a) Other than a professional engineer who obtains a seal as authorized under this title, a person may not use or attempt to use a seal.

(b) While the license of an individual is suspended, revoked, or expired, a person may not endorse a document, as provided under § 14-402 of this title, with the name or seal of the individual.

§14–505.

A person may not give false information to the Board in an attempt to obtain a license.

§14–506.

(a) Except as otherwise provided under this section, an individual whose license has been suspended or revoked under § 14-317 of this title may not practice engineering in any manner as:

(1) an associate, agent, employee, or other subordinate of a professional engineer; or

(2) a principal, associate, agent, employee, or other subordinate of a corporation or partnership that provides engineering services.

(b) The prohibition set forth under subsection (a) of this section does not apply to an individual while practicing engineering:

(1) as an officer or employee of the federal government, as provided under § 14-301(b)(1) of this title;

(2) as an employee of a regulated utility company, as provided under § 14-301(b)(2) of this title; or

(3) as an officer or employee of a corporation, subject to the conditions provided under § 14-302 of this title.

§14–507.

An individual who is authorized to practice engineering may not practice or offer to practice engineering in those areas of engineering in which the individual is not competent to practice.

§14–508.

(a) A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.

(b) (1) The Board may impose on a person who violates any provision of this title a penalty not exceeding $5,000 for each violation.

(2) In setting the amount of the penalty, the Board shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the violator;

(iv) any history of previous violations by the violator; and

(v) any other relevant factors.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

§14–601.

This title may be cited as the "Maryland Professional Engineers Act".

§14–602.

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, 2033.

§15–101.

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

(b) "Board" means the State Board for Professional Land Surveyors.

(c) "Council" means the National Council of Examiners for Engineering and Surveying.

(d) "Design coordination" means the review and coordination of services provided by individuals licensed or certified under Titles 3, 8, 9, 14, and 15 of this article.

(e) "Land surveyor" means an individual who practices land surveying.

(f) (1) "License" means, unless the context requires otherwise, a license issued by the Board to practice:

(i) land surveying; or

(ii) property line surveying.

(2) "License" includes, unless the context requires otherwise:

(i) a license to practice land surveying; and

(ii) a license to practice property line surveying.

(g) "License fee" means, as applicable, the fee paid in connection with the issuance and renewal of a license and the issuance of a limited license, temporary license, and reciprocal license.

(h) "Licensed property line surveyor" means, unless the context requires otherwise, a property line surveyor who is licensed by the Board to practice property line surveying.

(i) "Permit" means, unless the context requires otherwise, a permit issued by the Board to allow a corporation or partnership to operate a business through which an individual may practice land surveying or property line surveying.

(j) "Permit fee" means, as applicable, the fee paid in connection with the issuance and renewal of a permit.

(k) (1) "Practice land surveying" means providing or offering to provide professional services that require the application of special knowledge of the principles of mathematics, the related physical and applied sciences, and the requirements of the relevant law to authoritatively determine, regardless of the technology or method used, the accurate and precise location of a feature, object, or boundary of real property with reference to the surface of the earth, space above the surface of the earth, or underground.

(2) "Practice land surveying" includes:

(i) measuring, platting, and locating lines, angles, elevations, natural or artificial features in the air, on the surface of the earth, in underground work, and on the beds of bodies of water for the purpose of determining and reporting positions, topography, areas, and volumes;

(ii) the describing, platting or replatting, establishing or reestablishing, locating or relocating, or setting or resetting the monumentation for boundaries of real property, easements, or rights–of–way;

(iii) platting, layout, and preparation of surveys, plats, plans, and drawings, including:

1. site plans;

2. subdivision plans;

3. subdivision plats;

4. condominium plats;

5. right–of–way and easement plats; and

6. other recordable plats;

(iv) conducting horizontal and vertical control surveys, layout or stake–out of proposed construction, and the preparation and platting of as–constructed surveys;

(v) utilizing measurement devices or systems, such as aerial photogrammetry, global positioning systems, land information systems, geographic information systems, or similar technology for evaluation or location of boundaries of real property, easements, or rights–of–way; and

(vi) in conjunction with the site development or subdivision of land, the preparation and design of plans for the following projects, provided that such preparation and design are in accordance with design manuals, details, and standards accepted by the State or local authority:

1. road and street grades;

2. sediment and erosion control measures;

3. nonpressurized closed storm drainage and stormwater management systems; and

4. open conduit storm drainage and stormwater management systems.

(3) "Practice land surveying" does not include the design, preparation, or specifications for:

(i) community water or wastewater treatment collection or distribution systems;

(ii) community pumping or lift stations; or

(iii) geotechnical or structural design components of sediment control or stormwater management ponds or basins.

(l) (1) "Practice property line surveying" means to practice land surveying, except for the services excluded under paragraph (2) of this subsection.

(2) "Practice property line surveying" does not include the performance of the services described in subsection (k)(1)(vi) of this section.

(m) "Professional land surveyor" means, unless the context requires otherwise, a land surveyor who is licensed by the Board to practice land surveying.

(n) "Property line surveyor" means an individual who practices property line surveying.

(o) "Responsible charge" means direct control and personal direction of the investigation, design, construction, or operation of land surveying work that requires initiative, professional skill, and independent judgment.

§15–102.

(a) A professional land surveyor may render or offer to render land surveying services described in § 15–101(j) of this subtitle.

(b) A licensed property line surveyor may render or offer to render property line surveying services described in § 15–101(k) of this subtitle.

(c) A professional land surveyor or a property line surveyor, as applicable, may perform design coordination for a project or portion of a project provided that the professional land surveyor or the property line surveyor:

(1) holds a current license issued by the Board; and

(2) has adequate experience in, and understanding of, achieving the purpose of the project or portion of the project being coordinated.

§15–201.

There is a State Board for Professional Land Surveyors in the Department.

§15–202.

(a) (1) The Board consists of 6 members.

(2) Of the 6 members of the Board:

(i) 3 shall be professional land surveyors;

(ii) 1 shall be a licensed property line surveyor or a professional land surveyor; and

(iii) 2 shall be consumer members.

(3) The Governor shall appoint the members with the advice of the Secretary and with the advice and consent of the Senate.

(4) The Governor may appoint each of the professional members from a list of at least 3 names submitted to the Secretary by the Maryland Society of Surveyors.

(b) Each consumer member of the Board:

(1) shall be a member of the general public;

(2) may not be a licensee or otherwise be subject to regulation by the Board;

(3) may not be required to meet the qualifications for the professional members of the Board; and

(4) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Board.

(c) While a member of the Board, a consumer member may not:

(1) have a financial interest in or receive compensation from a person regulated by the Board; or

(2) grade any examination given by or for the Board.

(d) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(e) (1) The term of a member is 5 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 October 1, 1989.

(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.

(f) (1) The Governor may remove a member for incompetence, misconduct, neglect of duties, or other good cause.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned if the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§15–203.

(a) From among the members of the Board, the Governor shall appoint a chairman.

(b) From among its members, the Board annually shall elect a vice chairman and a secretary.

(c) The manner of election of officers shall be as the Board determines.

§15–204.

(a) A majority of the authorized membership of the Board is a quorum.

(b) The Board shall determine the times and places of its meetings.

(c) A member of the Board:

(1) may not receive compensation; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) The Board may employ a staff in accordance with the State budget.

§15–204.1.

At least annually, the chairman of the Board, the chairman of the State Board of Architects, the chairman of the State Board of Certified Interior Designers, the chairman of the State Board of Examiners of Landscape Architects, and the chairman of the State Board for Professional Engineers shall meet to discuss issues of mutual importance to the design professions.

§15–205.

(a) The Board shall adopt a code of ethics for practicing land surveying.

(b) The Board shall distribute:

(1) a copy of the code of ethics to each applicant for a license; and

(2) as the Board considers necessary, a copy of any amendment to the code of ethics to each licensee.

§15–206.

(a) The Board shall administer and enforce this title.

(b) The Board may issue a subpoena for the attendance of a witness to testify or the production of evidence in connection with:

(1) any disciplinary action under § 15-317 of this title; or

(2) any proceeding brought for an alleged violation of this title.

(c) (1) The Board may sue to enforce any provision of this title by injunction.

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

(i) post bond; or

(ii) allege or prove either that:

1. an adequate remedy at law does not exist; or

2. substantial or irreparable damage would result from the continued violation of the provision.

(3) A member of the Board may not be held personally liable for any action taken under this subsection in good faith and with reasonable grounds.

§15–207.

(a) On request of any person and payment of a verification fee set by the Board, the Board shall certify the licensing or permit status and qualifications of any person who is the subject of the request.

(b) Each certification under this section:

(1) shall include a statement of the licensing or permit status of the person who is the subject of the request; and

(2) may include:

(i) information about the examination results and other qualifications of that person;

(ii) information about the dates of issuance and renewal of the license or permit of that person;

(iii) information about any disciplinary action taken against that person; and

(iv) if authorized by that person, information about any complaint against that person.

§15–208.

(a) In addition to any powers set forth elsewhere, the Board may adopt:

(1) any bylaw for the conduct of the proceedings 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 a seal;

(2) determine a type of marker, monument, stake, or other landmark that a licensee shall use in practicing land surveying and practicing property line surveying;

(3) keep a record of its proceedings; and

(4) by regulation, formalize minimum standards of practice for licensees.

§15–208.1.

(a) (1) The Board shall maintain a listing of the names and mailing addresses of all licensees and permit holders.

(2) The Board may release this list to the public.

(b) The licensee or permit holder shall designate the address at the time of issuance of the original license or permit and on the renewal of the license or permit.

(c) (1) The Board shall provide all licensees, certificate holders, and code officials with a periodic newsletter not less than semiannually on the activities of the Board.

(2) The Board shall publish, on the Department website, the newsletter jointly with the State Board for Professional Engineers, the State Board of Architects, the State Board of Certified Interior Designers, and the State Board of Examiners of Landscape Architects.

§15–209.

(a) (1) The Board may set reasonable fees for its services.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the Board and shall be based on the calculations performed by the Secretary under § 2–106.2 of the Business Regulation Article.

(b) The Board shall publish the fee schedule set by the Board by regulation.

(c) (1) The Board shall pay all fees collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Occupational and Professional Licensing Design Boards' Fund established in § 2–106.1 of the Business Regulation Article.

§15–210.

Any person aggrieved by any final action of the Board may take an appeal as allowed in §§ 10-222 and 10-223 of the State Government Article.

§15–211.

The Board exercises its powers, duties, and functions subject to the authority of the Secretary.

§15–301.

(a) (1) Except as otherwise provided in this title, an individual shall be licensed by the Board to practice land surveying before the individual may practice land surveying in the State.

(2) Except as otherwise provided in this title, an individual shall be licensed by the Board to practice property line surveying before the individual may practice property line surveying in the State.

(b) This section does not apply to:

(1) an individual who practices land surveying while performing official duties as an officer or employee of the federal government;

(2) an employee or other subordinate of a licensee, while the subordinate practices land surveying or practices property line surveying under the conditions authorized under § 15–303(a)(1)(i) or (2)(i) of this subtitle;

(3) an employee of an individual who is not licensed but who, nevertheless, is authorized to practice land surveying or to practice property line surveying, while the employee practices land surveying or practices property line surveying under the conditions authorized under § 15–303(a)(1)(ii) or (2)(ii) of this subtitle; or

(4) an individual who utilizes measurement devices or systems, regardless of the technology or methods used, for the exclusive purpose of determining topography and contours, provided that the individual is certified by an entity acceptable to the Board.

§15–302.

(a) On and after July 1, 1990, the Board may not issue a license to practice property line surveying.

(b) Notwithstanding subsection (a) of this section, an individual who is licensed as a property line surveyor as of June 30, 1990, may continue to renew the license as provided under § 15-314 of this subtitle.

§15–303.

(a) (1) Subject to this section, the following individuals may practice land surveying without a license:

(i) an employee or other subordinate of a professional land surveyor; and

(ii) an employee of an individual who is not licensed but is otherwise authorized under this title to practice land surveying without supervision.

(2) Subject to this section, the following individuals may practice property line surveying without a license:

(i) an employee or other subordinate of a licensed property line surveyor; and

(ii) an employee of an individual who is not licensed but is otherwise authorized under this title to practice property line surveying without supervision.

(b) The authority to practice land surveying or property line surveying under this section applies only if the licensee or other authorized individual has, with respect to the investigation, design, construction, and operation of the surveying work of the employee or other subordinate, direct control and personal direction that requires initiative, professional skill, and independent judgment.

§15–304.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good character and reputation.

(c) An applicant for a license to practice land surveying shall meet the educational and experience requirements under § 15-305 of this subtitle.

(d) Except as otherwise provided in this subtitle, an applicant shall pass each examination required under this subtitle.

§15–305.

(a) In addition to the other qualifications for a license to practice land surveying, an applicant shall qualify under this section by meeting the educational, experience, and examination requirements set forth in subsection (b), (c), (d), (e), or (f) of this section.

(b) An applicant qualifies under this section if the applicant:

(1) has graduated on completion of at least a 4–year curriculum in land surveying that the Board approves from a college or university that is accredited by, or is a constituent unit of an institution accredited by, the Middle States Association of Colleges and Schools or the equivalent regional accrediting association of other regional areas;

(2) has at least 2 years of experience in land surveying that is satisfactory to the Board and that indicates to the Board that the applicant may be competent to practice land surveying; and

(3) has passed the following examinations:

(i) fundamentals of surveying;

(ii) the principles and practice of surveying; and

(iii) unless excused by the Board, State–specific examination modules specified and approved by the Board that pertain to the practice of surveying in the State.

(c) (1) An applicant qualifies under this section if the applicant:

(i) has graduated on completion of at least a 4–year curriculum in physical sciences or applied sciences from a college or university that is accredited by, or is a constituent unit of an institution accredited by, the Middle States Association of Colleges and Schools or the equivalent regional accrediting association of other regional areas;

(ii) subject to paragraph (2) of this subsection, has at least 4 years of experience in land surveying that is satisfactory to the Board and that indicates to the Board that the applicant may be competent to practice land surveying; and

(iii) has passed the following examinations:

1. fundamentals of surveying;

2. the principles and practice of surveying; and

3. unless excused by the Board, State–specific examination modules specified and approved by the Board that pertain to the practice of surveying in the State.

(2) For each 30 semester hours or its equivalent that an applicant completes in land surveying–related courses that the Board approves, the Board may allow a 1–year credit towards the experience requirements of paragraph (1)(ii) of this subsection for a maximum of 3 years.

(d) (1) An applicant qualifies under this section if the applicant:

(i) has graduated on completion of at least a 4–year curriculum from a college or university that is accredited by, or is a constituent unit of an institution accredited by, the Middle States Association of Colleges and Schools or the equivalent regional accrediting association of other regional areas;

(ii) has a minimum of 30 credit hours of land surveying–related courses that the Board approves;

(iii) subject to paragraph (2) of this subsection, has at least 4 years of experience in land surveying that is satisfactory to the Board and that indicates to the Board that the applicant may be competent to practice land surveying; and

(iv) has passed the following examinations:

1. fundamentals of surveying;

2. the principles and practice of surveying; and

3. unless excused by the Board, State–specific examination modules specified and approved by the Board that pertain to the practice of surveying in the State.

(2) For each additional 30 semester hours or its equivalent that an applicant completes in land surveying–related courses that the Board approves, the Board may allow a 1–year credit towards the experience requirements of paragraph (1)(iii) of this subsection for a maximum of 3 years.

(e) (1) An applicant qualifies under this section if the applicant:

(i) is a high school graduate or the equivalent;

(ii) has a minimum of 30 credit hours of land surveying–related courses that the Board approves;

(iii) subject to paragraph (2) of this subsection, has at least 6 years of experience in land surveying that is satisfactory to the Board and that indicates to the Board that the applicant may be competent to practice land surveying; and

(iv) has passed the following examinations:

1. fundamentals of surveying;

2. the principles and practice of surveying; and

3. unless excused by the Board, State–specific examination modules specified and approved by the Board that pertain to the practice of surveying in the State.

(2) For each additional 30 semester hours or its equivalent that an applicant completes in land surveying–related courses that the Board approves, the Board may allow a 1–year credit towards the experience requirements of paragraph (1)(iii) of this subsection for a maximum of 3 years.

(f) (1) An applicant qualifies under this section if the applicant:

(i) applies for a license on or before December 31, 2025;

(ii) is a high school graduate or the equivalent;

(iii) subject to paragraph (2) of this subsection, has at least 9 years of experience in land surveying that is satisfactory to the Board and that indicates to the Board that the applicant may be competent to practice land surveying; and

(iv) has passed the following examinations:

1. fundamentals of surveying;

2. the principles and practice of surveying; and

3. unless excused by the Board, State–specific examination modules specified and approved by the Board that pertain to the practice of surveying in the State.

(2) For each 30 semester hours or its equivalent that an applicant completes in land surveying–related courses that the Board approves, the Board may allow a 1–year credit towards the experience requirements of paragraph (1)(iii) of this subsection for a maximum of 3 years.

§15–306.

(a) An applicant for a license shall:

(1) submit to the Board:

(i) an application on the form that the Board provides; and

(ii) any relevant document that the Board requires; and

(2) pay to the Board or the Board's designee:

(i) a nonrefundable application fee set by the Board; and

(ii) an examination fee set by the Board in an amount not to exceed the cost of the required examination.

(b) (1) The application form shall require:

(i) a statement about the education of the applicant;

(ii) a statement about the experience of the applicant in land or property line surveying;

(iii) a list of at least 5 references that, unless excused by the Board, shall include:

1. for a land surveyor applicant, at least 3 professional land surveyors who have personal knowledge of the applicant's land surveying experience; and

2. for a property line surveyor applicant, at least 3 individuals, each of whom:

A. is either a professional land surveyor or a licensed property line surveyor; and

B. has personal knowledge of the applicant's property line surveying experience; and

(iv) any other relevant information that the Board requires.

(2) An application shall be made under oath.

(c) If the Board finds that an application form and the accompanying documentation do not demonstrate that the applicant meets the requirements for a license under this subtitle, the Board may require the applicant to submit additional information or documentation.

§15–307.

(a) Except as otherwise provided in § 15–307.1 of this subtitle, an applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) The Board periodically shall give the examinations required under this subtitle to qualified applicants 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) As provided for applicants for a license to practice land surveying under § 15–305 of this subtitle, the Board shall give the following separate examinations:

(1) the fundamentals of surveying;

(2) the principles and practice of surveying; and

(3) unless excused by the Board, State–specific examination modules specified and approved by the Board that pertain to the practice of surveying in the State.

(e) (1) The Board shall determine the subjects, scope, and form of and method of grading and passing scores for the examinations given under this subtitle.

(2) The Board shall structure the examinations to test the ability of an applicant to design, plan, and direct land surveying in order to ensure the safety of life, health, and property.

§15–307.1.

(a) The Board may use a testing service to administer the examinations given under this title.

(b) If the Board uses a testing service, the testing service, subject to the requirements set by the Board, may:

(1) set the time and place of examinations;

(2) give qualified applicants notice of the time and place of examinations; and

(3) furnish any other information that the Board may require the testing service to provide.

§15–308.

(a) If an applicant fails an examination given under this subtitle, the Board or its designee shall provide notice of the failure to the applicant.

(b) (1) Subject to this subsection, an applicant who fails an examination may review the applicant's examination in accordance with the Council's review policies unless the policies have been otherwise amended by the Board.

(2) To conduct a review under this subsection, an applicant shall submit a written request to the Board within 60 days after the date the applicant is notified of the applicant's failure of the examination.

(3) An applicant who does not request review in accordance with paragraph (2) of this subsection waives the right to review under this subsection.

(c) The Board shall confirm the test score of any applicant who fails an examination given under this subtitle if the applicant submits a written request to the Board.

§15–309.

(a) Subject to this section, if an applicant fails an examination given under this subtitle, the applicant may retake the examination in accordance with the Council's reexamination policies unless the policies have been otherwise amended by the Board.

(b) An applicant for reexamination shall:

(1) submit to the Board a request for reexamination on the form that the Board provides; and

(2) pay to the Board or the Board's designee a reexamination fee set by the Board in § 15–306(a)(2) of this subtitle.

(c) The Board may adopt regulations to set conditions for retaking examinations, including requirements that an applicant:

(1) wait a reasonable period after failing an examination; and

(2) provide evidence acceptable to the Board of updated experience or education.

(d) (1) A reexamination fee paid under subsection (b)(2) of this section is not refundable.

(2) If an applicant does not take the reexamination that the applicant asked to take, the Board shall credit that fee toward any reexamination that the applicant later takes.

§15–311.

(a) Subject to the provisions of this section, the Board may waive any examination requirement or any part of an examination requirement of this subtitle for an individual who is licensed to practice land surveying in another state.

(b) The Board may grant a waiver under this section only if the applicant:

(1) is of good character and reputation;

(2) pays to the Board:

(i) the nonrefundable application fee set by the Board under § 15–306 of this subtitle; and

(ii) the license fee set by the Board; and

(3) provides adequate evidence that, at the time the applicant was licensed by the other state, the applicant met requirements that were equivalent to those then required by the laws of this State.

(c) The Board may require an applicant under this section to:

(1) pass the State–specific part of an examination; and

(2) pass any part of a nationally administered examination that the applicant has previously failed.

§15–312.

(a) If an applicant qualifies for a license under this subtitle, the Board shall send the applicant a notice that states that:

(1) the applicant has qualified for a license; and

(2) the Board will issue a license to the applicant, on receipt of a license fee set by the Board.

(b) On payment of the license fee, the Board shall issue a license to each applicant who meets the requirements of this subtitle.

(c) The Board shall include on each license that the Board issues:

(1) the full name of the licensee;

(2) the registration number assigned by the Board to the licensee; and

(3) the signatures of the chairman and secretary of the Board, under seal of the Board.

(d) Subject to any regulation that the Board adopts, it shall replace any lost, mutilated, or destroyed license certificate on:

(1) request of the licensee; and

(2) payment of the replacement fee set by the Board.

§15–313.

(a) While a license to practice land surveying is in effect, it authorizes the licensee to practice land surveying.

(b) While a license to practice property line surveying is in effect, it authorizes the licensee to practice property line surveying.

§15–314.

(a) Unless a license is renewed for a 2–year term as provided in this section, the license expires on the first June 30 that comes:

(1) after the effective date of the license; and

(2) in an odd–numbered year.

(b) (1) At least 1 month before a license expires, the Board shall mail or electronically transmit to the licensee:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current license expires; and

2. the amount of the license fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the licensee, at the last known address of the licensee, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(3) The failure of a licensee to receive the notice for which this subsection provides does not prevent the license from expiring as specified under subsection (a) of this section.

(c) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Board a license fee set by the Board; and

(3) submits to the Board a renewal application on the form that the Board provides.

(d) (1) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

(2) The Board shall include on each renewal certificate that the Board issues:

(i) the date on which the current license expires; and

(ii) the signatures of the chairman and secretary of the Board, under seal of the Board.

(e) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

(f) The Board shall adopt regulations to require a demonstration of continuing professional competency for a licensee as a condition of renewal of a license under this section in accordance with the following:

(1) a continuing professional competency requirement does not apply to the first renewal of a license;

(2) if a license expires on or before September 30, 2002, a professional land surveyor or licensed property line surveyor is not required to fulfill the continuing professional competency requirement;

(3) if a license expires between October 1, 2002 and September 30, 2003, a professional land surveyor or licensed property line surveyor is required to fulfill 50 percent of the continuing professional competency requirement as provided in the regulations adopted by the Board under this subsection; and

(4) if a license expires on or after October 1, 2003, a professional land surveyor or licensed property line surveyor is required to fulfill the full continuing professional competency requirement as provided in the regulations adopted by the Board under this subsection.

§15–315.

(a) The Board shall reinstate the license of an individual who, for any reason, has failed to renew the license if the individual:

(1) applies to the Board for reinstatement within 2 years after the license expires;

(2) meets the renewal requirements of § 15–314 of this subtitle; and

(3) except as otherwise provided in subsection (d) of this section, pays to the Board a reinstatement fee set by the Board.

(b) (1) If an individual has failed to renew a license to practice land surveying for any reason and then applies to the Board for reinstatement more than 2 years after the license has expired, the Board:

(i) may require the individual to reapply for a license in the same manner as an applicant applies for an original license under this subtitle; or

(ii) subject to paragraph (2) of this subsection, may reinstate the license.

(2) The Board may reinstate a license under paragraph (1) of this subsection only if the individual:

(i) meets the renewal requirements of § 15–314 of this subtitle;

(ii) if required by the Board, states reasons why reinstatement should be granted; and

(iii) except as otherwise provided in subsection (d) of this section, pays to the Board a reinstatement fee set by the Board.

(c) (1) If an individual has failed to renew a license to practice property line surveying for any reason and then applies to the Board for reinstatement more than 2 years after the license has expired, the Board, subject to paragraph (2) of this subsection, may reinstate the license.

(2) The Board may reinstate a license under paragraph (1) of this subsection only if the individual:

(i) meets the renewal requirements of § 15–314 of this subtitle;

(ii) if required by the Board, states reasons why reinstatement should be granted; and

(iii) except as otherwise provided in subsection (d) of this section, pays to the Board a reinstatement fee set by the Board.

(d) The Board may waive a reinstatement fee for a licensee who provides evidence satisfactory to the Board that the licensee did not practice land surveying or property line surveying, as appropriate, during the time the license lapsed.

§15–316.

(a) The Board may issue a retired status license to an individual who:

(1) is currently licensed in Maryland as a professional land surveyor or a property line surveyor;

(2) has been either licensed as a professional land surveyor or a property line surveyor or was authorized to practice land surveying or property line surveying under § 15-303 of this subtitle for at least 25 years, of which 5 years were in Maryland;

(3) is not the subject of a pending disciplinary action related to the practice of land surveying or property line surveying in this or another state;

(4) submits to the Board an application on the form provided by the Board; and

(5) pays to the Board a fee, as set by the Board.

(b) (1) The holder of a retired status license issued under this section may not engage in the practice of professional land surveying or property line surveying.

(2) The holder of a professional land surveyor retired status license may use the designation of "retired professional land surveyor".

(3) The holder of a property line surveyor retired status license may use the designation of "retired property line surveyor".

(c) The Board may reactivate the license of the holder of a retired status license if that individual:

(1) submits to the Board an application for reactivation on the form approved by the Board;

(2) meets all continuing competency requirements, not exceeding 48 credit hours, that would have been required for renewal of a license under § 15–314 of this subtitle if the licensee had not been placed on retired status;

(3) pays to the Board a reactivation fee as set by the Board; and

(4) is not the subject of a pending disciplinary action related to the practice of land surveying or property line surveying in this or any other state.

§15–317.

(a) (1) Subject to the hearing provisions of § 15–319 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if:

(i) the applicant or licensee fraudulently or deceptively obtains, renews, or attempts to obtain or renew a license or permit for the applicant or licensee or for another;

(ii) the applicant or licensee fraudulently or deceptively uses a license;

(iii) under the laws of the United States or of any state, the applicant or licensee is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to practice land surveying or property line surveying;

(iv) the applicant or licensee is guilty of gross negligence, incompetence, or misconduct while practicing land surveying or property line surveying;

(v) the applicant or licensee violates any regulation adopted by the Board;

(vi) the applicant or licensee violates any provision of this title; or

(vii) the applicant or licensee has had a license to practice land surveying or property line surveying in another state revoked or suspended by the

other state for a cause that would justify revocation or suspension under this title, except for the failure to pay a license fee.

(2) (i) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Board may impose a penalty not exceeding $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Board shall consider:

1. the seriousness of the violation;

2. the harm caused by the violation;

3. the good faith of the licensee; and

4. any history of previous violations by the licensee.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(b) The Board shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or misdemeanor described in subsection (a)(1)(iii) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to practice land surveying or property line surveying;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

§15–318.

(a) Subject to the provisions of this section, the Board shall commence proceedings under § 15-317 of this subtitle on a complaint made to the Board by a member or any other person.

(b) (1) A complaint shall:

(i) be in writing;

(ii) state specifically the facts on which the complaint is based; and

(iii) be submitted to the secretary of the Board.

(2) If the complaint is made by any person other than a member of the Board, the complaint shall be made under oath by the person who submits the complaint.

(c) If the Board finds that a complaint alleges facts that are adequate grounds for action under § 15-317 of this subtitle, the Board shall act on the complaint as provided under § 15-319 of this subtitle. If the Board does not make that finding, it shall dismiss the complaint.

§15–319.

(a) (1) Except as otherwise provided in § 10-226 of the State Government Article, before the Board takes any final action under § 15-317 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

(2) A hearing shall be set down within a reasonable time, not exceeding 6 months, after the Board has brought charges against the licensee.

(b) The Board shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Board may administer oaths in connection with any proceeding under this section.

(d) At least 30 days before the hearing, the hearing notice and a copy of the complaint shall be:

(1) served personally on the individual; or

(2) mailed to the last known address of the individual.

(e) The individual may be represented at the hearing by counsel.

(f) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§15–320.

(a) Subject to any regulation that the Board adopts, it may reinstate a license that has been revoked.

(b) A license may be reinstated under this section only on:

(1) the affirmative vote of a majority of the members of the Board then serving; and

(2) payment to the Board of a reinstatement fee set by the Board.

§15–401.

(a) (1) Subject to the provisions of this section, a professional land surveyor may practice land surveying for others through:

(i) a corporation as an officer, employee, or agent of the corporation;

(ii) a partnership as a partner, employee, or agent of the partnership; or

(iii) a limited liability company as a member, employee, or agent of the limited liability company.

(2) Subject to the provisions of this section, a licensed property line surveyor may practice property line surveying through:

(i) a corporation as an officer, employee, or agent of the corporation;

(ii) a partnership as a partner, employee, or agent of the partnership; or

(iii) a limited liability company as a member, employee, or agent of the limited liability company.

(3) Subject to the provisions of this subtitle, a corporation, partnership, or limited liability company may provide land surveying services through a professional land surveyor or property line surveying services through a licensed property line surveyor.

(b) (1) A professional land surveyor who practices land surveying through a corporation, partnership, or limited liability company under this section shall be subject to all of the provisions of this title that relate to practicing land surveying.

(2) A licensed property line surveyor who practices property line surveying through a corporation, partnership, or limited liability company under this section shall be subject to all of the provisions of this title that relate to practicing property line surveying.

(c) (1) A corporation, partnership, or limited liability company that provides land surveying services or property line surveying services under this section is not, by its compliance with this section, relieved of any responsibility that the corporation, partnership, or limited liability company may have for an act or omission of its officer, partner, member, employee, or agent.

(2) An individual who practices land surveying or property line surveying through a corporation, partnership, or limited liability company, is not, by reason of the individual's employment or other relationship with the corporation, partnership, or limited liability company, relieved of any individual responsibility that the individual may have regarding that practice.

§15–402.

(a) Except as provided in subsection (b) of this section, a corporation, partnership, or limited liability company shall hold a permit issued by the Board before the corporation, partnership, or limited liability company may operate a business through which land surveying or property line surveying is practiced.

(b) A corporation, partnership, or limited liability company may provide land surveying or property line surveying services for itself or for an affiliated corporation, partnership, or limited liability company without a permit issued by the Board.

§15–402.1.

(a) To qualify for a permit, a corporation, partnership, or limited liability company shall meet the requirements of this section.

(b) (1) A corporation, partnership, or limited liability company shall appoint at least one person in responsible charge of the professional land surveying or property line surveying services performed or offered to be performed through the corporation, partnership, or limited liability company.

(2) A person in responsible charge shall be:

(i) in direct control of professional land surveying or property line surveying services performed or offered to be performed through the corporation, partnership, or limited liability company;

(ii) in a position to act on behalf of, and be responsible for, the corporation, partnership, or limited liability company in matters related to the practice of professional land surveying or property line surveying; and

(iii) a professional land surveyor or licensed property line surveyor in good standing.

(3) A licensee may not be designated as a person in responsible charge for more than one corporation, partnership, or limited liability company that provides or offers to provide professional land or property line surveying services without the prior approval of the Board.

§15–403.

(a) An applicant for a permit shall:

(1) submit to the Board an application on the form that the Board provides; and

(2) pay to the Board a nonrefundable application fee set by the Board.

(b) In addition to any other information required on an application form, the form shall require the following:

(1) the name and address of at least one person in responsible charge of land surveying or property line surveying services performed or offered to be performed through the corporation, partnership, or limited liability company; and

(2) evidence acceptable to the Board that a person in responsible charge is an employee, an owner, a director, an officer, a member, or a partner, as applicable, of the entity seeking a permit.

§15–404.

The Board shall issue a permit to each applicant who meets the requirements of this subtitle and pays to the Board a permit fee set by the Board.

§15–405.

(a) Subject to subsection (b) of this section and while a permit is in effect, it:

(1) authorizes the holder to:

(i) operate a business through which land surveying is practiced; and

(ii) represent to the public that the holder provides the services of a professional land surveyor; or

(2) authorizes the holder to:

(i) operate a business through which property line surveying is practiced; and

(ii) represent to the public that the holder provides the services of a licensed property line surveyor.

(b) A permit authorizes the holder to provide a service that constitutes practicing land surveying or property line surveying only if the service is performed by an individual who is licensed or otherwise authorized under this title to practice.

§15–406.

(a) Unless a permit is renewed for a 2–year term as provided in this section, the permit expires on the first June 30 that comes:

(1) after the effective date of the permit; and

(2) in an odd–numbered year.

(b) (1) At least 1 month before a permit expires, the Board shall mail or electronically transmit to the permit holder:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current permit expires; and

2. the amount of the permit fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the permit holder, at the last known address of the permit holder, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(c) Before a permit expires, the permit holder periodically may renew it for an additional 2–year term, if the holder:

(1) submits to the Board a renewal application on the form that the Board provides; and

(2) pays to the Board a permit fee set by the Board.

(d) The renewal application form shall require the same information required on the original application form under § 15–403(b) of this subtitle.

(e) The Board shall renew the permit of each permit holder who meets the requirements of this section.

§15–407.

Within 1 month after the effective date of the change or occurrence, a permit holder shall notify the Board in writing if there has been a change in:

(1) the identity of the person in responsible charge of land surveying or property line surveying services performed or offered to be performed through the corporation, partnership, or limited liability company; or

(2) the name of the corporation, partnership, or limited liability company.

§15–408.

(a) Subject to the hearing provisions of § 15–409 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a permit to any applicant, reprimand a permit holder, or suspend or revoke a permit if:

(1) the applicant or permit holder fraudulently or deceptively obtains or attempts to obtain a permit; or

(2) the permit holder fraudulently or deceptively uses a permit.

(b) (1) In addition to a sanction imposed under subsection (a) of this section, the Board may impose a penalty not exceeding $5,000 for:

(i) each violation for which a denial, reprimand, suspension, or revocation was imposed under subsection (a) of this section; and

(ii) each failure to meet or continue to meet the qualifications or requirements set forth in this subtitle.

(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 permit holder or the applicant; and

(iv) any history of previous violations by the permit holder or the applicant.

(c) The Board shall pay any penalty collected under subsection (b) of this section into the General Fund of the State.

§15–409.

(a) Except as otherwise provided in § 10–226 of the State Government Article, before the Board takes any final action under § 15–408 of this subtitle, it shall give the person 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) At least 30 days before the hearing, the hearing notice and a copy of the complaint shall be:

(1) served personally on the applicant or on a person in responsible charge of land surveying or property line surveying practiced through the entity

holding the permit or a person designated as a resident agent to receive process on behalf of the entity; or

(2) mailed to the last known business address of the entity holding the permit.

(d) If, after due notice, the person against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

§15–410.

(a) (1) For the limited purpose set forth in paragraph (2) of this subsection, a permit shall remain in effect and does not expire by operation of law while the permit holder is under investigation by the Board or awaiting a hearing or disposition on charges subject to disciplinary action under this subtitle.

(2) An extension of a permit term under this subsection is effective only for the purpose of retaining the jurisdiction of the Board over the permit holder during the course of disciplinary proceedings and does not prevent the permit from expiring for any other purpose.

(b) Unless the Board agrees to accept the surrender, a permit holder may not surrender a permit while the holder is under investigation or awaiting a hearing or disposition on charges subject to disciplinary action under this subtitle.

§15–411.

A corporation, partnership, or limited liability company whose permit has been suspended or revoked under § 15–408 of this subtitle may not offer or provide land surveying or property line surveying services until the suspension is lifted or the permit is reinstated.

§15–412.

(a) Subject to the provisions of this section, the Board may reinstate:

(1) a permit that has been revoked; or

(2) before fulfillment of the conditions of the suspension, a permit that has been suspended.

(b) A permit may be reinstated under this section only if:

(1) the corporation, partnership, or limited liability company whose permit has been revoked or suspended submits a written request to the Board; and

(2) the corporation, partnership, or limited liability company pays to the Board a reinstatement fee set by the Board.

(c) The Board, by an affirmative vote of a majority of its members then serving, shall vote on the request for reinstatement or lifting of the suspension within 60 days of receipt of the written request.

§15–413.

The Board may reinstate the permit of a corporation, partnership, or limited liability company that has failed to renew the permit for any reason if the corporation, partnership, or limited liability company:

(1) otherwise is entitled to a permit; and

(2) pays to the Board a reinstatement fee set by the Board.

§15–414.

After the Board reinstates a permit, the permit holder shall continue to comply with all applicable requirements set forth in this subtitle.

§15–501.

(a) Each professional land surveyor and each licensed property line surveyor may obtain a seal for use as required under § 15-502 of this subtitle.

(b) The seal shall:

(1) be of a design determined by the Board; and

(2) include:

(i) the legend:

1. "professional land surveyor"; or

2. "licensed property line surveyor"; and

(ii) the name of the licensee who holds the seal.

§15–502.

(a) Before a professional land surveyor or licensed property line surveyor issues to a client or submits to a public authority any plan, plat, report, or specification, the professional land surveyor or licensed property line surveyor who prepared the document shall endorse on the document the licensee's:

(1) name; and

(2) seal or a facsimile of the seal.

(b) A public authority may not accept any surveying plan, plat, report, or specification unless the document is endorsed as required under subsection (a) of this section.

§15–601.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice land surveying or property line surveying in the State unless licensed by the Board.

§15–602.

Except for a licensee who operates the business as a sole practitioner, a person may not operate a business through which land surveying or property line surveying is practiced, unless:

(1) the business is a corporation, a partnership, or a limited liability company; and

(2) the corporation, partnership, or limited liability company holds a permit issued by the Board.

§15–603.

(a) Unless authorized under this title to practice land surveying without the supervision required under § 15-303 of this title, a person may not represent to the public, by use of a title, including "land surveyor", "professional land surveyor", "licensed land surveyor", or "registered land surveyor", by use of the term "land surveying" in the name of the person's business activity, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice land surveying in the State.

(b) Unless authorized under this title to practice property line surveying without the supervision required under § 15-303 of this title, a person may not represent to the public, by use of a title, including "licensed property line surveyor" or "property line surveyor", by description of services, methods, or procedures, or otherwise, that the person is authorized to practice property line surveying in the State.

§15–604.

(a) Subject to subsection (b) of this section and unless a person holds a permit issued by the Board, the person may not represent to the public, by use of the title "land surveyors", "professional land surveyors", "licensed land surveyors", "registered land surveyors", "property line surveyors", "licensed property line surveyors", or "registered property line surveyors", by use of the term "land surveying" or "property line surveying", by description of services, methods, or procedures, or otherwise, that the person holds a permit or otherwise is authorized to operate a business through which land surveying or property line surveying is practiced in the State.

(b) Subsection (a) of this section does not apply to a professional land surveyor or licensed property line surveyor who operates a business as a sole practitioner.

§15–605.

A person may not:

(1) use or attempt to use the license of another individual; or

(2) impersonate another individual who holds a license.

§15–606.

Other than a professional land surveyor or licensed property line surveyor who obtains a seal as authorized under this title, a person may not use or attempt to use a seal.

§15–607.

A person may not give false information to the Board in an attempt to obtain a license.

§15–608.

An individual whose license has been suspended or revoked under § 15-317 of this title may not practice land surveying or property line surveying in any manner as:

(1) an associate, agent, employee, or other subordinate of a professional land surveyor or licensed property line surveyor; or

(2) a principal, associate, agent, employee, or other subordinate of a corporation, partnership, or limited liability company that provides land surveying or property line surveying services.

§15–609.

(a) An individual who is authorized to practice land surveying may not practice or offer to practice land surveying in those areas of land surveying in which the individual is not competent to practice.

(b) An individual who is authorized to practice property line surveying may not practice or offer to practice property line surveying in those areas of property line surveying in which the individual is not competent to practice.

§15–610.

(a) A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.

(b) (1) The Board may impose on a person who violates any provision of this title a penalty not exceeding $5,000 for each violation.

(2) In setting the amount of the penalty, the Board shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the violator;

(iv) any history of previous violations by the violator; and

(v) any other relevant factors.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

§15–701.

This title may be cited as the "Maryland Professional Land Surveyors Act".

§15–702.

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, 2027.

§16–101.

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

(b) (1) "Appraisal" means an analysis, conclusion, or opinion about the nature, quality, utility, or value of interests in or aspects of identified real estate.

(2) "Appraisal" includes:

(i) a valuation appraisal;

(ii) an analysis assignment; and

(iii) a review assignment.

(3) "Appraisal" does not include an opinion to a potential seller or third party by a person licensed under Title 17 of this article about the recommended listing price or recommended purchase price of real estate, provided that the opinion is not referred to as an appraisal.

(c) "Appraisal report" means any communication, oral or written, of an appraisal.

(d) "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(e) (1) "Certificate" means, unless the context requires otherwise, a certificate issued by the Commission that allows an individual to provide certified real estate appraisal services.

(2) "Certificate" includes, unless the context requires otherwise, each of the following certificates:

(i) a certificate to provide certified real estate appraisal services for general real estate; and

(ii) a certificate to provide certified real estate appraisal services for residential real estate.

(f) "Certified appraisal report" means an appraisal report prepared and signed by a certified real estate appraiser.

(g) (1) "Certified real estate appraiser" means, unless the context requires otherwise, an individual who is certified by the Commission to provide certified real estate appraisal services.

(2) "Certified real estate appraiser" includes:

(i) a certified real estate appraiser for general real estate; and

(ii) a certified real estate appraiser for residential real estate.

(h) "Commission" means the State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors.

(i) "Home inspection" means a written evaluation of one or more of the components of an existing residential building, including the heating system, cooling system, plumbing system, electrical system, structural components, foundation, roof, masonry structure, exterior and interior components, or any other related residential housing component.

(j) "Home inspector" means an individual who provides home inspection services for compensation.

(k) "License" means, unless the context requires otherwise, a license issued by the Commission to provide real estate appraisal services or to provide home inspection services.

(l) "Licensed home inspector" means an individual who is licensed by the Commission to provide home inspection services.

(m) "Licensed real estate appraiser" means an individual who is licensed by the Commission to provide real estate appraisal services.

(n) "Provide certified real estate appraisal services" means to provide real estate appraisal services as a certified real estate appraiser.

(o) "Provide home inspection services" means to provide home inspection services as a licensed home inspector.

(p) "Provide real estate appraisal services" means to make for consideration an appraisal of real estate or prepare or sign an appraisal report in connection with a federally related transaction, as defined in the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(q) (1) "Real estate" means any interest in real property that is located in the State or elsewhere.

(2) "Real estate" includes:

(i) an interest in a condominium; and

(ii) a time–share estate or a time–share license, as those terms are defined in § 11A–101 of the Real Property Article.

(r) "Real estate appraiser trainee" means an individual who is licensed by the Commission to provide real estate appraisal services while:

(1) under the supervision of a supervising appraiser; and

(2) in training to become a licensed real estate appraiser or certified real estate appraiser.

(s) "Supervising appraiser" means a certified residential real estate appraiser or a certified general real estate appraiser who has the responsibility of supervising one or more real estate appraiser trainees.

(t) (1) "Supervision" means the responsibility of a supervising appraiser to provide on–site direction or immediately available direction, through written instructions or by electronic means, to real estate appraiser trainees performing real estate appraisal services.

(2) "Supervision" includes a supervising appraiser accepting direct responsibility for a real estate appraisal prepared by the real estate appraiser trainee while the trainee is under the supervising appraiser's direction on a specific appraisal assignment.

§16–201.

There is a State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors in the Department.

§16–202.

(a) (1) The Commission consists of 15 members.

(2) Of the 15 members of the Commission:

(i) at least 2 shall be certified general real estate appraisers;

(ii) 2 shall be certified general real estate appraisers, certified residential real estate appraisers, or licensed real estate appraisers;

(iii) 2 shall be representatives of a financial institution who are not certified or licensed real estate appraisers or home inspectors;

(iv) 4 shall be licensed home inspectors, each of whom shall have held a license as a home inspector in the State for at least 5 years;

(v) 4 shall be consumer members; and

(vi) 1 shall be a representative of an appraisal management company registered under Subtitle 5B of this title.

(3) The Governor shall:

(i) appoint the members with the advice of the Secretary and with the advice and consent of the Senate; and

(ii) consider demographic and geographic diversity when making appointments to the Commission.

(b) Each member of the Commission shall be a citizen of the State.

(c) (1) Each consumer member of the Commission:

(i) shall be a member of the general public;

(ii) may not be a licensee, holder of a certificate, or otherwise be subject to regulation by the Commission;

(iii) may not be required to meet the qualifications for the professional members of the Commission; and

(iv) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Commission.

(2) While a member of the Commission, a consumer member may not:

(i) have a financial interest in or receive compensation from a person regulated by the Commission; or

(ii) grade any examination given by or for the Commission.

(d) Before taking office, each appointee to the Commission shall take the oath required by Article I, § 9 of the Maryland Constitution.

(e) (1) The term of a member is 3 years.

(2) The terms of members are staggered as required by the terms provided for members of the Commission on January 1, 1991.

(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) A member may not serve for more than 2 consecutive 3–year terms.

(f) (1) The Governor may remove a member for incompetence or misconduct.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned if the member did not attend at least two–thirds of the Commission meetings held during any consecutive 12–month period while the member was serving on the Commission.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§16–203.

(a) (1) From among its members, the Commission annually shall elect a chairman and a vice chairman, provided:

(i) if a chair is elected from among the real estate appraiser members, then the vice chairman shall be elected from among the licensed home inspector members; and

(ii) if a chair is elected from among the licensed home inspector members, then the vice chairman shall be elected from among the real estate appraiser members.

(2) At the end of a term, the chairman and vice chairman may be reelected.

(b) The chairman shall perform the duties that this title and the Commission require.

(c) While in office, the chairman shall be covered by a surety bond or an insurance policy of the type and in the amount of coverage determined by the State Treasurer under § 5–108 of the State Government Article.

§16–204.

(a) (1) Subject to paragraph (2) of this subsection, a majority of the members then serving on the Commission is a quorum.

(2) A majority of the members then serving on the Commission is not a quorum unless 2 home inspector members and 2 real estate appraiser members are present.

(b) (1) The Commission shall meet at least once each calendar quarter, at the times and places that the Commission determines.

(2) Each member of the Commission shall receive written notice of the time and place of a meeting at least 10 days before the scheduled date of the meeting.

(3) Within a reasonable time after giving notice to the Commission, a member of the public is entitled to be heard, at a meeting of the Commission, on any matter within the jurisdiction of the Commission.

(c) Each member of the Commission 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.

§16–205.

(a) (1) The Secretary shall appoint the executive director of the Commission from a list of 3 nominees submitted by the Commission.

(2) The executive director serves at the pleasure of the Secretary.

(b) (1) The executive director may not hold any position or engage in another business that:

(i) interferes with the position of executive director; or

(ii) might conflict with the position of executive director.

(2) While employed by the Commission, the executive director may not:

(i) be licensed in any state as a real estate appraiser or a home inspector;

(ii) engage in any act for which a license is required under this title; or

(iii) in connection with any real estate appraisal transaction or home inspection engagement, directly or indirectly receive or become entitled to receive any compensation, fee, or perquisite.

(c) The executive director 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 executive director is a special appointment in the State Personnel Management System.

(e) While employed as executive director, the executive director shall be covered by a surety bond or an insurance policy of the type and in the amount of coverage determined by the State Treasurer under § 5–108 of the State Government Article.

§16–206.

The executive director shall:

(1) keep a record of each act, communication, and proceeding of the Commission; and

(2) perform any other duty that the Commission considers appropriate.

§16–207.

(a) The Commission, in accordance with the State budget, may employ:

(1) a general staff; and

(2) an investigative staff to conduct investigations.

(b) While employed by the Commission, an individual may not:

(1) be licensed in any state as a real estate appraiser or home inspector;

(2) engage in any act for which a license is required under this title; or

(3) in connection with any real estate appraisal transaction or home inspection engagement, directly or indirectly receive or become entitled to receive any compensation, fee, or perquisite.

§16–208.

(a) To protect the interests of the public, the Commission shall promptly adopt, by regulation:

(1) appraisal standards of conduct for all individuals licensed or certified as real estate appraisers under this title, including standards regarding conflicts of interest and ethical conduct; and

(2) a code of ethics and standards of practice for individuals licensed as home inspectors under this title.

(b) The Commission shall promptly adopt at a minimum the uniform standards of professional appraisal practice of the appraisal foundation to meet the requirement under subsection (a) of this section.

(c) At the request of a licensee or certificate holder, the Commission shall provide a copy of the appraisal standards it adopts to the licensed or certified real estate appraiser or a copy of home inspection standards it adopts to the licensed home inspector.

§16–209.

(a) (1) The Commission shall administer and enforce the provisions of this title.

(2) In connection with any action to enforce the provisions of this title, the Commission may:

(i) hold hearings;

(ii) administer oaths;

(iii) issue a subpoena for the attendance of a witness to testify or the production of evidence; or

(iv) take depositions in the same manner as provided in civil cases in the State.

(3) The Police Department of Baltimore City, the sheriff of a county, or a private process server shall serve a subpoena issued under this subsection.

(4) If a person fails to comply with a subpoena issued under this subsection, on petition of the Commission or another party, a circuit court may compel compliance with the subpoena.

(b) (1) If the Commission concludes that conduct alleged to be a violation of any provision of this title may result in irreparable harm to a person, the Commission may sue to enforce a provision of this title by ex parte, interlocutory, or final injunction.

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

(i) post bond, if the injunction is sought against a person who does not hold a license issued under this title;

(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 of the provision.

(c) (1) Subject to the provisions of this section, the Commission shall conduct an investigation that relates to any complaint alleging that an unauthorized person has provided real estate appraisal services or home inspection services.

(2) A complaint shall:

(i) be in writing;

(ii) state specifically the facts on which the complaint is based; and

(iii) be submitted to the Commission.

(3) If a complaint is made by any person other than a member of the Commission, the complaint shall be made under oath by the person who submits the complaint.

(d) A member of the Commission may not be held personally liable for any action taken under this section.

§16–210.

(a) The Commission shall establish a Real Estate Appraisal Hearing Board.

(b) (1) The Hearing Board shall consist of 3 members of the Commission, appointed by the Commission.

(2) Of the 3 positions on the Real Estate Appraisal Hearing Board:

(i) 1 shall be a representative of a financial institution;

(ii) 1 shall be a consumer member; and

(iii) 1 shall be an appraiser with a level of licensure or certification at least equal to the individual subject to the disciplinary action.

(c) From among the members of the Hearing Board, the Commission shall designate a chairman.

§16–210.1.

(a) The Commission shall establish a Home Inspector Hearing Board.

(b) (1) The Hearing Board shall consist of 3 members of the Commission, appointed by the Commission.

(2) Of the 3 positions on the Home Inspector Hearing Board:

(i) 2 shall be licensed home inspectors; and

(ii) 1 shall be a consumer member.

(c) From among the members of the Hearing Board, the Commission shall designate a chairman.

§16–210.2.

(a) The Commission shall establish an appraisal management company hearing board.

(b) (1) The hearing board consists of three members of the Commission, appointed by the Commission.

(2) Of the three positions on the appraisal management company hearing board:

(i) one shall be a representative of a financial institution;

(ii) one shall be a consumer member; and

(iii) one shall be a representative of an appraisal management company.

(c) From among the members of the hearing board, the Commission shall designate a chair.

§16–211.

(a) The Commission shall refer to the appropriate hearing board for a hearing any matter for which a hearing may be required under § 16–701, § 16–701.1, or § 16–701.2 of this title.

(b) The hearing board may exercise the same powers and shall conduct a hearing in accordance with the same procedures applicable to the Commission under § 16–602 of this title.

(c) (1) The hearing board shall determine if there is a reasonable basis to believe that there are grounds for disciplinary action under this title against a licensee.

(2) (i) If the hearing board finds a reasonable basis as provided under paragraph (1) of this subsection, the hearing board shall:

1. hold a hearing on the matter; and

2. file its finding with the Commission.

(ii) If the hearing board does not find a reasonable basis as provided under paragraph (1) of this subsection, the hearing board shall dismiss the complaint.

(3) A hearing board shall advise the Commission specifically of any action brought against a licensee as a result of monetary loss, misappropriation of money, or fraud.

(d) (1) (i) Within 15 days after the filing of a decision by a hearing board, the Commission or any of its members may file an exception to the decision of the hearing board.

(ii) On the filing of an exception under subparagraph (i) of this paragraph, the Commission shall set a hearing on the matter.

(2) If an exception is not filed within the time allowed under paragraph (1)(i) of this subsection:

(i) the decision of the hearing board shall be considered as the final decision of the Commission; and

(ii) any party aggrieved by the decision may take a judicial appeal as provided in this title.

§16–212.

(a) The Commission shall keep an indexed record of:

(1) each application for licensure or certification;

(2) each issuance of a license or certificate;

(3) each reprimand of a licensed real estate appraiser or certified real estate appraiser or licensed home inspector; and

(4) each suspension or revocation of a licensed real estate appraiser or certified real estate appraiser or licensed home inspector.

(b) The Commission shall make available to the public:

(1) the record during business hours; and

(2) on request, a copy of the record at a reasonable price that the Commission sets.

§16–212.1.

(a) A licensed or certified real estate appraiser shall file with the Commission or a designee otherwise provided by law at the end of every calendar quarter a report listing the address and appraised value of residential real estate in Baltimore City upon which the appraiser performed an appraisal during the calendar quarter.

(b) The report shall be open for inspection only to representatives of government agencies for investigation of fraudulent practices.

§16–213.

(a) The Commission shall issue at least annually a roster that shows:

(1) the name of each licensed real estate appraiser trainee, licensed real estate appraiser, certified real estate appraiser, and licensed home inspector; and

(2) the name and place of business of each licensed real estate appraiser, certified real estate appraiser, and licensed home inspector.

(b) On request, the Commission shall make available to the public a copy of the roster at a reasonable price that the Commission sets.

§16–214.

On request, the Commission shall issue a document of good standing to a licensed real estate appraiser trainee, licensed real estate appraiser, certified real estate appraiser, or licensed home inspector who:

(1) is in good standing in the State; and

(2) pays the issuance fee set by the Commission.

§16–215.

The Commission shall submit to the Secretary an annual report that includes:

(1) a statement of the total receipts and expenditures of the Commission; and

(2) any other information that reflects the work of the Commission.

§16–216.

In addition to any powers set forth elsewhere, the Commission may:

(1) sponsor research and other educational activities about real estate appraising or home inspecting;

(2) adopt any regulation to carry out the provisions of this title;

(3) review and approve any on-site training programs, including programs that have been approved by national home inspection organizations;

(4) keep a record of its proceedings; and

(5) adopt an official seal to authenticate its proceedings, official records, licenses, and certificates.

§16–217.

(a) (1) Beginning on July 1, 2011, the Commission may set by regulation reasonable fees for its services.

(2) The fees charged shall be:

(i) set so as to produce funds to approximate the cost of maintaining the Commission; and

(ii) based on the calculations performed by the Secretary of Labor under § 2–106.8 of the Business Regulation Article.

(b) The Commission shall publish the fee schedule set by the Commission.

(c) (1) Beginning on July 1, 2011, the Commission shall pay all fees collected under this title to the Comptroller.

(2) The Comptroller shall distribute the fees to the State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors Fund established in § 2–106.7 of the Business Regulation Article.

§16–218.

Any person aggrieved by a final decision of the Commission 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.

§16–219.

The Commission exercises its powers, duties, and functions subject to the authority of the Secretary.

§16–220.

All regulations adopted under this title by the Commission applicable to the provision of real estate appraisal services shall comply with the requirements of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

§16–301.

(a) After June 30, 1991, and except as otherwise provided in this title, an individual shall be licensed by the Commission to provide real estate appraisal services before the individual may provide real estate appraisal services in the State.

(b) This section does not apply to an individual who provides real estate appraisal services that are only incidental real estate appraisal services, including home inspectors and environmental auditors.

(c) In addition to subsection (b) of this section, this section does not apply to an individual who provides real estate appraisal services that the Commission defines by regulation to be only incidental real estate appraisal services.

(d) This section does not apply to an individual who is licensed to practice any business or occupation in the State while acting within the scope of the license.

§16–302.

(a) To qualify for a real estate appraisal license, an applicant shall be an individual who meets the requirements of this section.

(b) An applicant shall be of good character and reputation.

(c) An applicant shall be at least 18 years old.

(d) (1) An applicant shall satisfy the minimum real estate appraiser qualifications for licensure established under the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) An applicant shall have completed:

(i) at least 1,000 hours providing real estate appraiser services as a real estate appraiser trainee under the supervision of a certified appraiser; or

(ii) the Real Property Appraiser Qualification Criteria of the Practical Applications of Real Estate Appraisal program adopted by the Appraisal Foundation Appraiser Qualifications Board authorized under the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(3) Classroom hours of study required by this section may be conducted by:

(i) an accredited university, college, or community or junior college;

(ii) an approved appraisal society, institute, or association; or

(iii) another school that the Commission approves.

(4) The Commission shall approve all courses of study required under this section.

(5) The Commission may not require an applicant to hold a bachelor's degree or higher to qualify for licensure under this section.

(e) Except as otherwise provided in this subtitle, the applicant shall pass an examination given by the Commission or the Commission's designee under this subtitle.

(f) (1) If an applicant is not a resident of the State, the applicant shall submit to the Commission an irrevocable consent, as provided under this subsection.

(2) The consent required under this section shall specify that service of process on the Secretary shall bind the applicant in any action about the provision of real estate appraisal services brought against the applicant in any county of the State.

(g) The Commission shall adopt additional requirements under this section if necessary to comply with the minimum real estate appraiser qualifications established under the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(h) The Commission may monitor and review any course of study approved under this section.

§16–303.

(a) An applicant for a license shall:

(1) submit to the Commission an application on the form that the Commission provides;

(2) pay to the Commission a fee set by the Commission;

(3) apply to the Central Repository for a national and State criminal history records check on a form approved by the Director of the Central Repository;

(4) submit to the Central Repository a complete set of legible fingerprints taken at any designated State or local law enforcement office in the State or other agency or location approved by the Secretary of Public Safety and Correctional Services;

(5) pay the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check; and

(6) pay the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to the State criminal history records.

(b) The Central Repository shall provide to the Commission:

(1) the national and State criminal history records of each applicant requiring a criminal history records check under subsection (a) of this section and a printed statement listing any convictions and pleas of guilty or nolo contendere to any criminal charge; and

(2) an acknowledged receipt of the application for a criminal history records check by an applicant requiring a criminal history records check.

(c) Information obtained by the Commission from the Central Repository under this section shall be confidential and may be disseminated only to the individual who is the subject of the criminal history records check.

§16–304.

(a) Except as otherwise provided in § 16-304.1 of this subtitle, an applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) The Commission periodically shall give examinations to qualified applicants at the times and places that the Commission determines.

(c) The Commission shall give each qualified applicant notice of the times and places that the Commission determines.

(d) To take an examination, an applicant shall pay an examination fee to the Commission or the Commission's designee in an amount established by the Commission not to exceed the cost of the examination.

(e) (1) Except as otherwise provided in this subsection, the Commission shall determine the subjects, scope, form, and the passing score for examinations given under this subtitle.

(2) The Commission shall structure the examinations for a real estate appraisal license to test the knowledge of an applicant of real estate appraisal theory and practice and the standards of conduct that the Commission adopts under § 16-208 of this title.

§16–304.1.

(a) The Commission may use a testing service to administer the examinations given under this subtitle.

(b) If the Commission uses a testing service, the testing service, subject to the requirements set by the Commission, may:

(1) set the time and place of examinations;

(2) give qualified applicants notice of the time and place of examinations; and

(3) furnish any other information that the Commission may require the testing service to provide.

§16–305.

(a) Subject to the provisions of this section, the Commission may waive the examination requirements of this subtitle for an individual who is licensed to provide real estate appraisal services in another state.

(b) The Commission may grant a waiver under this section only if the applicant:

(1) pays to the Commission the application fee set by the Commission under § 16–303 of this subtitle; and

(2) provides adequate evidence that the applicant:

(i) is licensed by a state that is in compliance with Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as determined by the Appraisal Subcommittee of the federal Financial Institutions Examinations Council;

(ii) holds a valid license issued by that state; and

(iii) became licensed in the other state after meeting, in that state, requirements that are substantially equivalent to or exceed the licensing requirements of this State.

§16–306.

(a) On receipt of a complete national and State criminal record report from the Central Repository, the Commission shall grant a license to each applicant who meets the requirements of this subtitle.

(b) The Commission shall issue a license document and pocket card to each applicant who has been granted a license under this section.

(c) (1) Subject to paragraph (2) of this subsection, the Commission shall determine the size, form, and content of any license document or pocket card that the Commission issues.

(2) The Commission shall include an expiration date on each license document that the Commission issues.

§16–307.

While a license is in effect, it authorizes the licensee to provide real estate appraisal services.

§16–308.

(a) Unless a license is renewed for a 3-year term as provided in this section, the license expires on a staggered basis as determined by the Secretary.

(b) (1) At least 1 month before the license expires, the Commission shall mail or electronically transmit to the licensee:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current license expires; and

2. the amount of the renewal fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Commission as undeliverable, the Commission shall mail to the licensee, at the last known address of the licensee, the materials required under paragraph (1) of this subsection within 10 business days of the date the Commission received the notice that the electronic transmission was undeliverable.

(c) Before a license expires, the licensee periodically may renew it for an additional 3–year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Commission a renewal fee set by the Commission; and

(3) submits to the Commission:

(i) a renewal application on the form that the Commission provides; and

(ii) adequate evidence of compliance with the continuing education requirements set under this subtitle for license renewal.

§16–309.

To qualify for renewal of a license under this subtitle, a licensee shall provide to the Commission adequate evidence that the licensee meets the minimum continuing education requirements established under the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

§16–310.

(a) The Commission shall reinstate the license of a real estate appraiser who has failed to renew the license, if the real estate appraiser:

(1) applies to the Commission for reinstatement within 3 years after the license expires;

(2) meets the requirements of § 16–308 of this subtitle; and

(3) in addition to the renewal fee required under § 16–308 of this subtitle, pays to the Commission a reinstatement fee set by the Commission.

(b) (1) If an individual fails to renew a license for any reason and applies to the Commission for reinstatement more than 3 years after the license has expired, the Commission may:

(i) require the individual to reapply for a license under § 16–302 of this subtitle; or

(ii) subject to paragraph (2) of this subsection, reinstate the license.

(2) The Commission may reinstate a license under paragraph (1)(ii) of this subsection only if the individual:

(i) meets the renewal requirements of § 16–308 of this subtitle;

(ii) if required by the Commission, states the reasons why reinstatement should be granted; and

(iii) in addition to the renewal fee required under § 16–308 of this subtitle, pays to the Commission a reinstatement fee set by the Commission.

§16–311.

(a) The Commission shall:

(1) transmit to the Appraisal Subcommittee of the Federal Financial Institutions Examinations Council a roster of State certified and licensed appraisers as required by § 1109(a)(1) of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and

(2) collect and transmit to the appropriate federal authority those fees required by § 1109(a)(2) of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(b) (1) There is a Federal Appraisal Fee Fund within the Commission.

(2) The Fund is a special account to be used to disburse money to the appropriate federal authority under subsection (a)(2) of this section.

§16–312.

(a) A licensed real estate appraiser shall:

(1) maintain a principal place of business; and

(2) in that principal place of business, display conspicuously the license issued under this subtitle.

(b) (1) Each licensee promptly shall give the Commission written notice of any change of name or address from that which appears on the current license.

(2) On receipt of notice, the Commission shall issue to the licensee a new license for the unexpired term.

(3) A licensee who is not a resident of the State may not be required to maintain a place of business in this State if the licensee maintains an active place of business in another state.

§16–313.

A licensed real estate appraiser may provide real estate appraisal services through a professional corporation in accordance with the Maryland Professional Service Corporation Act.

§16–3A–01.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Commission as a home inspector before the individual may provide home inspection services in the State.

(b) This title does not apply to:

(1) an individual who is employed as a building code enforcement official by the State or a political subdivision of the State, while acting within the scope of that employment;

(2) an individual who is employed as a federal or State inspector, while acting within the scope of that employment;

(3) a plumber, electrician, professional engineer, real estate appraiser, real estate broker or agent, or heating, ventilation, air-conditioning, or refrigeration contractor who is licensed in the State, while acting within the scope of that license;

(4) a roofer, general contractor, remodeler, or structural pest control specialist, while acting within the scope of that occupation; or

(5) any other professional whose services may be required in the building or remodeling of real property and who does not claim to be a licensed home inspector.

§16–3A–02.

(a) To qualify for a license as a home inspector, an applicant must be an individual who meets the requirements of this section.

(b) Prior to July 1, 2002, an applicant for a home inspector license shall:

(1) meet two of the following conditions:

(i) have completed a minimum of 48 hours of an on-site training course approved by a national home inspection organization or the Commission;

(ii) have completed a minimum of 2 years of relevant work experience, as determined by the Commission, immediately preceding the submission of an application;

(iii) have completed at least 100 home inspections for compensation; or

(iv) submit proof of full membership in or certification by one of the following national home inspection organizations:

1. American Society of Home Inspectors; or

2. National Association of Home Inspectors;

(2) have a high school diploma or its equivalent;

(3) have general liability insurance in an amount not less than $50,000;

(4) submit to the Commission an application on the form that the Commission provides; and

(5) pay to the Commission an application fee of $50.

§16–3A–03.

An applicant for a home inspector license shall:

(1) have completed a minimum of 72 hours of an on–site training course approved by a national home inspection organization and the Commission that at a minimum requires successful completion of the National Home Inspector Examination or its equivalent as determined by the Commission;

(2) have a high school diploma or its equivalent;

(3) have insurance as required under § 16–4A–04 of this title;

(4) submit to the Commission an application on the form that the Commission provides; and

(5) pay to the Commission an application fee set by the Commission.

§16–3A–04.

(a) Except as provided in subsection (c) of this section, subject to the licensing provisions of this section, the Commission may issue a license by reciprocity under this section for an applicant who is licensed to provide home inspection services in another state.

(b) The Commission may issue a license by reciprocity under this section for an applicant who is licensed to provide home inspection services in another state only if the applicant:

(1) pays to the Commission an application fee as set by the Commission; and

(2) provides adequate evidence that the applicant:

(i) meets the qualifications otherwise required by this subtitle;

(ii) holds an active license in good standing from the other state;

(iii) became licensed in the other state after meeting, in that or another state, requirements that were at least equivalent to those then required by the laws of this State; or

(iv) at the time of the application for a license by reciprocity under this section, the applicant meets the requirements currently required by the laws of this State.

(c) Subject to the licensing provisions in this section, the Commission may issue a license by reciprocity to provide home inspection services to an individual who satisfies to the Commission that the applicant is qualified based on a combination of comparable education, training, and experience in providing home inspection services.

§16–3A–05.

If an applicant qualifies for a home inspector license under this title, the Commission shall send the applicant a notice that states:

(1) the applicant has qualified for the license; and

(2) the Commission will issue the home inspector license to an applicant upon receipt of a license fee set by the Commission.

§16–3A–06.

While a home inspector license is in effect, it authorizes the licensee to provide home inspection services.

§16–3A–07.

(a) Unless a license is renewed for a 2–year term as provided in this section, the license expires on a staggered basis as determined by the Secretary.

(b) (1) At least 1 month before a license expires, the Commission shall mail or electronically transmit to the licensee:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current license expires; and

2. the amount of the renewal fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Commission as undeliverable, the Commission shall mail to the licensee, at the last known address of the licensee, the materials required under paragraph (1) of this subsection within 10 business days of the date the Commission received the notice that the electronic transmission was undeliverable.

(c) Before a license expires, the licensee may renew it for an additional 2–year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Commission a renewal fee set by the Commission;

(3) submits a renewal application on the form that the Commission provides; and

(4) submits proof of compliance with the insurance requirement of § 16–4A–04 of this title.

(d) The Commission shall renew the license of and issue a license to each licensee who meets the requirements of this section.

(e) (1) The Commission shall adopt regulations to require a demonstration of continuing professional competency of up to 30 educational hours for a licensee as a condition of renewal of a license under this section in accordance with paragraphs (2) through (6) of this subsection.

(2) Continuing professional competency requirements do not apply to the first renewal of a license.

(3) If a license expires on or before September 30, 2013, a licensee is not required to fulfill the continuing professional competency requirements.

(4) If a license expires between October 1, 2013, and September 30, 2014, a licensee is required to fulfill 50% of the continuing professional competency requirements as provided in the regulations adopted by the Commission under this subsection.

(5) If a license expires on or after October 1, 2014, a licensee is required to fulfill the full continuing professional competency requirements as provided in the regulations adopted by the Commission under this subsection.

(6) Educational hours from a continuing professional competency course satisfy the requirement of paragraph (1) of this subsection if:

(i) the course is offered by:

1. the American Society of Home Inspectors;

2. the National Association of Home Inspectors; or

3. any other provider approved by the Commission; and

(ii) the Commission determines that the course increases the licensee's knowledge of the provision of home inspection services, including one or more components of an existing residential building.

§16–3A–08.

(a) The Commission shall reinstate the license of an individual who has failed to renew a license for any reason if the individual:

(1) applies to the Commission for reinstatement within 5 years after the license expires;

(2) meets the renewal requirements under § 16–3A–07 of this subtitle; and

(3) in addition to the renewal fee required under § 16–3A–07 of this subtitle, pays to the Commission a reinstatement fee set by the Commission.

(b) The Commission may not reinstate the license of an individual who for any reason fails to apply for reinstatement within 5 years after the license has expired.

§16–401.

(a) Subject to the provisions of subsection (b) of this section, a licensed real estate appraiser shall keep, for 5 years from the date of delivery to the client, the original or a copy of:

(1) each contract the licensee enters into for the provision of real estate appraisal services;

(2) each appraisal report the licensee prepares or signs; and

(3) all supporting data that the licensee assembles or formulates to prepare an appraisal report.

(b) If, within the 5-year period for the retention of records, a licensed real estate appraiser is given notice that an appraisal or appraisal report is involved in litigation, a new 5-year period shall start on the date of the final disposition of the litigation.

(c) On request, a licensed real estate appraiser shall make any record required to be kept under this section available to the Commission to inspect or copy.

§16–402.

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

(2) "Independent appraisal service" means an engagement for which a licensed real estate appraiser is perceived by a third party or the public to act as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion about the nature, quality, use, or value for identified real estate, regardless of the intent of the employer.

(3) (i) "Specialized appraisal service" means all appraisal services, other than an independent appraisal service.

(ii) "Specialized appraisal service" includes:

1. marketing and feasibility studies that are designed to persuade third parties that a market exists or that a project is feasible; and

2. analyses, opinions, conclusions, or estimates of value about real estate investment, mortgage banking, real estate counseling, and real estate tax counseling.

(b) A licensed real estate appraiser who provides an independent appraisal service may not accept a fee that is contingent on a predetermined analysis, opinion, or conclusion or on the results achieved by the appraisal assignment.

(c) (1) A licensed real estate appraiser who provides a specialized appraisal service may be paid a fixed fee or a fee that is contingent on the results achieved by the specialized appraisal service.

(2) A licensed real estate appraiser who agrees to provide a specialized appraisal service for a contingent fee shall state the existence of the agreement clearly in:

(i) an oral appraisal report;

(ii) a prominent place in a written appraisal report;

(iii) the certification statement that accompanies a written appraisal report; and

(iv) a letter of transmittal.

§16–4A–01.

(a) A licensed home inspector shall give to each person for whom the licensee performs a home inspection for compensation or to the person's representative, a written report that states:

(1) the scope and the exclusions of the inspection;

(2) the conditions observed during the home inspection that are subject to the adopted standards of practice and code of ethics approved by the Commission;

(3) the license number of the licensee; and

(4) a disclosure in 14–point bold type that includes the following statements:

(i) "An inspection is intended to assist in the evaluation of the overall condition of a building. The inspection is based on observation of the visible and apparent condition of the building and its components on the date of the inspection";

(ii) "The results of this home inspection are not intended to make any representation regarding latent or concealed defects that may exist, and no warranty or guaranty is expressed or implied";

(iii) "If your home inspector is not a licensed structural engineer or other professional whose license authorizes the rendering of an opinion as to structural integrity of a building or the condition of its components or systems, you may wish to seek the professional opinion of a licensed structural engineer or other professional regarding any possible defects or other observations set forth in this report"; and

(iv) "Only home inspections performed by Maryland licensed home inspectors will be recognized as a valid home inspection under a real estate contract".

(b) The licensee shall give the person or the person's representative the report:

(1) by the date set in a written agreement by the parties to the home inspection; or

(2) within 7 business days after the home inspection was performed, if no date was set in a written agreement by the parties to the home inspection.

(c) Any limitation of the liability of the licensee for any damages resulting from the report on the home inspection shall be agreed to in writing by the parties to the home inspection prior to the performance of the home inspection.

§16–4A–02.

Each licensee shall display the license certificate in the manner required by the Commission.

§16–4A–03.

A licensee must report any change of address to the Commission in writing within 15 days.

§16–4A–04.

(a) A home inspector licensed by the Commission shall maintain general liability insurance in the amount of at least $150,000.

(b) (1) An applicant shall submit proof of the insurance required under this section to the Commission with the license application.

(2) The Commission may not issue a license to an applicant unless the applicant submits proof of the insurance.

(c) Unless an applicant meets the insurance requirements of this section, the Commission may not renew the license.

(d) A licensee shall give the Commission notice of the cancellation of insurance required under this section at least 10 days before the effective date of the cancellation.

§16–4A–05.

(a) Subject to the provisions of subsection (b) of this section, a licensed home inspector shall keep, for 5 years from the date of delivery to the client, the original or a copy of:

(1) each contract the licensee enters into for the provision of home inspection services;

(2) each home inspection report the licensee prepares or signs; and

(3) all supporting data that the licensee assembles or formulates to prepare a home inspection report.

(b) If, within the 5–year period for the retention of records, a licensed home inspector is given notice that a home inspection is involved in litigation, a new 5–year period shall start on the date of the final disposition of the litigation.

(c) A licensed home inspector shall make any record required to be kept under this section available to the Commission to inspect or copy.

§16–501.

(a) After June 30, 1991, and except as otherwise provided in this title, an individual shall be certified by the Commission to provide certified real estate appraisal services before the individual may provide certified real estate appraisal services in the State.

(b) Notwithstanding subsection (a) of this section, a licensed real estate appraiser who is not certified may:

(1) help a certified real estate appraiser to prepare a certified appraisal report; and

(2) cosign the report.

§16–502.

An individual may be certified by the Commission as a certified real estate appraiser for residential real estate or as a certified real estate appraiser for general real estate as those classifications are permitted under the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

§16–503.

(a) To qualify for a certificate for residential or general real estate appraisal, an applicant shall be an individual who meets the requirements of this section.

(b) (1) An applicant shall:

(i) be of good character and reputation;

(ii) be at least 18 years old; and

(iii) satisfy the minimum real estate appraiser qualifications for residential certification or general certification, as appropriate, established under the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) An applicant shall have completed:

(i) at least 1,500 hours providing real estate appraiser services as a real estate appraiser trainee under the supervision of a certified appraiser; or

(ii) the Real Property Appraiser Qualification Criteria of the Practical Applications of Real Estate Appraisal program adopted by the Appraisal Foundation Appraiser Qualifications Board authorized under the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(3) Classroom hours of study required under this section may be conducted by:

(i) an accredited university, college, or community or junior college;

(ii) an approved appraisal society, institute, or association; or

(iii) another school that the Commission approves.

(4) The Commission shall approve all courses of study required under this section.

(5) The Commission may not require an applicant to hold a bachelor's degree or higher to qualify for residential certification under this section.

(c) An applicant shall pass the examination for a certificate for residential or general real estate appraisal given by the Commission or the Commission's designee under this subtitle.

(d) (1) If an applicant is not a resident of the State, the applicant shall submit to the Commission an irrevocable consent, as provided under this subsection.

(2) The consent required under this subsection shall specify that service of process on the Secretary of State shall bind the applicant in any action about the provision of certified real estate appraisal services against the applicant in any county of the State.

(e) An applicant shall meet any other requirement that the Commission adopts by regulation.

(f) The Commission shall adopt additional requirements under this section if necessary to comply with the minimum real estate appraiser qualifications established under the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

§16–504.

An applicant shall specify whether the applicant is a holder of a certificate for residential or general real estate appraisal.

§16–505.

(a) An applicant for a certificate shall:

(1) submit to the Commission an application on the form that the Commission provides;

(2) pay to the Commission an application fee set by the Commission;

(3) apply to the Central Repository for a national and State criminal history records check on a form approved by the Director of the Central Repository;

(4) submit to the Central Repository a complete set of legible fingerprints taken at any designated State or local law enforcement office in the State or other agency or location approved by the Secretary of Public Safety and Correctional Services;

(5) pay the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check; and

(6) pay the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to the State criminal history records.

(b) The Central Repository shall provide to the Commission:

(1) the national and State criminal history records of each applicant requiring a criminal history records check under subsection (a) of this section and a printed statement listing any convictions and pleas of guilty or nolo contendere to any criminal charge; and

(2) an acknowledged receipt of the application for a criminal history records check by an applicant requiring a criminal history records check.

(c) Information obtained by the Commission from the Central Repository under this section shall be confidential and may be disseminated only to the individual who is the subject of the criminal history records check.

§16–506.

(a) Except as otherwise provided in § 16-506.1 of this subtitle, an applicant who otherwise qualifies for a certificate is entitled to be examined as provided in this section.

(b) The Commission periodically shall give examinations to qualified applicants at the times and places that the Commission determines.

(c) The Commission shall give each qualified applicant notice of the time and place of examination.

(d) To take an examination, an applicant shall pay an examination fee to the Commission or the Commission's designee in an amount not to exceed the cost of the examination as established by the Commission.

(e) (1) Except as otherwise provided in this subsection, the Commission shall determine the scope and the passing score for examinations given under this subtitle.

(2) The form of an examination shall be written.

(3) An examination shall test knowledge of:

(i) technical terms commonly used in real estate appraising and economic concepts applicable to real estate;

(ii) real estate appraisal theory and practice and real estate appraisal process;

(iii) standards for the development and communication of real estate appraisals;

(iv) standards of conduct that the Commission adopts under § 16-208 of this title;

(v) theories of depreciation, cost estimating, methods of capitalization, the mathematics of real estate appraisal, and other principles that are appropriate for the certificate for which the applicant applies;

(vi) basic real estate law; and

(vii) misconduct for which disciplinary proceedings may be started against a certified real estate appraiser for residential real estate or a certified real estate appraiser for general real estate.

§16–506.1.

(a) The Commission may use a testing service to administer the examinations given under this subtitle.

(b) If the Commission uses a testing service, the testing service, subject to the requirements set by the Commission, may:

(1) set the time and place of examinations;

(2) give qualified applicants notice of the time and place of examinations; and

(3) furnish any other information that the Commission may require the testing service to provide.

§16–507.

(a) Subject to the provisions of this section, the Commission may waive the examination requirements of this subtitle for an individual who is certified to provide certified real estate appraisal services in another state.

(b) The Commission may grant a waiver under this section only if the applicant:

(1) pays to the Commission the application fee set by the Commission under § 16–505 of this subtitle; and

(2) provides adequate evidence that the applicant:

(i) is certified by a state that is in compliance with Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as determined by the Appraisal Subcommittee of the federal Financial Institutions Examinations Council;

(ii) holds a valid certificate issued by that state; and

(iii) was certified in the other state after meeting, in that state, requirements that are substantially equivalent to or exceed the certification requirements of this State.

§16–508.

(a) On receipt of a complete national and State criminal record report from the Central Repository, the Commission shall grant the appropriate certificate to each applicant who meets the requirements of this subtitle.

(b) The Commission shall issue an appropriate certification document and pocket card to each applicant who has been granted certification under this section.

(c) (1) Subject to paragraph (2) of this subsection, the Commission shall determine the size, form, and content of any certification document or pocket card that the Commission issues.

(2) On each certification document or pocket card that the Commission issues, the Commission shall include:

(i) an expiration date; and

(ii) a certification number.

§16–509.

The certified residential and certified general real estate appraiser classifications shall consist of those classifications as established under the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

§16–510.

(a) Unless a certificate is renewed for a 3-year term as provided in this section, the certificate expires on a staggered basis as determined by the Secretary.

(b) The Commission need not give notice to the holder of the expiration date of the certificate.

(c) Not earlier than 120 days and not later than 30 days before a certificate expires, the certificate holder may renew it for an additional 3–year term, if the certificate holder:

(1) otherwise is entitled to hold a certificate;

(2) pays to the Commission a renewal fee set by the Commission; and

(3) submits to the Commission:

(i) a renewal application on the form that the Commission provides; and

(ii) adequate evidence of compliance with the continuing education requirements set under this subtitle for certificate renewal.

§16–511.

(a) To qualify for renewal of a certificate under this subtitle, a holder of a certificate shall provide to the Commission adequate evidence that the holder meets the continuing education requirements established for certification under the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(b) A holder of a certificate may partly satisfy the requirement of subsection (a) of this section if the holder provides to the Commission adequate evidence that the holder:

(1) has completed an educational program that the Commission determines to be equal to that which the Commission approves; or

(2) in an educational program that the Commission approves and that is about real property appraisal theory and practice:

(i) has participated as a teacher, preparer of instructional materials, or in another similar capacity; but

(ii) has not participated as a student.

(c) The continuing education courses shall be conducted by:

(1) an accredited university, college, or community or junior college;

(2) an approved appraisal society, institute, or association; or

(3) another school that the Commission approves.

(d) If feasible, continuing education courses shall be offered at reasonable intervals in each county and in each major geographic area of the larger counties.

(e) On completion of a continuing education course by a certificate holder, the entity that conducted the course or the instructor shall issue to the certificate holder a document of completion that states the number of classroom hours of that course.

(f) The Commission may waive the requirements of this section for a certificate holder if the certificate holder shows good cause for being unable to meet the requirements.

(g) (1) A real estate appraiser has a grace period of 6 months after the certificate of the real estate appraiser expires in which to renew it retroactively, if:

(i) the real estate appraiser is otherwise entitled to have it renewed;

(ii) the Commission determines that the real estate appraiser has failed to meet the requirements for renewal through mistake, misunderstanding, or circumstances beyond the control of the real estate appraiser; and

(iii) pays the renewal fee to the Commission.

(2) If a real estate appraiser renews a certificate within the 6-month grace period, the term of the renewal shall start the day after the certificate held originally by the real estate appraiser expired.

§16–512.

(a) The Commission shall reinstate the certificate of a real estate appraiser who has failed to renew the certificate during the regular term of the certificate or the grace period, if the real estate appraiser:

(1) applies to the Commission for reinstatement within 3 years after the certificate expires;

(2) meets the requirements of § 16–511 of this subtitle; and

(3) in addition to the renewal fee required under § 16–511 of this subtitle, pays to the Commission a reinstatement fee set by the Commission.

(b) (1) If an individual fails to renew a certificate for any reason and applies to the Commission for reinstatement more than 3 years after the certificate has expired, the Commission may:

(i) require the individual to reapply for a certificate under § 16–505 of this subtitle; or

(ii) subject to paragraph (2) of this subsection, reinstate the certificate.

(2) The Commission may reinstate a certificate under paragraph (1)(ii) of this subsection only if the individual:

(i) meets the renewal requirements of § 16–511 of this subtitle;

(ii) if required by the Commission, states the reasons why reinstatement should be granted; and

(iii) in addition to the renewal fee required under § 16–511 of this subtitle, pays to the Commission a reinstatement fee set by the Commission.

§16–513.

(a) A certified real estate appraiser shall place the certificate number assigned by the Commission to the appraiser on each document that refers to the certified status of the appraiser.

(b) On a certified real estate appraiser report, the certificate number shall appear adjacent to the title "certified residential real estate appraiser" or "certified general real estate appraiser".

§16–5A–01.

(a) To qualify for a real estate appraiser trainee license, an applicant shall meet the requirements set by the Commission.

(b) An applicant for a real estate appraiser trainee license shall:

(1) submit an application to the Commission on the form that the Commission requires;

(2) be of good character and reputation;

(3) be at least 18 years old;

(4) provide evidence, as required by the Commission, that the applicant has successfully completed 75 tested hours of Commission–approved real estate appraisal courses of which 15 hours shall be classroom hours in the subject of the uniform standards of professional appraisal practice; and

(5) pay to the Commission an application fee set by the Commission.

(c) (1) If an applicant is not a resident of the State, the applicant shall submit to the Commission an irrevocable consent as provided under this subsection.

(2) The consent required under this subsection shall specify that service of process on the Secretary shall bind the applicant in any action about the provision of real estate appraisal services brought against the applicant in any county of the State.

§16–5A–02.

While a real estate appraiser trainee license is in effect, it authorizes the licensee, while under the direction and supervision of a supervising appraiser, to provide real estate appraisal services as provided under § 16-307 of this title.

§16–5A–03.

(a) A supervising appraiser shall:

(1) review, sign, and certify that the real estate trainee's appraisal report complies with the uniform standards of professional appraisal practice;

(2) physically inspect each appraised property with the real estate appraiser trainee until the supervising appraiser determines that the real estate appraiser trainee is competent in accordance with paragraph (3) of this subsection;

(3) determine that the real estate appraiser trainee meets the competency requirements of the uniform standards of professional appraisal practice;

(4) at least once a month, sign and affix the supervising appraiser's license or certification number to the real estate appraiser trainee's experience log;

(5) ensure that the tasks assigned a real estate appraiser trainee will, over time, provide the full range of experience required by the Commission;

(6) provide the real estate appraiser trainee with a copy of all appraisal reports prepared by the real estate appraiser trainee that the Commission requests for review; and

(7) keep copies of appraisal reports prepared by the real estate appraiser trainee for the later of:

(i) 5 years; or

(ii) 5 years after final disposition of any judicial proceeding in which testimony was given.

(b) A real estate appraiser trainee shall:

(1) keep separate experience logs for each supervising appraiser;

(2) sign appraisal reports that the real estate appraiser trainee prepares; and

(3) upon request, provide experience logs to the Commission.

(c) A real estate appraiser trainee may have more than one supervising appraiser.

(d) A real estate appraiser trainee may obtain copies of appraisal reports which were prepared by that trainee from the supervising appraiser.

(e) An appraiser trainee is subject to the uniform standards of professional appraisal practice.

§16–5A–04.

(a) Unless a real estate appraiser trainee license is renewed under this section, the license expires 3 years after the effective date of the license.

(b) (1) Before a real estate appraiser trainee license expires, the licensee periodically may renew the license for an additional 3–year term if the licensee:

(i) is otherwise entitled to be licensed; and

(ii) submits to the Commission:

1. a renewal application on the form that the Commission requires; and

2. adequate evidence that the licensee meets the minimum continuing education requirements established under the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) At least 1 month before a real estate appraiser trainee license expires, the Commission shall mail or electronically transmit to the licensee:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current license expires; and

2. the amount of the renewal fee.

(3) If an electronic transmission under paragraph (2) of this subsection is returned to the Commission as undeliverable, the Commission shall mail to the licensee, at the last known address of the licensee, the materials required under paragraph (2) of this subsection within 10 business days of the date the Commission received the notice that the electronic transmission was undeliverable.

(4) The failure of a licensee to receive the notice under this subsection does not prevent the license from expiring as specified under subsection (a) of this section.

§16–5A–05.

The Commission shall reinstate the license of a real estate appraiser trainee who fails to renew the license if the real estate appraiser trainee:

(1) applies to the Commission for reinstatement within 3 years after the license expires;

(2) provides adequate evidence of compliance with the continuing education requirements under § 16–5A–04 of this subtitle for license renewal;

(3) if required by the Commission, states the reasons why reinstatement should be granted; and

(4) pays to the Commission a reinstatement fee set by the Commission.

§16–5B–01.

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

(b) "Appraisal management company" means a third party authorized by a creditor of a consumer credit transaction secured by a consumer's principal dwelling, or by an underwriter of or other principal in the secondary mortgage markets, that directly or indirectly provides appraisal management services in connection with valuing properties collateralizing mortgage loans or mortgages incorporated in a securitization.

(c) (1) "Appraisal review" means the act of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraiser assignment.

(2) "Appraisal review" does not include an examination of an appraisal for grammatical, typographical, or other similar errors that do not make a substantive valuation change.

(d) "Appraiser" means a licensed real estate appraiser or a certified real estate appraiser.

(e) "Appraiser panel" means a network of licensed or certified appraisers who are independent contractors to the appraisal management company.

(f) "Competent appraiser" means an appraiser that satisfies each provision of the competency rule of the Uniform Standards of Professional Practice for a specific appraisal assignment that the appraiser has received, or may receive, from an appraisal management company.

(g) "Controlling person" means:

(1) an owner, officer, or director of an appraisal management company;

(2) an individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into:

(i) a contractual relationship with other persons for the performance of appraisal management services; and

(ii) agreements with appraisers for the performance of appraisals; or

(3) an individual who possesses the power to direct or cause the direction of the management or policies of an appraisal management company.

(h) "Provide appraisal management services" means to, directly or indirectly, on behalf of a lender, financial institution, client, or other person in conjunction with a consumer credit transaction that is secured by a consumer's primary dwelling:

(1) administer an appraisal panel;

(2) recruit, retain, or select appraisers;

(3) verify licensing or certification, negotiate fees and service level expectations, and review the qualifications of persons who are part of, or who wish to become part of, an appraiser panel;

(4) contract with appraisers to perform appraisal assignments;

(5) receive an order for an appraisal from one person, and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion;

(6) manage the process of having an appraisal performed, including the following administrative duties:

(i) receiving appraisal orders and reports;

(ii) submitting completed appraisal reports to creditors and underwriters;

(iii) collecting fees from creditors and underwriters for services provided; and

(iv) reimbursing appraisers for services performed;

(7) track and determine the status of orders for appraisals;

(8) conduct quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal; or

(9) provide a completed appraisal performed by an appraiser to a client.

§16–5B–02.

This subtitle does not apply to:

(1) a person that exclusively employs appraisers on an employer–employee basis for the performance of appraisals; or

(2) an entity that is a subsidiary owned and controlled by a financial institution and regulated by a federal financial institution regulatory agency.

§16–5B–03.

(a) A person shall register with the Commission before the person:

(1) engages or attempts to engage in business as an appraisal management company;

(2) provides or attempts to provide appraisal management services; or

(3) advertises or represents the person to be an appraisal management company.

(b) The registration required under subsection (a) of this section shall include:

(1) the name of the person seeking registration;

(2) the business address of the person seeking registration;

(3) the phone contact information of the person seeking registration;

(4) if the person seeking registration is not a corporation that is domiciled in the State, the name and contact information for the company's agent for service of process in this State;

(5) the name, address, and contact information of any individual or any corporation, partnership, or other business entity that owns 10% or more of the person seeking registration;

(6) a certification that the person seeking registration will verify that a person being added to the appraiser panel of the appraisal management company holds an appropriate license or certification in good standing in the State under this subtitle for the purpose of performing real estate appraisals;

(7) a certification that the person seeking registration requires appraisers completing appraisals at its request to comply with the Uniform Standards of Professional Appraisal Practice, including the requirements for geographic and product competence;

(8) a certification that the person seeking registration will require appraisals to be conducted independently as required by the appraisal independence standards under Section 129E of the Truth in Lending Act, including the requirements of payment of a reasonable and customary fee to appraisers when the

appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer;

(9) a certification that the person seeking registration maintains a detailed record of each service request that it receives and the appraiser that performs the residential real estate appraisal services for the person under § 16–5B–09 of this subtitle;

(10) an irrevocable Uniform Consent to Service of Process in accordance with § 16–5B–04(c) of this subtitle; and

(11) any other information that the Commission reasonably requires to implement this subtitle.

(c) If the registration process required under subsection (a) of this section has not been established as of the effective date of this subtitle, an appraisal management company may, without being registered under this subtitle, continue to provide appraisal management services in accordance with this subtitle for 120 days after a registration process becomes available.

(d) An appraisal management company that has submitted a complete application for registration under subsection (b) of this section may continue to provide appraisal management services in accordance with this subtitle until the Commission makes a final decision to approve or deny the company's application for registration under this subtitle.

§16–5B–04.

(a) An applicant for registration as an appraisal management company shall submit to the Commission an application on a form required by the Commission.

(b) A registration issued under this subtitle is valid for 1 year.

(c) A person applying for registration as an appraisal management company shall complete an irrevocable Uniform Consent to Service of Process, as required by the Commission.

(d) The Commission may set by regulation reasonable fees for registering appraisal management companies under this subtitle.

§16–5B–05.

(a) A person applying for registration as an appraisal management company may not be owned in whole or in part, directly or indirectly, by:

(1) a person who has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in any state; or

(2) another entity that is owned by a person who has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in any state.

(b) The owner of an appraisal management company shall:

(1) be of good character and reputation, as determined by the Commission; and

(2) submit to a background investigation, as determined by the Commission.

(c) A person applying for registration as an appraisal management company shall certify to the Commission that it has reviewed each entity that owns the person and that no other entity that owns the person is directly owned by a person that has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in any state.

§16–5B–06.

(a) A person applying for registration as an appraisal management company shall designate an individual to serve as a controlling person that will be the main contact for all communication between the Commission and the appraisal management company.

(b) The controlling person designated under subsection (a) of this section shall:

(1) have never had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in any state, unless the license or certificate was subsequently granted or reinstated;

(2) be of good character and reputation, as determined by the Commission; and

(3) submit to a background investigation, as determined by the Commission.

§16–5B–07.

An appraisal management company may not:

(1) knowingly employ a person in a position in which the person has the responsibility to order appraisals or to review completed appraisals who has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in any state, unless the license or certificate was subsequently granted or reinstated;

(2) knowingly enter into an independent contractor arrangement for real estate appraisal services with a person who has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in any state, unless the license or certificate was subsequently granted or reinstated; or

(3) knowingly enter into a contract, an agreement, or any other business relationship, for the purpose of obtaining real estate appraisal services, with an entity that employs, has entered into an independent contract arrangement with, or has entered into a contract, an agreement, or any other business relationship with a person who has ever had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in any state, unless the license or certificate was subsequently granted or reinstated.

§16–5B–08.

(a) An appraisal management company shall require that an appraiser confirm in writing or via electronic means that an appraiser receiving the assignment is a competent appraiser for the performance of the appraisal being assigned.

(b) An appraisal management company that has complied with subsection (a) of this section in relation to an assignment may not be held liable for a violation of this subtitle in relation to that assignment if the Commission subsequently determines that the appraiser completing the assignment violated the competency rule of the Uniform Standards of Professional Appraisal Practice.

(c) An employee of or independent contractor to the appraisal management company that performs an appraisal review on a property located in the State shall be an appraiser licensed or certified in the State.

(d) An appraisal management company may not enter into any agreements with an appraiser for the performance of appraisals in conjunction with federally related transactions unless it verifies that the appraiser is licensed or certified to perform the appraisal under this subtitle.

§16–5B–09.

(a) A person applying for registration as an appraisal management company shall certify to the Commission on an annual basis that it will maintain a detailed record of:

(1) each service request that it receives; and

(2) each appraiser that performs the appraisal for the appraisal management company.

(b) An appraisal management company shall retain the records required under subsection (a) of this section for 5 years after an appraisal is completed, or 2 years after final disposition of a judicial proceeding related to the assignment, whichever period expires later.

§16–5B–10.

(a) An appraisal management company may not:

(1) knowingly fail to separate and disclose any fees charged to a client by the appraisal management company for the completion of an appraisal by an appraiser from the fees charged to a lender, client, or any other person by an appraisal management company for providing appraisal management services; or

(2) knowingly prohibit an appraiser from recording the fee that the appraiser was paid by the appraisal management company for the provision of real estate services within the appraisal report that is submitted by the appraiser to the appraisal management company.

(b) The Commission may not bring disciplinary action under § 16–702.2 of this title or recommend criminal sanctions under § 16–706 of this title based solely on subsection (a) of this section.

§16–5B–11.

(a) (1) Each appraisal management company shall ensure that real estate appraisal services are provided independently and free from inappropriate influence and coercion under the appraisal independence standards established under Section 129E of the Truth in Lending Act.

(2) (i) An appraisal management company shall pay an appraiser reasonable and customary fees consistent with the presumptions of compliance defined under federal law.

(ii) The Commission may not bring disciplinary action under § 16–702.2 of this title or recommend criminal sanctions under § 16–706 of this title based solely on subparagraph (i) of this paragraph.

(b) An employee, partner, director, officer, or agent of an appraisal management company may not influence or attempt to influence the development, reporting, result, or review of an appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery, or any other means, including:

(1) compensating, colluding, or influencing, or attempting to compensate, collude, or influence a person involved in an appraisal for the purpose of causing the appraised value assigned under the appraisal to the property to be based on a factor other than the independent judgment of the appraiser;

(2) mischaracterizing, or suborning any mischaracterization of, the appraised value of a property in conjunction with a consumer credit transaction;

(3) seeking to influence an appraiser or otherwise encouraging a targeted value in order to facilitate the making or pricing of a consumer credit transaction;

(4) withholding or threatening to withhold timely payment for an appraisal report or for the provision of real estate appraisal services when the appraisal report or services are provided in accordance with a contract between the parties;

(5) withholding or threatening to withhold future business from an appraiser;

(6) demoting or terminating or threatening to demote or terminate an appraiser;

(7) expressly or impliedly promising future business, promotions, or increased compensation for an appraiser;

(8) requiring an appraiser to indemnify an appraisal management company or hold an appraisal management company harmless for any liability, damage, losses, or claims arising out of the services provided by the appraisal management company, and not the services performed by the appraiser;

(9) conditioning a request for an appraisal or the payment of an appraisal fee or salary or bonus on:

(i) an opinion, a conclusion, or a valuation to be reached; or

(ii) a preliminary estimate or opinion requested from an appraiser;

(10) requesting that an appraiser provide:

(i) an estimated, predetermined, or desired valuation in an appraisal report; or

(ii) estimated values or comparable sales at any time before the appraiser's completion of an appraisal;

(11) except for a copy of the sales contract for purchase transactions, providing to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower;

(12) providing to an appraiser, or a person related to the appraiser, stock or other financial or nonfinancial benefits;

(13) allowing the removal of an appraiser from an appraiser panel without prior written notice to the appraiser;

(14) obtaining, using, or paying for a second or subsequent appraisal, or ordering an automated valuation model, in connection with a mortgage financing transaction unless:

(i) there is a reasonable basis to believe that the initial appraisal was flawed and the basis is clearly and appropriately noted in the loan file;

(ii) the subsequent appraisal or automated valuation model is done under a bona fide prefunding or postfunding appraisal review or quality control process;

(iii) a second appraisal is required under State or federal law; or

(iv) the second appraisal or automated valuation model is ordered by an appraisal management company in response to a request by a client in order to satisfy client valuation policies for the property being appraised and the second appraisal or automated valuation model is ordered by the client prior to the completion of the first appraisal; or

(15) any other act impairing or attempting to impair an appraiser's independence or impartiality.

(c) Nothing in subsection (a) or (b) of this section may be construed to prohibit an appraisal management company from asking an appraiser to:

(1) consider additional appropriate property information, including the consideration of additional comparable properties to make or support an appraisal;

(2) provide further detail, substantiation, or explanation for an appraiser's value conclusion; or

(3) correct errors in an appraisal report.

§16–5B–12.

An appraisal management company shall inform the Commission when the appraisal management company has a reasonable basis to believe that:

(1) an appraiser has:

(i) failed to comply with the Uniform Standards of Professional Appraisal Practice;

(ii) violated applicable laws; or

(iii) engaged in unethical or unprofessional conduct; and

(2) the appraiser's conduct under item (1) of this section is likely to affect the value assigned to the consumer's principal dwelling.

§16–5B–13.

An appraisal management company commits unprofessional conduct if the appraisal management company:

(1) requires an appraiser to modify an aspect of an appraisal report and the modification requested is not related to substandard performance or noncompliance with the terms of engagement;

(2) requires an appraiser to prepare an appraisal report if the appraiser has notified the appraisal management company that, in the appraiser's own professional judgment, the appraiser believes the appraiser does not have the necessary expertise for the specific geographic area;

(3) requires an appraiser to prepare an appraisal report under a time frame that the appraiser has notified the appraisal management company that, in the appraiser's own professional judgment, the appraiser believes does not afford the appraiser the ability to meet all the relevant legal and professional obligations;

(4) prohibits or inhibits communication between an appraiser and a lender, a real estate licensee, or any other person from whom the appraiser, in the appraiser's own professional judgment, believes information would be relevant;

(5) requires the appraiser to do anything that does not comply with:

(i) the Uniform Standards of Professional Appraisal Practice; or

(ii) any assignment conditions and certifications required by the client; or

(6) makes any portion of the appraiser's fee or the appraisal management company's fee contingent on a favorable outcome, including:

(i) a loan closing; or

(ii) a specific dollar amount being achieved by the appraiser in the appraisal report.

§16–5B–14.

(a) Except in cases of breach of contract or substandard performance of services, an appraisal management company shall pay an appraiser for the completion of each appraisal or valuation assignment within 45 days after the appraiser provides the initial completed appraisal or valuation study to the appraisal management company or its assignee.

(b) (1) The Commission may bring a disciplinary action under § 16–701.2 of this title based on a violation of subsection (a) of this section.

(2) The Commission may not recommend criminal sanctions under § 16–706 of this title based solely on subsection (a) of this section.

§16–5B–15.

(a) An appraisal management company may not change a completed appraisal report submitted by an appraiser by:

(1) permanently removing the appraiser's signature or seal; or

(2) adding information to, or removing information from, the appraisal report with an intent to change the valuation conclusion.

(b) (1) An appraisal management company may not require an appraiser to provide the appraisal management company with the appraiser's digital signature or seal.

(2) Subject to the restrictions in the Uniform Standards of Professional Appraisal Practice, an appraiser may voluntarily provide the appraiser's digital signature to another person.

§16–5B–16.

(a) The Commission shall issue a unique registration number to each appraisal management company that is registered in this State.

(b) The Commission shall publish annually a list of appraisal management companies.

(c) An appraisal management company shall disclose the company's registration number on any instrument utilized by the appraisal management company to procure appraisal services in this State.

§16–5B–17.

(a) An appraisal management company may not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an appraiser, without:

(1) notifying the appraiser in writing of the reasons why the appraiser is being removed from the appraiser panel of the appraisal management company;

(2) identifying the illegal conduct, violation of the Uniform Standards of Professional Appraisal Practice, violation of State licensing standards, or substandard performance or violations of contractual terms between the appraiser and the appraisal management company that the appraisal management company has a reasonable basis to believe that the appraiser has engaged in; and

(3) providing an opportunity for the appraiser to respond.

(b) (1) An appraiser that is removed from the appraiser panel of an appraisal management company for alleged illegal conduct, a violation of the Uniform Standards of Professional Appraisal Practice, or a violation of State licensing standards may file a complaint with the Commission for a review of the decision of the appraisal management company.

(2) The Commission's review under paragraph (1) of this subsection is limited to determining whether:

(i) the appraisal management company has complied with subsection (a) of this section; and

(ii) the appraiser has committed a violation of:

1. State law; or

2. the Uniform Standards of Professional Appraisal Practice.

(c) (1) If an appraiser files a complaint against an appraisal management company under subsection (b) of this section, the Commission shall schedule a hearing within a reasonable time, not exceeding 1 year, after the complaint is filed.

(2) The time specified under paragraph (1) of this subsection may be extended for good cause by the Commission on written notice to the parties.

(d) If after opportunity for hearing and review, the Commission determines that an appraisal management company acted improperly in removing an appraiser from the appraiser panel, or that an appraiser did not commit a violation of State law or a violation of the Uniform Standards of Professional Appraisal Practice, the Commission shall order that an appraiser be restored to the appraiser panel of the appraisal management company that was the subject of the complaint.

(e) If the Commission finds that the appraisal management company acted improperly in removing the appraiser from the appraiser panel, an appraisal management company may not:

(1) reduce the number of real estate appraisal assignments the company gives to an appraiser; or

(2) penalize the appraiser in any other manner.

§16–5B–18.

The Commission may adopt regulations necessary to implement, administer, and enforce this subtitle.

§16–5B–19.

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

(2) "AMC fee" means the appraisal management company annual federal registry fee.

(3) "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examinations Council.

(4) "Fund" means the Appraisal Management Company Annual Federal Registry Fee Fund.

(b) (1) There is an Appraisal Management Company Annual Federal Registry Fee Fund.

(2) The purpose of the Fund is to hold the AMC fee collected from each registered appraisal management company in accordance with § 1109(a)(4) of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended by the Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010, until transmittal to the Appraisal Subcommittee.

(3) The Director of the Commission shall administer the Fund.

(4) (i) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(ii) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(5) The Fund consists only of the AMC fee collected from each registered appraisal management company by the Commission and deposited in the Fund each year.

(6) The Fund may be used only for the holding of AMC fees until transmittal to the Appraisal Subcommittee by the Commission at the designated time each year.

(7) (i) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(ii) Any interest earnings of the Fund shall be credited to the General Fund of the State.

(c) (1) Each year, the Commission shall:

(i) collect from each registered appraisal management company the AMC fee and deposit the AMC fee into the Fund; and

(ii) transmit to the Appraisal Subcommittee the AMC fees held in the Fund.

(2) The schedule of AMC fees is as established by the Appraisal Subcommittee.

(d) Each year, the Commission shall send to the Appraisal Subcommittee:

(1) a roster of the appraisal management companies registered with the Commission; and

(2) a report on any fully adjudicated disciplinary actions taken against or any final decisions concerning an appraisal management company.

§16–601.

(a) Subject to the provisions of this section, the Commission shall start proceedings under § 16–701, § 16–701.1, or § 16–701.2 of this title on a complaint made to the Commission by any person.

(b) (1) A complaint shall:

(i) be in writing; and

(ii) state specifically the facts on which the complaint is based.

(2) If a complaint is made by any person other than the Commission, the complaint shall be made under oath by the person who submits the complaint.

(3) A complaint may be accompanied by documentary or other evidence.

(c) The Commission shall investigate each complaint submitted to the Commission if the complaint:

(1) alleges facts that establish a prima facie case that is grounds for disciplinary action under § 16–701, § 16–701.1, or § 16–701.2 of this title; and

(2) meets the requirements of this section.

(d) (1) On conclusion of the investigation, the Commission shall determine if there is a reasonable basis to believe that there are grounds for disciplinary action under § 16–701, § 16–701.1, or § 16–701.2 of this title against an applicant or licensee.

(2) (i) If the Commission finds a reasonable basis as provided under paragraph (1) of this subsection, the Commission shall act on the complaint as provided under § 16–602 of this subtitle.

(ii) If the Commission does not find a reasonable basis as provided under paragraph (1) of this subsection, the Commission shall dismiss the complaint.

§16–602.

(a) Except as otherwise provided in § 10–226 of the State Government Article, before the Commission takes any final action under § 16–701, § 16–701.1, or § 16–701.2 of this title, it shall give the individual against whom the action is contemplated an opportunity for a hearing before:

(1) the Commission; or

(2) the Hearing Board for proceedings under § 16–211 of this title.

(b) The Commission shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Commission may administer oaths in connection with any proceeding under this section.

(d) The hearing notice to be given to the individual shall be sent by certified mail to the last known address of the individual at least 10 days before the hearing.

(e) The individual may be represented at the hearing by counsel.

(f) (1) The Commission may issue subpoenas in connection with any proceeding under this section.

(2) If a person fails to comply with a subpoena issued under this subsection, on petition of the Commission, a circuit court may compel compliance with the subpoena.

(g) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Commission may hear and determine the matter.

§16–701.

(a) (1) Except as provided in paragraph (2) of this subsection, subject to the hearing provisions of § 16–602 of this title, the Commission may deny a real estate appraisal license to any applicant, deny a certificate to any applicant, reprimand any real estate appraiser licensee, reprimand any certificate holder, or suspend or revoke a real estate appraisal license or certificate if the real estate appraisal applicant, license holder, or certificate holder:

(i) fraudulently or deceptively obtains or attempts to obtain a license or certificate for the applicant, licensee, certificate holder, or for another;

(ii) fraudulently or deceptively uses a license or certificate;

(iii) commits an act or makes an omission in the provision of real estate appraisal services or certified real estate appraisal services that is an act of dishonesty, fraud, or misrepresentation if the applicant, licensee, or certificate holder intends:

1. to benefit substantially the applicant, licensee, certificate holder, or another person; or

2. to injure substantially another person;

(iv) is held civilly or criminally liable for deceit, fraud, or misrepresentation in the provision of real estate appraisal services or certified real estate appraisal services;

(v) under the laws of the United States or of any state, is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the applicant, licensee, or certificate holder to provide real estate appraisal services;

(vi) pays a finder's fee or a referral fee to a person who lacks a license;

(vii) makes a false or misleading statement in:

1. the part of a written appraisal report about professional qualifications; or

2. testimony about professional qualifications;

(viii) violates the confidential nature of governmental records to which a licensee or certificate holder gained access in the provision of real estate appraisal services or certified real estate services;

(ix) accepts a fee for providing an independent appraisal service in violation of this title;

(x) fails to exercise reasonable diligence to develop, prepare, or communicate an appraisal;

(xi) is negligent or incompetent in developing, preparing, or communicating an appraisal;

(xii) violates any other provision of this title; or

(xiii) violates any regulation adopted under this title.

(2) Subject to the hearing provisions of § 16–602 of this title, the Commission shall deny a real estate appraisal license or certificate to an applicant if the applicant:

(i) has had an appraiser license, certificate, or credential revoked in any jurisdiction within the 5–year period immediately preceding the date of application;

(ii) has been convicted of or has entered a plea of guilty or nolo contendere to a felony in a domestic or foreign court:

1. during the 5–year period immediately preceding the date of application; or

2. at any time preceding the date of application if the felony involves an act of fraud or dishonesty, a breach of trust, or money laundering; or

(iii) fails to demonstrate good character or general fitness to provide real estate appraisal services in an honest and ethical manner.

(3) (i) Except as provided in paragraph (2) of this subsection, instead of or in addition to reprimanding a licensee or a certificate holder or suspending or revoking a license or a certificate under this subsection, the Commission may impose a penalty not exceeding $5,000 for each violation.

(ii) To determine the amount of the penalty imposed, the Commission shall consider:

1. the seriousness of the violation;

2. the harm caused by the violation;

3. the good faith of the licensee; and

4. any history of previous violations by the licensee.

(4) The Commission shall pay any penalty collected under this subsection into the General Fund of the State.

(b) Except as provided in subsection (a)(2) of this section, the Commission shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or certificate or the reprimand of a licensee or certificate holder when an applicant, certificate holder, or licensee is convicted of a felony or a misdemeanor described in subsection (a)(1)(v) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license or certificate;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant, licensee, or certificate holder to provide real estate appraisal services;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant, licensee, or certificate holder before and after the conviction.

§16–701.1.

(a) Subject to the hearing provisions of § 16–602 of this title, the Commission may deny a home inspector license to any applicant, reprimand any home inspector licensee, or suspend or revoke a home inspector license if the applicant or licensee:

(1) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(2) fraudulently or deceptively uses a license;

(3) engages in conduct that demonstrates bad faith, incompetency, negligence or untrustworthiness, or that constitutes dishonest, fraudulent, or improper dealings;

(4) under the laws of the United States or of any state, is convicted of:

(i) a felony; or

(ii) a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to provide home inspection services;

(5) fails to maintain the insurance required under § 16–4A–04 of this title;

(6) violates any provision of this title;

(7) violates any regulation adopted under this title; or

(8) aids, abets, or assists any person in violating any provision of this title or any regulation adopted under this title.

(b) (1) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this section, the Commission may impose a penalty not exceeding $5,000 for each violation.

(2) To determine the amount of the penalty imposed, the Commission shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the licensee; and

(iv) any history of previous violations by the licensee.

(3) The Commission shall pay any penalty collected under this subsection into the General Fund of the State.

(c) The Commission shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or a misdemeanor described in subsection (a)(4) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to provide home inspection services;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

§16–701.2.

(a) Subject to the hearing provisions of § 16–602 of this title, the Commission may deny registration to any applicant for registration as an appraisal management company, reprimand any registered appraisal management company, or suspend or revoke the registration of an appraisal management company if the applicant or registrant:

(1) fraudulently or deceptively obtains or attempts to obtain registration for the applicant or registrant or for another;

(2) fraudulently or deceptively uses a registration;

(3) under the laws of the United States or any state is convicted of:

(i) a felony; or

(ii) a misdemeanor that is directly related to the fitness and qualifications of the registrant to provide appraisal management services;

(4) violates or attempts to violate any provision of this title;

(5) violates or attempts to violate any regulation adopted under this title; or

(6) violates § 14–127 of the Real Property Article.

(b) (1) Instead of or in addition to reprimanding a registrant or suspending or revoking a registration under this section, the Commission may impose a penalty not exceeding $25,000 for each violation.

(2) To determine the amount of the penalty imposed, the Commission shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the registrant; and

(iv) any history of previous violations by the registrant.

(3) The Commission shall pay any penalty collected under this subsection into the General Fund of the State.

(c) The Commission shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a registration or the reprimand of a registrant when an applicant or registrant is convicted of a felony or a misdemeanor described in subsection (a)(3) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the registration;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or registrant to provide appraisal management services;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or registrant before and after the conviction.

§16–702.

After June 30, 1991, and except as otherwise provided in this title, a person may not provide, attempt to provide, or offer to provide real estate appraisal services in the State unless licensed by the Commission as a real estate appraiser.

§16–703.

Except as otherwise provided in this title, a person may not provide, attempt to provide, or offer to provide certified real estate appraisal services in the State unless certified by the Commission as a real estate appraiser.

§16–703.1.

Except as otherwise provided in this title, a person may not provide, attempt to provide, or offer to provide home inspection services in this State unless licensed as a home inspector by the Commission.

§16–703.2.

(a) This section applies only in Baltimore City.

(b) A licensed home inspector conducting an inspection of a rental dwelling under Article 13, § 5–7 of the Baltimore City Code may not make a certification as a part of that inspection relating to:

(1) the presence or identification of pests, unless the home inspector is certified as a pest control consultant, pest control applicator, or public agency applicator under § 5–207 of the Agriculture Article; or

(2) the dwelling's electrical system, unless the home inspector has completed a minimum of 8 hours of training in electrical systems certified by the Baltimore City Housing Commissioner.

(c) The electrical training required under subsection (b)(2) of this section shall be in addition to the training required under Subtitle 3A of this title.

§16–704.

Unless authorized under this title to provide real estate appraisal services, a person may not represent to the public, by use of a title, including "licensed real estate appraiser", by description of services, methods, or procedures, or otherwise, that the person is authorized to provide real estate appraisal services in the State.

§16–705.

(a) Unless authorized under this title to provide certified real estate appraisal services, a person may not represent to the public, by use of a title, including "certified real estate appraiser", by description of services, methods, or procedures, or otherwise, that the person is authorized to provide certified real estate appraisal services in the State.

(b) A person may not use the title "certified real estate appraiser" after or with the name or signature of a firm, partnership, corporation, or group in a way that the title could be interpreted to refer to anyone other than the individual who is certified under this title.

§16–705.1.

Unless authorized under this title to provide home inspection services, a person may not represent to the public, by use of a title, including "licensed home inspector", by description of services, methods, or procedures, or otherwise, that the person is authorized to provide home inspection services in the State.

§16–706.

(a) Except for a violation of § 16–703.2 of this subtitle, a person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both.

(b) (1) The Commission may impose on a person who violates any provision of this title a penalty not exceeding $5,000 for each violation.

(2) In setting the amount of the penalty, the Commission shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the violator;

(iv) any history of previous violations by the violator; and

(v) any other relevant factors.

(3) The Commission shall pay any penalty collected under this subsection into the General Fund of the State.

§16–707.

(a) The Commission may impose on a person who violates this title a civil penalty not exceeding $5,000 for each violation, whether or not the person is licensed or holds a certificate under this title.

(b) In setting the amount of a civil penalty, the Commission shall consider:

(1) the seriousness of the violation;

(2) the good faith of the violator;

(3) any previous violations;

(4) the harmful effect of the violation on the complainant, the public, and the business of home inspections or real estate appraisals;

(5) the assets of the violator; and

(6) any other relevant factors.

§16–801.

This title may be cited as the "Maryland Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors Act".

§16–802.

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, 2026.

§17–101.

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

(b) "Affiliate" means, unless the context requires otherwise, to establish between an individual and a real estate broker an employment or other contractual relationship under which the individual is authorized to provide real estate brokerage services on behalf of the real estate broker.

(c) "Associate real estate broker" means an individual:

(1) who meets the requirements for a real estate broker license under § 17-305 of this title but who applies for and is granted an associate real estate broker license under §§ 17-307 and 17-309 of this title; and

(2) who, under the associate real estate broker license, may provide real estate brokerage services on behalf of a licensed real estate broker with whom the associate real estate broker is affiliated.

(d) "Commission" means the State Real Estate Commission.

(e) "Guaranty Fund" means a real estate guaranty fund established by the Commission under § 17-402 of this title.

(f) "Hearing board" means a real estate hearing board appointed by the Commission under § 17-325 of this title.

(g) (1) "License" means, unless the context requires otherwise, a license issued by the Commission.

(2) "License" includes, unless the context requires otherwise:

(i) a real estate broker license;

(ii) an associate real estate broker license; and

(iii) a real estate salesperson license.

(h) "Licensed associate real estate broker" means, unless the context requires otherwise, an associate real estate broker who is licensed by the Commission to provide real estate brokerage services on behalf of a licensed real estate broker with whom the associate real estate broker is affiliated.

(i) "Licensed real estate broker" means, unless the context requires otherwise, a real estate broker who is licensed by the Commission to provide real estate brokerage services.

(j) "Licensed real estate salesperson" means, unless the context requires otherwise, a real estate salesperson who is licensed by the Commission to provide real estate brokerage services on behalf of a licensed real estate broker with whom the real estate salesperson is affiliated.

(k) "Licensee" means a licensed real estate broker, a licensed associate real estate broker, or a licensed real estate salesperson.

(l) "Provide real estate brokerage services" means to engage in any of the following activities:

(1) for consideration, providing any of the following services for another person:

(i) selling, buying, exchanging, or leasing any real estate; or

(ii) collecting rent for the use of any real estate;

(2) for consideration, assisting another person to locate or obtain for purchase or lease any residential real estate;

(3) engaging regularly in a business of dealing in real estate or leases or options on real estate;

(4) engaging in a business the primary purpose of which is promoting the sale of real estate through a listing in a publication issued primarily for the promotion of real estate sales;

(5) engaging in a business that subdivides land that is located in any state and sells the divided lots; or

(6) for consideration, serving as a consultant regarding any activity set forth in items (1) through (5) of this subsection.

(m) (1) "Real estate" means any interest in real property that is located in this State or elsewhere.

(2) "Real estate" includes:

(i) an interest in a condominium; and

(ii) a time-share estate or a time-share license, as those terms are defined in § 11A-101 of the Real Property Article.

(n) "Real estate broker" means an individual who provides real estate brokerage services.

(o) "Real estate salesperson" means an individual who, while affiliated with and acting on behalf of a real estate broker, provides real estate brokerage services.

§17–102.

This title does not apply to:

(1) a person while acting under a judgment or order of a court;

(2) a public officer while performing the duties of office;

(3) a person while engaging in a single transaction that involves the sale or lease of any real estate under a power of attorney executed by the owner of the real estate;

(4) a licensed auctioneer while selling any real estate at public auction;

(5) an owner or lessor of any real estate while managing, leasing, or selling the real estate, unless the primary business of the owner or lessor is providing real estate brokerage services; or

(6) a person while acting in the capacity of:

(i) a receiver;

(ii) a trustee;

(iii) a personal representative; or

(iv) a guardian.

§17–201.

There is a State Real Estate Commission in the Department.

§17–202.

(a) (1) The Commission consists of 9 members.

(2) Of the 9 members of the Commission:

(i) 5 shall be licensed real estate brokers, licensed associate real estate brokers, or licensed real estate salespersons; and

(ii) 4 shall be consumer members.

(3) Of the 5 professional members:

(i) 1 shall be a resident of any county in the area that consists of Cecil, Caroline, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester counties;

(ii) 1 shall be a resident of any county in the area that consists of Baltimore, Carroll, Harford, and Howard counties;

(iii) 1 shall be a resident of Baltimore City;

(iv) 1 shall be a resident of any county in the area that consists of Anne Arundel, Calvert, Charles, Prince George's, and St. Mary's counties; and

(v) 1 shall be a resident of any county in the area that consists of Allegany, Frederick, Garrett, Montgomery, and Washington counties.

(4) The Governor shall appoint the members with the advice of the Secretary and with the advice and consent of the Senate.

(b) Each member of the Commission shall be a citizen of the State.

(c) Each professional member of the Commission shall have been:

(1) a resident of any of the counties in the area from which the member is appointed for at least 5 years immediately before appointment; and

(2) a licensed real estate broker, a licensed associate real estate broker, or a licensed real estate salesperson for at least 10 years immediately before appointment.

(d) (1) Each consumer member of the Commission:

(i) shall be a member of the general public;

(ii) may not be a licensee or otherwise be subject to regulation by the Commission;

(iii) may not be required to meet the qualifications for the professional members of the Commission; and

(iv) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Commission.

(2) While a member of the Commission, a consumer member may not:

(i) have a financial interest in or receive compensation from a person regulated by the Commission; or

(ii) grade any examination given by or for the Commission.

(e) Before taking office, each appointee to the Commission shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) (1) The term of a member is 4 years and begins on June 1.

(2) The terms of members are staggered as required by the terms provided for members of the Commission on October 1, 1989.

(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.

(g) (1) The Governor may remove a member for incompetence or misconduct.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned if the member did not attend at least two–thirds of the Commission meetings held during any consecutive 12–month period while the member was serving on the Commission.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§17–203.

(a) From among its members, the Commission annually shall elect a chairman.

(b) (1) The term of the chairman is 1 year.

(2) At the end of a term, the chairman may be reelected.

(c) The chairman shall perform the duties that this title and the Commission require.

(d) While in office, the chairman shall be covered by a surety bond or an insurance policy of the type and in the amount of coverage determined by the State Treasurer under § 5–108 of the State Government Article.

§17–204.

(a) A majority of the members then serving on the Commission is a quorum.

(b) (1) The Commission shall meet at least once a month, at the times and places that the Commission determines.

(2) Within a reasonable time after giving notice to the Commission, a member of the public is entitled to be heard, at a meeting of the Commission, on any matter within the jurisdiction of the Commission.

(c) Each member of the Commission 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.

§17–205.

(a) (1) The Secretary shall appoint the executive director of the Commission from a list of 3 nominees submitted by the Commission.

(2) The executive director serves at the pleasure of the Secretary.

(b) The executive director shall:

(1) possess a broad knowledge of generally accepted practices in the real estate business in the State; and

(2) be reasonably well informed of the general laws that govern agency and contracts for the conveyance or leasing of real estate.

(c) (1) The executive director shall devote full time to the duties of office.

(2) The executive director may not hold any position or engage in another business that:

(i) interferes with the position of executive director; or

(ii) might conflict with the position of executive director.

(3) While employed by the Commission, the executive director may not:

(i) be licensed in any state as a real estate broker, an associate real estate broker, or a real estate salesperson;

(ii) engage in any act for which a license is required under this title; or

(iii) in connection with any real estate transaction, directly or indirectly receive or become entitled to receive any fee, perquisite, or compensation.

(d) The executive director 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.

(e) The executive director is a special appointment in the State Personnel Management System.

(f) While employed as executive director, the executive director shall be covered by a surety bond or an insurance policy of the type and in the amount of coverage determined by the State Treasurer under § 5–108 of the State Government Article.

§17–206.

(a) The Commission may employ a staff in accordance with the State budget.

(b) The Commission, in accordance with the State budget, may employ an investigative staff to conduct investigations.

(c) While employed by the Commission, an individual may not:

(1) be licensed in any state as a real estate broker, an associate real estate broker, or a real estate salesperson;

(2) engage in any act for which a license is required under this title; or

(3) in connection with any real estate transaction, directly or indirectly receive or become entitled to receive any fee, perquisite, or compensation.

§17–207.

(a) To protect the interests of the public, the Commission shall adopt, by regulation, a code of ethics to set standards of conduct for all individuals licensed under this title.

(b) The Commission:

(1) at least once every 2 years, shall provide a copy of the code of ethics to each licensee; and

(2) on request of any person, shall make available a copy of the code of ethics to that person.

§17–208.

(a) The Commission may adopt:

(1) reasonable bylaws for the conduct of its proceedings;

(2) reasonable regulations for the conduct of hearings;

(3) reasonable regulations to govern applications for licenses; and

(4) subject to subsection (c) of this section, reasonable regulations to carry out this title.

(b) The Commission shall adopt guidelines that establish a schedule for the prompt and timely processing and resolution of each complaint made to the Commission.

(c) The Commission may not adopt a regulation that would allow the issuance of a conditional or temporary license.

(d) The Commission:

(1) at least once every 2 years, shall provide a copy of the regulations adopted under this title to each licensee; and

(2) on request of any person, shall make available a copy of the regulations to that person.

§17–209.

(a) (1) The Commission shall administer and enforce the provisions of this title.

(2) In connection with any disciplinary action under Subtitle 3 of this title or any investigation or proceeding brought for an alleged violation of this title, the Commission, a hearing board, the executive director of the Commission, or the assistant director of the Commission may:

(i) hold hearings;

(ii) administer oaths;

(iii) issue a subpoena for the attendance of a witness to testify or the production of evidence; and

(iv) take depositions in the same manner as provided in civil cases in the State.

(3) If a person fails to comply with a subpoena issued under this subsection, on petition of the Commission or another party, a circuit court may compel compliance with the subpoena.

(b) (1) If the Commission concludes that conduct alleged to be a violation of any provision of this title may result in irreparable harm to a person, the Commission may sue to enforce a provision of this title by ex parte, interlocutory, or final injunction.

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

(i) post bond, if the injunction is sought against a person who does not hold a license issued under this title; or

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

(c) (1) Subject to the provisions of this section, the Commission shall conduct an investigation that relates to any complaint alleging that an unauthorized person has provided real estate brokerage services.

(2) A complaint shall:

(i) be in writing;

(ii) state specifically the facts on which the complaint is based; and

(iii) be filed with the Commission.

(3) If a complaint is made by any person other than a member of the Commission, the complaint shall be made under oath by the person who submits the complaint.

§17–210.

The Commission shall submit to the Secretary an annual report of the activities of the Commission that includes:

(1) a statement of the total receipts from license fees;

(2) a statement of the total expenditures of the Commission;

(3) the number of real estate broker licenses, associate real estate broker licenses, and real estate salesperson licenses issued in each county;

(4) the number of hearings held;

(5) the number of complaints received;

(6) the number of investigations made;

(7) the number of applications for licenses denied;

(8) the total number of licenses suspended or revoked;

(9) the number of cases resolved within the schedule adopted under § 17–208(b) of this subtitle;

(10) the number of Guaranty Fund awards made that reach the statutory cap at the time the award is made, the corresponding amounts claimed by the complainant in each case, and the amount of damages that would have been reimbursable to the complainant if the statutory cap did not exist; and

(11) any other information that reflects the work of the Commission.

§17–211.

(a) On request of any person and payment of a fee of $10, the Commission shall certify the licensing status and qualifications of any person who is the subject of the request.

(b) Each certification under this section:

(1) shall include a statement of the licensing status of the person who is the subject of the request; and

(2) may include:

(i) information about the examination results and other qualifications of that person;

(ii) information about the dates of issuance and renewal of the license of that person;

(iii) information about any disciplinary action taken against that person; and

(iv) if authorized by that person, information about any complaint against that person.

(c) The Commission shall collect a fee set by the Commission for each certification under this section.

§17–212.

In addition to any powers and duties set forth elsewhere, the Commission has the following powers and duties:

(1) to adopt a seal;

(2) to use the seal to authenticate its proceedings; and

(3) to approve educational courses.

§17–213.

(a) (1) Beginning on July 1, 2007, the Commission may set by regulation reasonable fees for its services.

(2) The fees charged shall be:

(i) set so as to produce funds to approximate the cost of maintaining the Commission; and

(ii) based on the calculations performed by the Secretary of Labor under § 2–106.4 of the Business Regulation Article.

(b) The Commission shall publish the fee schedule set by the Commission.

(c) (1) Beginning on July 1, 2006, the Commission shall pay all fees collected under this title to the Comptroller.

(2) The Comptroller shall distribute the fees to the State Real Estate Commission Fund established in § 2–106.3 of the Business Regulation Article.

§17–214.

The Commission exercises its powers, duties, and functions subject to the authority of the Secretary.

§17–301.

(a) (1) Except as otherwise provided in this title, an individual shall be licensed by the Commission as a real estate broker before the individual may provide real estate brokerage services in the State.

(2) Except as otherwise provided in this title, an individual shall be licensed by the Commission as an associate real estate broker or a real estate

salesperson before the individual, while acting on behalf of a real estate broker, may provide real estate brokerage services in the State.

(b) A license is not required for:

(1) a financial institution, as defined in Title 1 of the Financial Institutions Article, a subsidiary or affiliate of such a financial institution, or mortgage loan institution incorporated under the laws of any state or of the United States to manage, lease, or sell any property that the institution or subsidiary or affiliate of a financial institution acquires in connection with a mortgage foreclosure or deed or assignment in lieu of foreclosure;

(2) a lawyer authorized to practice law in the State who:

(i) is not engaged regularly in the business of providing real estate brokerage services;

(ii) does not represent to the public, by use of a sign or advertisement or otherwise, that the lawyer is in the business of providing real estate brokerage services; and

(iii) provides real estate brokerage services while representing another person in the course of the lawyer's regular practice of law;

(3) a home builder in the rental or initial sale of a home constructed by the builder;

(4) an agent of a licensed real estate broker or of an owner of real estate while managing or leasing that real estate for the real estate broker or owner;

(5) any person in negotiating the sale, lease, or other transfer of a business enterprise if the proposed transfer does not include any interest in real property other than a lease under which the business enterprise operates; or

(6) any person to subdivide and sell unimproved property owned by that person if the person meets the requirements of § 17–302 of this subtitle.

§17–302.

(a) An individual is not required to hold a license under this subtitle to:

(1) sell, in a calendar year, 6 or fewer unimproved lots that the individual owns; or

(2) subdivide and sell unimproved property that the individual owns for 10 years or more.

(b) To measure time under subsection (a)(2) of this section, if the ownership of property passes by inheritance to successive individuals, an individual who inherits the property may add the time that the property was owned by preceding individuals in the line of inheritance to the time that the property is owned by that individual.

(c) To determine ownership under subsection (a)(2) of this section, an individual shall be considered the owner of property that is titled to a corporation if:

(1) during the period in question:

(i) the corporation was wholly owned by the individual or the heirs of the individual; and

(ii) the individual or the heirs of the individual were personally liable for all indebtedness or claims relating to the property; and

(2) the individual or the heirs of the individual remain personally liable for all indebtedness or claims relating to the property that arose during the period in question.

§17–303.

(a) To qualify for a real estate salesperson license, an applicant shall be an individual who meets the requirements of this section.

(b) An applicant shall be of good character and reputation.

(c) An applicant shall be at least 18 years old.

(d) An applicant shall have completed successfully:

(1) a basic course in real estate approved by the Commission that:

(i) does not require more than 60 clock hours of:

1. classroom instruction; or

2. instruction provided by:

A. remote access satellite;

B. closed–circuit video;

C. computer, including transmission over the Internet and the World Wide Web;

D. home study; or

E. any other delivery system approved by the Commission; and

(ii) includes a 3 clock hour course in real estate ethics approved by the Commission; or

(2) if approved by the Commission as an alternative, courses in real estate subjects in any college, including a 3 clock hour course in real estate ethics approved by the Commission.

(e) An applicant shall pass an examination given by the Commission under § 17-306 of this subtitle.

(f) An applicant shall obtain, from a licensed real estate broker, a commitment providing that the applicant shall become affiliated with the licensed real estate broker as a real estate salesperson on the granting of a real estate salesperson license to the applicant.

(g) An applicant shall meet any other requirement that the Commission establishes to ensure that only individuals who are professionally competent and of good character and reputation are licensed.

§17–304.

(a) To qualify for an associate real estate broker license, an applicant shall be an individual who meets the requirements of this section.

(b) An applicant shall meet the requirements for a real estate broker license under § 17-305 of this subtitle.

(c) An applicant shall obtain, from a licensed real estate broker, a commitment providing that the applicant shall become affiliated with the licensed real estate broker as an associate real estate broker on the granting of an associate real estate broker license to the applicant.

§17–305.

(a) To qualify for a real estate broker license, an applicant shall be an individual who meets the requirements of this section.

(b) An applicant shall be of good character and reputation.

(c) An applicant shall be at least 18 years old.

(d) (1) Except as provided in paragraph (2) of this subsection, an applicant shall:

(i) have completed successfully a course in real estate approved by the Commission for real estate brokers that includes a 3 clock hour course in real estate ethics approved by the Commission; and

(ii) have been a licensed real estate salesperson and have actively and lawfully provided real estate brokerage services for at least 3 years.

(2) If an applicant is qualified to practice law in the State, the Commission shall waive the educational and experience requirements of paragraph (1) of this subsection for that applicant.

(e) An applicant shall pass an examination given by the Commission under § 17-306 of this subtitle.

(f) An applicant shall meet any other requirement that the Commission establishes to ensure that only individuals who are professionally competent and of good character and reputation are licensed.

§17–306.

(a) An applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) The Commission periodically shall give examinations to applicants at the times and places that the Commission determines.

(c) Except as provided in subsection (f)(2)(ii) of this section, the Commission shall give each qualified applicant notice of the time and place of examination.

(d) To take an examination, an applicant shall pay:

(1) to the Commission, an examination fee set by the Commission; and

(2) to the Commission or a testing service chosen by the Commission, an amount covering the cost of the examination.

(e) (1) Except as otherwise provided in this subsection, the Commission shall determine the subjects, scope, and form of and the passing score for examinations given under this subtitle.

(2) To ensure the protection of the interests of those persons who are represented by licensed real estate brokers, the Commission shall structure the examinations for a real estate broker license to test:

(i) the ability of an applicant to perform the services authorized by a real estate broker license; and

(ii) the knowledge of the applicant of the general practice for handling real estate transactions.

(3) The examinations shall be written.

(4) To eliminate the possibility of discrimination in the administration of the examination, each copy of an examination for a particular license given on a particular date shall contain the same questions. However, the questions may be in different order.

(f) (1) The Commission may use a testing service to administer the examinations under this section.

(2) If the Commission uses a testing service under this subsection, the testing service, subject to the requirements set by the Commission, may:

(i) set the times and places of examinations; and

(ii) give applicants notice of the examinations.

§17–307.

(a) An applicant for a license:

(1) shall submit to the Commission an application on the form that the Commission provides;

(2) if a testing service was used to administer the examination, shall submit to the Commission a copy of the examination results of the applicant;

(3) shall pay into the Guaranty Fund any fee required under § 17-403 of this title;

(4) shall pay to the Commission a fee set by the Commission; and

(5) shall submit to the Commission any additional information or documentation that the Commission requires, including any information or documentation to determine the professional competence or the good character and reputation of the applicant.

(b) If the applicant is applying for a real estate broker license, the applicant:

(1) shall have submitted to the Commission, by a credit reporting agency approved by the Commission, a credit report that contains the information required by the Commission; or

(2) shall have paid to the Commission or the Commission's designee a credit report fee in an amount not to exceed the cost charged by a credit reporting agency approved by the Commission to obtain a credit report that contains the information required by the Commission.

(c) If the applicant is applying for a real estate salesperson or associate real estate broker license, the applicant shall submit to the Commission adequate evidence that the applicant has obtained, from a licensed real estate broker, a commitment providing that the applicant shall become affiliated with the licensed real estate broker as a real estate salesperson or an associate real estate broker on the granting of a real estate salesperson license or an associate real estate broker license to the applicant.

(d) If the applicant currently is licensed as a real estate salesperson or an associate real estate broker, the applicant shall submit to the Commission a copy of the written notice required under § 17-313 of this subtitle informing each real estate broker with whom the applicant currently is affiliated that the applicant intends to affiliate with an additional real estate broker or to obtain a real estate broker license.

(e) If the applicant is not a resident of this State, the applicant shall submit to the Commission a consent and any related document required under § 17-514 of this title.

§17–308.

(a) Subject to the provisions of this section, the Commission may waive any requirement of this subtitle for a particular license for an applicant who holds a comparable or equivalent license granted by another state.

(b) The Commission may grant a waiver under this section only if the applicant:

(1) pays the application fee required under § 17-307 of this subtitle for the license for which the applicant is applying;

(2) provides adequate evidence that the applicant meets the qualifications otherwise required by this subtitle for the license for which the applicant is applying;

(3) submits a certified copy of the applicant's license from the other state that is comparable or equivalent to the license for which the applicant is applying; and

(4) if the applicant holds a license comparable or equivalent to a real estate broker license, provides adequate evidence that the applicant actively maintains an office in the other state.

§17–309.

(a) On compliance by the applicant with the procedures under § 17-307 of this subtitle, the Commission shall grant an appropriate license to each applicant who meets the requirements under this subtitle for that license.

(b) The Commission shall issue an appropriate license certificate and pocket card to each applicant who has been granted a license under this section.

(c) (1) Subject to paragraph (2) of this subsection, the Commission shall determine the size, form, and content of any license certificate or pocket card that the Commission issues.

(2) On each license certificate that the Commission issues to an associate real estate broker or real estate salesperson, the Commission shall include the name of the firm of the licensed real estate broker for whom the associate real estate broker or real estate salesperson is licensed to provide real estate brokerage services.

§17–310.

(a) While a real estate broker license is in effect, it authorizes the licensee to provide real estate brokerage services.

(b) (1) While an associate real estate broker or real estate salesperson license is in effect, it authorizes the licensee to provide real estate brokerage services on behalf of a licensed real estate broker:

(i) who is named in the license certificate of the associate real estate broker or real estate salesperson; and

(ii) with whom the associate real estate broker or real estate salesperson is affiliated.

(2) An associate real estate broker or real estate salesperson license does not authorize the licensee to provide real estate brokerage services on the licensee's own behalf or on behalf of any person other than a licensed real estate broker named in the license certificate of the associate real estate broker or real estate salesperson.

§17–311.

(a) A licensed real estate salesperson may transfer affiliation from a licensed real estate broker to another licensed real estate broker, if the real estate salesperson:

(1) obtains, from the other licensed real estate broker, a commitment providing that, on cancellation of the current affiliation of the real estate salesperson and issuance of a new license certificate and pocket card to the real estate salesperson, the real estate salesperson shall become affiliated with the licensed real estate broker as a real estate salesperson; and

(2) complies with the application procedures under subsection (c) of this section.

(b) A licensed associate real estate broker may transfer affiliation from a licensed real estate broker to another licensed real estate broker, if the associate real estate broker:

(1) obtains, from the other licensed real estate broker, a commitment providing that, on cancellation of the current affiliation of the associate broker and issuance of a new license certificate and pocket card to the associate broker, the associate broker shall become affiliated with the licensed real estate broker as an associate real estate broker; and

(2) complies with the application procedures under subsection (c) of this section.

(c) To transfer affiliation under this section, a qualified real estate salesperson or associate real estate broker shall:

(1) surrender the license certificate and pocket card of the salesperson or associate broker to the Commission;

(2) submit to the Commission a transfer application on the form that the Commission provides;

(3) submit to the Commission:

(i) acknowledgment from the licensed real estate broker with whom the salesperson or associate broker currently is affiliated that the affiliation is terminated; or

(ii) a statement from the salesperson or associate broker that the current affiliation of the salesperson or associate broker is terminated;

(4) submit to the Commission adequate evidence that the salesperson or associate broker has obtained, from a licensed real estate broker, a commitment providing that the salesperson or associate broker shall become affiliated with the licensed real estate broker as a real estate salesperson or an associate real estate broker on cancellation of the current affiliation of the salesperson or associate broker and issuance of a new license certificate and pocket card to the salesperson or associate broker; and

(5) pay to the Commission a transfer fee set by the Commission.

(d) On compliance by the applicant with the procedures of subsection (c) of this section, the Commission shall issue a new license certificate and pocket card to each real estate salesperson and associate real estate broker who meets the applicable requirements under this subtitle.

§17–312.

(a) A licensed real estate salesperson may exchange a real estate salesperson license for an associate real estate broker license and become affiliated with a licensed real estate broker as an associate real estate broker, if the real estate salesperson:

(1) has previously held an associate real estate broker license or a real estate broker license;

(2) has held a license continuously since initially being licensed as an associate real estate broker or a real estate broker;

(3) obtains, from a licensed real estate broker, a commitment providing that, on the granting of an associate real estate broker license to the real estate salesperson, the real estate salesperson shall become affiliated with the broker as an associate real estate broker; and

(4) complies with the application procedures under subsection (g) of this section.

(b) A licensed real estate salesperson may exchange a real estate salesperson license for a real estate broker license, if the salesperson:

(1) has previously held an associate real estate broker license or a real estate broker license;

(2) has held a license continuously since initially being licensed as an associate real estate broker or a real estate broker; and

(3) complies with the application procedures under subsection (g) of this section.

(c) A licensed associate real estate broker may exchange an associate real estate broker license for a real estate salesperson license and become affiliated with a licensed real estate broker as a real estate salesperson, if the associate broker:

(1) obtains, from a licensed real estate broker, a commitment providing that, on the granting of a real estate salesperson license to the associate broker, the associate broker shall become affiliated with the licensed real estate broker; and

(2) complies with the application procedures under subsection (g) of this section.

(d) A licensed associate real estate broker may exchange an associate real estate broker license for a real estate broker license if the associate broker complies with the application procedures under subsection (g) of this section.

(e) A licensed real estate broker may exchange a real estate broker license for a real estate salesperson license and become affiliated with another licensed real estate broker as a real estate salesperson, if the broker:

(1) obtains, from the other licensed real estate broker, a commitment providing that, on the granting of a real estate salesperson license to the real estate broker, that individual shall become affiliated with the other broker as a real estate salesperson; and

(2) complies with the application procedures under subsection (g) of this section.

(f) A licensed real estate broker may exchange a real estate broker license for an associate real estate broker license and become affiliated with another licensed real estate broker as an associate real estate broker, if the broker:

(1) obtains, from the other licensed real estate broker, a commitment providing that, on the granting of an associate real estate broker license to the real estate broker, that individual shall become affiliated with the other real estate broker as an associate real estate broker; and

(2) complies with the application procedures under subsection (g) of this section.

(g) To exchange a license for another license, a qualified licensee shall:

(1) surrender the current license certificate and pocket card of the licensee to the Commission;

(2) submit to the Commission an application on the form that the Commission provides;

(3) if exchanging a real estate salesperson license or an associate real estate broker license for another license, submit to the Commission:

(i) acknowledgment from the licensed real estate broker with whom the licensee currently is affiliated that the affiliation is terminated; or

(ii) a statement from the licensee that the current affiliation of the licensee is terminated;

(4) if exchanging a license for a real estate salesperson license or an associate real estate broker license, submit to the Commission adequate evidence that the licensee has obtained, from a licensed real estate broker, a commitment

providing that the licensee shall become affiliated with the broker as a real estate salesperson or an associate real estate broker on the granting of a new license to the licensee;

(5) pay to the Commission an application fee set by the Commission; and

(6) submit to the Commission any additional information or documentation that the Commission requires.

(h) On compliance by the applicant with the procedures of this section, the Commission shall cancel the current license of and grant an appropriate new license to each individual who meets the applicable requirements under this subtitle.

(i) The Commission shall issue an appropriate license certificate and pocket card to each individual who has been granted a license under subsection (h) of this section.

§17–313.

(a) A licensed real estate salesperson may obtain an additional real estate salesperson license and become affiliated with an additional licensed real estate broker as a real estate salesperson, if the salesperson:

(1) obtains, from an additional licensed real estate broker, a commitment providing that the salesperson shall become affiliated with the broker as a real estate salesperson on the granting of an additional real estate salesperson license to the salesperson;

(2) gives each real estate broker with whom the salesperson currently is affiliated written notice that the salesperson intends to affiliate with an additional real estate broker; and

(3) complies with the application procedures under subsection (j) of this section.

(b) A licensed real estate salesperson may obtain an associate real estate broker license and become affiliated with an additional licensed real estate broker as an associate real estate broker, if the salesperson:

(1) (i) meets the requirements for an associate real estate broker license under § 17–304 of this subtitle;

(ii) gives each real estate broker with whom the salesperson currently is affiliated written notice that the salesperson intends to affiliate with an additional real estate broker; and

(iii) complies with the application procedures under § 17–307 of this subtitle; or

(2) (i) has previously held an associate real estate broker license or a real estate broker license;

(ii) has held a license continuously since initially being licensed as an associate real estate broker or a real estate broker;

(iii) obtains, from an additional licensed real estate broker, a commitment providing that the salesperson shall become affiliated with the broker as an associate real estate broker on the granting of an associate real estate broker license to the salesperson;

(iv) gives each real estate broker with whom the salesperson currently is affiliated written notice that the salesperson intends to affiliate with an additional real estate broker; and

(v) complies with the application procedures under subsection (j) of this section.

(c) A licensed real estate salesperson may obtain a real estate broker license, if the salesperson:

(1) (i) meets the requirements for a real estate broker license under § 17–305 of this subtitle;

(ii) gives each real estate broker with whom the salesperson currently is affiliated written notice that the salesperson intends to obtain a real estate broker license; and

(iii) complies with the application procedures under § 17–307 of this subtitle; or

(2) (i) has previously held an associate real estate broker license or a real estate broker license;

(ii) has held a license continuously since initially being licensed as an associate real estate broker or a real estate broker;

(iii) gives each real estate broker with whom the salesperson currently is affiliated written notice that the salesperson intends to obtain a real estate broker license; and

(iv) complies with the application procedures under subsection (j) of this section.

(d) A licensed associate real estate broker may obtain an additional associate real estate broker license and become affiliated with an additional licensed real estate broker as an associate real estate broker, if the associate broker:

(1) obtains, from an additional licensed real estate broker, a commitment providing that the associate broker shall become affiliated with the broker as an associate real estate broker on the granting of an additional associate real estate broker license to the associate broker;

(2) gives each real estate broker with whom the associate broker currently is affiliated written notice that the associate broker intends to affiliate with an additional real estate broker; and

(3) complies with the application procedures under subsection (j) of this section.

(e) A licensed associate real estate broker may obtain a real estate salesperson license and become affiliated with an additional licensed real estate broker as a real estate salesperson, if the associate broker:

(1) obtains, from an additional licensed real estate broker, a commitment providing that the associate broker shall become affiliated with the broker as a real estate salesperson on the granting of a real estate salesperson license to the associate broker;

(2) gives each real estate broker with whom the associate broker currently is affiliated written notice that the associate broker intends to affiliate with an additional real estate broker; and

(3) complies with the application procedures under subsection (j) of this section.

(f) A licensed associate real estate broker may obtain a real estate broker license, if the associate broker:

(1) gives each real estate broker with whom the associate broker currently is affiliated written notice that the associate broker intends to obtain a real estate broker license; and

(2) complies with the application procedures under subsection (j) of this section.

(g) A licensed real estate broker may obtain a real estate salesperson license and become affiliated with another licensed real estate broker as a real estate salesperson, if the broker:

(1) obtains, from another licensed real estate broker, a commitment providing that the broker shall become affiliated with the other broker as a real estate salesperson on the granting of a real estate salesperson license to the broker; and

(2) complies with the application procedures under subsection (j) of this section.

(h) A licensed real estate broker may obtain an associate real estate broker license and become affiliated with another licensed real estate broker as an associate real estate broker, if the broker:

(1) obtains, from another licensed real estate broker, a commitment providing that the broker shall become affiliated with the other broker as an associate real estate broker on the granting of an associate real estate broker license to the broker; and

(2) complies with the application procedures under subsection (j) of this section.

(i) (1) A licensed real estate broker shall obtain a real estate broker license for each real estate brokerage operated by the real estate broker.

(2) In order to receive an additional real estate broker license, a licensed real estate broker shall comply with the application procedures under subsection (j)(1), (4), and (5) of this section.

(j) To obtain an additional license, a qualified licensee shall:

(1) submit to the Commission an application on the form that the Commission provides;

(2) if applying for a real estate salesperson or associate real estate broker license, submit to the Commission adequate evidence that the licensee has

obtained, from a licensed real estate broker, a commitment providing that the licensee shall become affiliated with the broker as a real estate salesperson or an associate real estate broker on the granting of an additional license to the licensee;

(3) if currently licensed as a real estate salesperson or an associate real estate broker, submit to the Commission a copy of the written notice informing each real estate broker with whom the licensee currently is affiliated that the licensee intends to affiliate with an additional real estate broker or obtain a real estate broker license;

(4) pay to the Commission an application fee set by the Commission; and

(5) submit to the Commission any additional information or documentation that the Commission requires.

(k) On compliance by the applicant with the procedures of this section, the Commission shall grant an appropriate new license to each individual who meets the applicable requirements under this subtitle.

(l) The Commission shall issue an appropriate license certificate and pocket card to each individual who has been granted a license under subsection (k) of this section.

§17–314.

(a) Licenses issued under this title shall expire on a staggered basis.

(b) (1) At least 60 days before a license expires, the Commission shall mail or electronically transmit to the licensee, as provided in paragraph (2) of this subsection:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current license expires; and

2. the amount of the renewal fee.

(2) (i) If the licensee is a real estate broker, the Commission shall mail or electronically transmit the renewal application form and notice to the principal office of the broker.

(ii) If the licensee is an associate real estate broker or a real estate salesperson, the Commission shall mail or electronically transmit the renewal application form and notice to the principal office of the real estate broker with whom the licensee is affiliated.

(3) If an electronic transmission under paragraph (1) or (2) of this subsection is returned to the Commission as undeliverable, the Commission shall mail to the licensee, at the last known address of the licensee, the materials required under paragraph (1) of this subsection within 10 business days of the date the Commission received the notice that the electronic transmission was undeliverable.

(c) (1) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(i) otherwise is entitled to be licensed;

(ii) pays to the Commission a renewal fee set by the Commission;

(iii) submits to the Commission a renewal application on the form that the Commission provides;

(iv) not later than 30 days before the license expires, has complied with the continuing education requirements under § 17–315 of this subtitle;

(v) notifies the Commission of the name of each real estate broker with whom the licensee then is affiliated; and

(vi) for the renewal of a real estate broker license:

1. submits to the Commission, by a credit reporting agency approved by the Commission, a credit report that contains the information required by the Commission; or

2. pays to the Commission or the Commission's designee a credit report fee in an amount not to exceed the cost charged by a credit reporting agency approved by the Commission to obtain a credit report that contains the information required by the Commission for renewal of a real estate broker license.

(2) A licensee who fails to comply with paragraph (1)(iv) of this subsection shall be subject to a reinstatement fee set by the Commission.

(d) The Commission shall renew the license of and issue a renewal certificate and pocket card to each licensee who meets the requirements of this section.

(e) The Commission shall reinstate the license of a licensee under this title whose license has expired if the licensee:

(1) applies to the Commission for reinstatement within 3 years after the license expires;

(2) meets the requirement of good character and reputation;

(3) complies with the applicable continuing education requirement for the period during which the individual was not licensed; and

(4) pays to the Commission a reinstatement fee set by the Commission.

§17–315.

(a) (1) To qualify for renewal of a license under this subtitle, a licensee shall complete at least 15 clock hours of continuing education instruction, as provided in subsection (b) of this section, during the preceding 2–year term.

(2) For a licensee who provides real estate brokerage services solely in connection with nonresidential real estate, of the clock hours required under paragraph (1) of this subsection, 2 clock hours shall be satisfied by a course regarding the federal Americans with Disabilities Act.

(3) A licensee holding a license from another state must complete at least the number of clock hours of continuing education instruction required under paragraph (1) of this subsection during each 2–year license term and may substitute clock hours of continuing education instruction earned in another state, if those clock hours:

(i) are approved as real estate continuing education in that state; and

(ii) meet the distribution requirements of subsection (b)(2) of this section.

(4) The Commission shall grant the substitution of clock hours in paragraph (3) of this subsection only if the other state permits the substitution of

clock hours of continuing education instruction approved by the Commission for a licensee of this State.

(b) (1) The Commission shall approve the form, substance, and, as provided under paragraphs (2) and (3) of this subsection, subject matter of all continuing education courses.

(2) For a licensee who has been issued a renewal certificate under § 17–314 of this subtitle, the subject matter approved by the Commission shall:

(i) relate to real estate or to a subject matter intended to assist a licensee in providing real estate brokerage services to the public in a more efficient and effective manner, provided that the subject matter is related to helping the public buy or sell real estate;

(ii) every 2 years, include at least one 3 clock hour course that outlines relevant changes that have occurred in federal, State, or local laws and regulations, court cases and industry trends that have an impact on those laws and regulations, or any combination of those laws, regulations, court cases, and industry trends;

(iii) every 2 years, include at least one 2 clock hour course that outlines federal, State, and local fair housing laws and regulations, including fair housing advertising;

(iv) every 2 years, include at least one 3 clock hour ethics course that includes a discussion of:

1. the Maryland Code of Ethics;

2. fraudulent real estate practices; and

3. professionalism as it relates to the Maryland Code of Ethics, including a discussion relating to conflict resolution and a licensee's duty to respect the public, peers, and property;

(v) every 2 years, include at least one 3 clock hour course that includes the principles of real estate brokerage relationships and disclosures; and

(vi) every 2 years for the renewal of a real estate broker license and the renewal of the license of an individual designated as a branch office manager or a team leader, include at least one 1.5 clock hour course that includes the requirements of broker supervision.

(3) For a licensee who was issued an initial real estate salesperson license under § 17–309 of this subtitle, the subject matter approved by the Commission shall include:

(i) at least one 3 clock hour course for each of the following topics:

1. outlining contract writing, standard contract provisions, key regional contract requirements, and standard addenda and contingencies;

2. the principles of real estate brokerage relationships and disclosures;

3. the principles of real estate practice in relation to:

A. advertising requirements for licensees;

B. the handling and disbursement of escrow funds; and

C. common ownership communities; and

4. property management and landlord and tenant laws; and

(ii) at least one 1.5 clock hour course for each of the following topics:

1. professionalism as it relates to the Maryland Code of Ethics, including a discussion relating to conflict resolution and a licensee's duty of respect for the public, peers, and property; and

2. real estate financing.

(4) The requirement of paragraph (2)(iii) of this subsection does not apply to a licensee who provides real estate brokerage services solely in connection with nonresidential real estate.

(5) To be acceptable for credit as a continuing education course under this section, the course shall cover 1 or more topics approved by the Commission.

(c) (1) Continuing education courses may be conducted by:

(i) the Maryland Association of Realtors or its member boards;

(ii) the Real Estate Brokers of Baltimore, Inc.;

(iii) any similar professional association; or

(iv) an educational institution approved by the Commission.

(2) Notwithstanding any other provision of law, continuing education courses shall be taught by a qualified instructor who is experienced in the real estate industry and selected by the course provider.

(3) The Commission shall adopt regulations that provide for the conduct of continuing education instruction courses by virtual or remote means.

(4) To verify the identity of an individual enrolled in a continuing education course, the entity that conducts the continuing education course shall require, as a condition of participating in the course, that the individual provide:

(i) for an in–person course, a photo identification; and

(ii) for a virtual or other remote course, a signed affidavit attesting to the identity of the individual.

(d) If feasible, continuing education courses shall be offered at reasonable intervals in each county and in each major geographic area of the larger counties.

(e) Within 14 days after completion of a continuing education course, the entity that conducted the course may submit the course completion information directly to the Commission and the licensee by electronic means.

(f) The Commission may waive the requirements of this section for a licensee if the licensee shows good cause for being unable to meet the requirements.

(g) The Commission shall require each course provider to pay a continuing education course application fee set by the Commission.

§17–316.

(a) (1) The Commission shall place the license of a real estate broker on inactive status if the real estate broker:

(i) requests that the license of the broker be placed on inactive status; and

(ii) surrenders the license certificate and pocket card of the broker to the Commission.

(2) The Commission shall place the license of an associate real estate broker or a real estate salesperson on inactive status if:

(i) the associate broker or salesperson no longer is affiliated with the licensed real estate broker whose firm is named in the license certificate of the associate broker or salesperson; or

(ii) the associate broker or salesperson:

1. requests that the license of the associate broker or salesperson be placed on inactive status; and

2. surrenders the license certificate and pocket card of the associate broker or salesperson to the Commission.

(b) (1) A licensee whose license is on inactive status may not provide real estate brokerage services through that license.

(2) The placement of a license on inactive status does not affect the power of the Commission to suspend or revoke the license or to take any other disciplinary action against the licensee.

(c) Unless a license on inactive status is reactivated, the license expires 3 years after the date it is placed on inactive status.

(d) (1) Subject to paragraph (2) of this subsection, a licensee whose license is on inactive status remains responsible for renewing the license as required under § 17–314 of this subtitle.

(2) Subject to the 3–year limitation under subsection (c) of this section, a licensee may renew a license while it is on inactive status if the licensee complies with the continuing education requirements of § 17–315 of this subtitle.

(e) If a person whose license is on inactive status fails to reactivate the license before the license expires under subsection (c) of this section, the person must comply with the requirements under §§ 17–301 through 17–308 of this subtitle in order to obtain a license.

(f) (1) The Commission shall reactivate the license of a real estate broker that is on inactive status and reissue a license certificate and pocket card to the broker if the broker:

(i) requests that the license be reactivated;

(ii) pays to the Commission a reissuance fee set by the Commission; and

(iii) meets the continuing education requirements that would have been required for renewal of a license under § 17–315 of this subtitle if the license had not been on inactive status.

(2) The Commission shall reactivate the license of an associate real estate broker or a real estate salesperson that is on inactive status and reissue a license certificate and pocket card to the associate broker or salesperson if the associate broker or salesperson:

(i) requests that the license be reactivated;

(ii) pays to the Commission a reissuance fee set by the Commission;

(iii) meets the continuing education requirements that would have been required for renewal of a license under § 17–315 of this subtitle if the license had not been on inactive status; and

(iv) submits to the Commission adequate evidence that the associate broker or salesperson has obtained, from a licensed real estate broker, a commitment providing that the associate broker or salesperson shall become affiliated with the broker as an associate real estate broker or a real estate salesperson on reactivation of the license of the associate broker or salesperson.

§17–317.

(a) (1) A licensed real estate broker shall display at all times:

(i) the license certificate of the real estate broker in a conspicuous place in the principal office of the real estate broker; and

(ii) in accordance with paragraph (2) of this subsection, the license certificate of each associate real estate broker and real estate salesperson who is affiliated with the real estate broker.

(2) (i) If an associate real estate broker or a real estate salesperson who is affiliated with the real estate broker works primarily out of the principal office of the real estate broker, the real estate broker shall display the

license certificate of the associate broker or salesperson in a conspicuous place in the principal office.

(ii) If an associate real estate broker or a real estate salesperson who is affiliated with the real estate broker works primarily out of a branch office of the real estate broker, the real estate broker shall display the license certificate of the associate broker or salesperson in a conspicuous place in the branch office out of which the associate broker or salesperson primarily works.

(b) (1) If a license certificate is lost or destroyed, the licensee immediately shall notify the Commission.

(2) To receive a duplicate license certificate, the licensee shall submit to the Commission:

(i) an affidavit stating that the license certificate has been lost or destroyed; and

(ii) a fee set by the Commission.

(3) On receipt of the affidavit and fee, the Commission shall issue an appropriate duplicate license certificate to the licensee.

(c) (1) If a pocket card is lost or destroyed, the licensee immediately shall notify the Commission.

(2) To receive a duplicate pocket card, the licensee shall submit to the Commission:

(i) an affidavit stating that the pocket card has been lost or destroyed; and

(ii) a fee set by the Commission.

(3) On receipt of the affidavit and fee, the Commission shall issue an appropriate duplicate pocket card to the licensee.

§17–318.

(a) To change the name of a licensee or a firm on a license certificate and pocket card, a licensee shall submit to the Commission:

(1) an application on the form that the Commission provides;

(2) the license certificate and pocket card of the licensee;

(3) any documentation about the name change that the Commission requires; and

(4) a fee set by the Commission.

(b) On receipt of the application, fee, and any required documentation, the Commission shall issue, to the licensee, a new license certificate and pocket card containing the new name of the licensee or firm.

§17–319.

(a) In this section, "disability" means a total and permanent disability that renders a broker unable to perform real estate brokerage services.

(b) (1) Subject to paragraph (2) of this subsection and subsection (c) of this section, on the disability or death of a licensed real estate broker, any adult member of the family of the disabled or deceased broker may carry on the business of the disabled or deceased broker for up to 6 months for the purposes of closing and terminating the business.

(2) (i) A family member under paragraph (1) of this subsection may not carry on the business of a disabled or deceased licensed real estate broker until the death certificate or evidence of the disability has been provided to the Commission.

(ii) If a death certificate or evidence of disability is not provided to the Commission within a reasonable time, the business may designate another individual who is a licensed real estate broker to provide real estate brokerage services for the business under § 17–319.1 of this subtitle.

(c) To qualify to carry on the business of a disabled or deceased real estate broker, a family member shall:

(1) surrender the license certificate and pocket card of the disabled or deceased real estate broker to the Commission; and

(2) submit to the Commission any information or documentation required by the Commission.

(d) (1) The Commission shall reissue the license of a disabled or deceased real estate broker to a family member who qualifies to carry on the business of the broker under subsection (c) of this section.

(2) The term of the reissuance shall be 6 months.

(e) Before the end of the 6–month period for carrying on the business of a disabled or deceased real estate broker, an individual may qualify for the license of the disabled or deceased broker if:

(1) the individual is a member of the immediate family of the disabled or deceased broker;

(2) the individual has been continuously licensed as a real estate salesperson for the immediately preceding 3 years;

(3) regardless of whether the individual has met the educational requirements for a real estate broker license under § 17–305 of this subtitle, the individual passes the real estate broker's examination under § 17–306 of this subtitle;

(4) the individual surrenders the real estate salesperson license certificate and pocket card of the individual to the Commission; and

(5) there has been compliance with the requirements of subsection (c) of this section.

(f) The Commission shall reissue the license of a disabled or deceased real estate broker to an individual who qualifies for the license of the broker under subsection (e) of this section.

(g) (1) An individual who qualifies for and is reissued the license of a disabled or deceased real estate broker may hold the license for up to 4 years from the time of reissuance without meeting the educational requirements for a real estate broker license under § 17–305 of this subtitle.

(2) Subject to the 4–year restriction under paragraph (1) of this subsection, an individual who has been reissued the license of a disabled or deceased real estate broker is responsible for renewing the license as required under § 17–314 of this subtitle.

(3) If an individual who has been reissued the license of a disabled or deceased real estate broker does not meet the educational requirements for a real estate broker license within the 4–year period, the license shall expire automatically at the end of that period.

(4) If an individual who has been reissued the license of a disabled or deceased real estate broker meets the educational requirements for a real estate

broker license within the 4–year period, the individual may continue to hold the license and may renew the license under § 17–314 of this subtitle.

§17–319.1.

(a) Subject to subsection (b) of this section, if a licensed real estate broker is terminated by a business for any reason, the business may designate another individual who is a licensed real estate broker to provide real estate brokerage services for the business.

(b) (1) If the license certificate and pocket card of a terminated real estate broker are surrendered to the Commission, the Commission shall approve the designation under subsection (a) of this section in accordance with all applicable laws and regulations.

(2) If the license certificate and pocket card of a terminated real estate broker are not surrendered to the Commission, the Commission shall approve the designation under subsection (a) of this section only if:

(i) the designated licensed real estate broker is in good standing with the Commission;

(ii) the business notifies the Commission of the reason for the termination of the real estate broker; and

(iii) the designation of the licensed real estate broker complies with all applicable laws and regulations.

(c) A licensed real estate broker who has been designated by a business under subsection (a) of this section is subject to all of the applicable provisions of this title that relate to real estate brokers.

§17–320.

(a) (1) Subject to the provisions of this section, a licensed real estate broker may utilize as an independent contractor, employ, or otherwise contract with a licensed real estate salesperson or a licensed associate real estate broker to provide real estate brokerage services on behalf of the licensed real estate broker.

(2) A real estate broker may not provide real estate brokerage services through any other individual unless the individual is licensed as an associate real estate broker or real estate salesperson to provide real estate brokerage services on behalf of the real estate broker.

(b) Any individual, including a licensed associate real estate broker, who provides real estate brokerage services on behalf of a real estate broker shall be considered a real estate salesperson with respect to the provision of those services.

(c) (1) A real estate broker shall exercise reasonable and adequate supervision over the provision of real estate brokerage services by any other individual, including an independent contractor, on behalf of the broker.

(2) The requirement of paragraph (1) of this subsection applies regardless of the manner in which the individual who provides the services is affiliated with the real estate broker on whose behalf the services are provided.

(d) (1) A branch office manager, as defined in § 17–518(d) of this title, shall exercise reasonable and adequate supervision over the provision of real estate brokerage services by any sales agent or associate broker registered with that office.

(2) The responsibility of the branch office manager to supervise sales agents and associate brokers registered to the manager's office is in addition to, and not in lieu of, the responsibility of the broker set forth in subsection (c) of this section.

(e) If the affiliation between a real estate broker and a real estate salesperson or an associate real estate broker terminates, the real estate broker immediately shall:

(1) mail to the salesperson or associate broker, at the last known home and office address of that individual, notice that the affiliation is terminated;

(2) submit to the Commission written notice that the affiliation is terminated, including copies of the notices mailed to the salesperson or associate broker; and

(3) return the license certificate of the salesperson or associate broker to the Commission.

§17–321.

(a) Subject to the provisions of this section, a licensed real estate broker may provide real estate brokerage services through a corporation, limited liability company, or partnership.

(b) To qualify to provide real estate brokerage services through a corporation, limited liability company, or partnership, the licensed real estate broker:

(1) shall be employed by or have another contractual relationship with the corporation, limited liability company, or partnership;

(2) shall have been designated by the corporation, limited liability company, or partnership as the broker of the firm, to be individually responsible for the provision of real estate brokerage services through the corporation, limited liability company, or partnership; and

(3) shall submit notice to the Commission as provided in subsection (c) of this section.

(c) (1) Before a licensed real estate broker may provide real estate brokerage services through a corporation, limited liability company, or partnership, the broker shall submit to the Commission a notice that states the broker's intent to provide services through a corporation or partnership. The notice shall include:

(i) the name of the real estate broker submitting the notice;

(ii) a statement that the named individual has been designated as the broker of the firm;

(iii) the address of the firm's principal place of business and of each proposed branch office;

(iv) any trade or fictitious name that the firm intends to use while conducting the business of the firm;

(v) a list of all the licensed associate real estate brokers and licensed real estate salespersons who will be affiliated with the broker of the firm; and

(vi) any other information that the Commission may require by regulation.

(2) The Commission may set by regulation procedures for maintaining current information about any corporation, limited liability company, or partnership through which real estate brokerage services are provided.

(d) (1) An individual may provide real estate brokerage services through a firm only if:

(i) the individual is the licensed real estate broker who has been designated as the broker of the firm; or

(ii) the individual:

1. is licensed as an associate real estate broker or real estate salesperson to provide real estate brokerage services on behalf of the broker of the firm; and

2. continues to be affiliated with the broker of the firm.

(2) This subsection applies regardless of whether the individual is associated with the firm as a partner, officer, member, or shareholder or in any other capacity.

(e) An individual who serves as a broker of the firm under this section shall be responsible for the provision of real estate brokerage services through the firm and is subject to all of the provisions of this title regarding those services.

(f) (1) A corporation, limited liability company, or partnership that provides real estate brokerage services under this section is not, by its compliance with this section, relieved of any responsibility that the corporation, limited liability company, or partnership may have for an act or omission of its officer, partner, member, employee, or agent.

(2) An individual who provides real estate brokerage services through a corporation, limited liability company, or partnership is not, by reason of the individual's employment or other relationship with the corporation, limited liability company, or partnership, relieved of any individual responsibility that the individual may have regarding those services.

§17–322.

(a) In this section, "handicap" and "familial status" each have the meanings indicated in the federal Fair Housing Act.

(b) Subject to the hearing provisions of § 17–324 of this subtitle, the Commission may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

(1) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(2) fraudulently or deceptively uses a license;

(3) directly or through another person willfully makes a misrepresentation or knowingly makes a false promise;

(4) intentionally or negligently fails to disclose to any person with whom the applicant or licensee deals a material fact that the licensee knows or should know and that relates to the property with which the licensee or applicant deals;

(5) as an associate real estate broker or a real estate salesperson, provides or attempts to provide real estate brokerage services on behalf of a real estate broker without informing in writing any other real estate broker with whom the associate real estate broker or the real estate salesperson is affiliated;

(6) violates § 17–530.1(a) or (b) of this title;

(7) retains or attempts to retain the services of any unlicensed individual as an associate real estate broker or a real estate salesperson to evade the law prohibiting payment of a commission to an unlicensed individual;

(8) guarantees or authorizes or allows another person to guarantee future profits from the resale of real property;

(9) solicits, sells, or offers to sell real property, so as to influence or attempt to influence a prospective party to the sale of real property, by:

(i) offering a prize or a free lot;

(ii) conducting a lottery or contest; or

(iii) advertising "free appraisals", unless the advertiser is prepared to appraise the real estate free of charge for any person, regardless of the purpose for which the person requests the appraisal;

(10) accepts a listing contract to sell real property that fails to provide a definite termination date that is effective automatically without notice from the buyer or the seller;

(11) accepts a listing contract to sell real property that provides for a "net" return to a seller and leaves the licensee free to sell the real property at any price higher than the "net" price;

(12) knowingly solicits a party to an exclusive listing contract with another licensee to terminate that contract and enter a new contract with the licensee making the solicitation;

(13) solicits a party to a sales contract, lease, or agreement that was negotiated by another to breach the contract, lease, or agreement for the purpose of

substituting a new contract, lease, or agreement for which the licensee making the solicitation is either the real estate broker or an associate real estate broker or a real estate salesperson affiliated with the real estate broker;

(14) for any transaction in which the licensee has served as or on behalf of a real estate broker, fails to furnish promptly to each party to the transaction a copy of:

(i) the listing contract to sell or rent real property;

(ii) the contract of sale; or

(iii) the lease agreement;

(15) for any transaction in which the licensee has served as or on behalf of a real estate broker, fails to keep a copy of any executed:

(i) listing contract to sell or rent real property;

(ii) contract of sale; or

(iii) lease agreement;

(16) whether or not acting for monetary gain, knowingly induces or attempts to induce a person to transfer real estate or discourages or attempts to discourage a person from buying real estate:

(i) by making representations about the existing or potential proximity of real property owned or used by individuals of a particular race, color, religion, sex, handicap, familial status, or national origin; or

(ii) by representing that the existing or potential proximity of real property owned or used by individuals of a particular race, color, religion, sex, handicap, familial status, or national origin will or may result in:

1. the lowering of property values;

2. a change in the racial, religious, or ethnic character of the block, neighborhood, or area;

3. an increase in criminal or antisocial behavior in the area; or

4. a decline in the quality of the schools serving the area;

(17) uses any of the following material if it includes the name of an organization or association of which the licensee is not a member:

(i) a contract form for the listing of real property for sale, rent, or exchange;

(ii) a contract form for the sale, rent, or exchange of real property; or

(iii) any advertising matter;

(18) as a real estate broker, an associate real estate broker, or a real estate salesperson, advertises the sale or rent of or an offer to buy real property while failing to disclose in the advertisement the name of the advertiser and the fact that the advertiser is a real estate broker, an associate real estate broker, or a real estate salesperson;

(19) advertises in any misleading or untruthful manner or violates § 17–527.2 of this title;

(20) as a licensed associate real estate broker or a licensed real estate salesperson, advertises the sale or rent of or an offer to buy real property in the name of the associate broker or the salesperson while failing to disclose in the advertisement the name of the real estate broker on behalf of whom the associate broker or the salesperson is acting;

(21) except as provided under § 17–604 of this title, for real estate brokerage services provided by an associate real estate broker or a real estate salesperson, accepts a commission or other valuable consideration from any person other than a real estate broker with whom the associate broker or the salesperson is affiliated;

(22) fails to account for or to remit promptly any money that comes into the possession of the licensee but belongs to another person;

(23) pays or receives a rebate, profit, compensation, or commission in violation of any provision of this title;

(24) under the laws of the United States or of any state, is convicted of:

(i) a felony;

(ii) a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to provide real estate brokerage services; or

(iii) a crime that constitutes a violation of any provision of this title;

(25) engages in conduct that demonstrates bad faith, incompetency, or untrustworthiness or that constitutes dishonest, fraudulent, or improper dealings;

(26) with actual knowledge of the violation, associates with a licensee in a transaction or practice that violates any provision of this title;

(27) violates § 17–320(c) of this subtitle by failing as a real estate broker to exercise reasonable and adequate supervision over the provision of real estate brokerage services by another individual on behalf of the broker;

(28) provides to a party a contract that does not contain a notice of the buyer's right of selection, as required by § 17–524 of this title;

(29) requires a buyer to employ a particular title insurance company, settlement company, escrow company, or title lawyer in violation of § 17–607 of this title;

(30) fails to make the disclosure or provide the consent form required by § 17–530.2 of this title;

(31) violates any provision of Subtitle 5 of this title that relates to trust money;

(32) violates any other provision of this title;

(33) violates any regulation adopted under this title or any provision of the code of ethics;

(34) violates § 17–320(d) of this subtitle by failing as a branch office manager to exercise reasonable and adequate supervision over the provision of real estate brokerage services by any salesperson or associate broker registered with that office; or

(35) has been disciplined under a real estate licensing law of another jurisdiction.

(c) (1) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this section, the Commission may impose a penalty not exceeding $5,000 for each violation.

(2) To determine the amount of the penalty imposed, the Commission shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the licensee; and

(iv) any history of previous violations by the licensee.

(3) The Commission shall pay any penalty collected under this subsection into the General Fund of the State.

(4) The Commission may not impose a fine based solely on a violation of subsection (b)(35) of this section.

(d) The Commission shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or misdemeanor described in subsection (b)(24)(i) and (ii) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to provide real estate brokerage services;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

§17–322.1.

(a) For purposes of § 17-322(b) of this subtitle, it is not a material fact relating to property offered for sale or lease that:

(1) an owner or occupant of the property is, was, or is suspected to be:

(i) infected with human immunodeficiency virus; or

(ii) diagnosed with acquired immunodeficiency syndrome; or

(2) a homicide, suicide, accidental death, natural death, or felony occurred on the property.

(b) (1) It is not grounds for a disciplinary action against a licensee under this subtitle, that a licensee did not disclose to a prospective purchaser or lessee, a fact contained in subsection (a) of this section.

(2) A licensee may not be held personally liable for failure to disclose a fact contained in subsection (a) of this section.

§17–323.

(a) Subject to the provisions of this section, the Commission shall commence proceedings under § 17–322 of this subtitle on a complaint made to the Commission by a member of the Commission or any other person.

(b) (1) A complaint shall:

(i) be in writing; and

(ii) state specifically the facts on which the complaint is based.

(2) Except as provided in paragraph (4) of this subsection, if a complaint is made by any person other than a member of the Commission, the complaint shall be made under oath by the person who submits the complaint.

(3) Subject to paragraph (4) of this subsection, a complaint may be accompanied by documentary or other evidence.

(4) A complaint alleging an advertising violation:

(i) need not be made under oath and may be made anonymously; but

(ii) shall be accompanied by documentary or other evidence.

(c) (1) The Commission, or its designee, shall review each complaint received by the Commission. A complaint shall be referred for investigation if, after a review under this subsection, it is determined that the complaint:

(i) alleges facts that establish a prima facie case that is grounds for disciplinary action under § 17–322 of this subtitle; and

(ii) meets the requirements of subsection (b) of this section.

(2) A complaint not referred for investigation under paragraph (1) of this subsection shall be dismissed, and any appeal shall be taken under paragraph (3) of this subsection.

(3) (i) If a complaint is dismissed under paragraph (2) of this subsection, within 30 days from the date of the dismissal any member of the Commission may file an exception to the decision.

(ii) If an exception is filed with the Commission under subparagraph (i) of this paragraph, the Commission shall set a hearing on the matter by the full Commission on whether the complaint satisfies the requirements of paragraph (1) of this subsection. If the Commission determines that the complaint is satisfactory, the matter shall be referred for an investigation.

(iii) If an exception is not filed within the time allowed under subparagraph (i) of this paragraph:

1. the decision of the Commission is final; and

2. any party aggrieved by the decision may take a judicial appeal as provided in § 17–329 of this subtitle.

(d) (1) On completion, an investigation shall be referred directly to the Commission or its designee.

(2) If the Commission or its designee determines there is a reasonable basis to believe any grounds exist for disciplinary action under § 17–322 of this subtitle, the investigation shall be referred for a hearing in accordance with § 17–324 of this subtitle.

(3) A complaint not referred for a hearing by the Commission or its designee shall be dismissed, and any party aggrieved by the decision may take a judicial appeal as provided in § 17–329 of this subtitle.

§17–324.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Commission takes any final action under § 17-322 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Commission or, as provided under § 17-326 of this subtitle, a hearing board.

(b) The Commission shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) In connection with any proceeding under this section, the following individuals may administer oaths:

(1) a member of the Commission;

(2) the executive director of the Commission; and

(3) the assistant director of the Commission.

(d) (1) At least 10 days before the hearing, the hearing notice to be given to the individual shall be:

(i) served personally on the individual; or

(ii) sent by certified mail to the last known business address of the individual.

(2) If the individual is an associate real estate broker or a real estate salesperson, at least 10 days before the hearing, the Commission shall give notice of the hearing to each real estate broker with whom the associate real estate broker or the real estate salesperson is affiliated by sending notice by certified mail to the last known business address of the real estate broker.

(e) The individual may be represented at the hearing by counsel.

(f) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Commission may hear and determine the matter.

§17–325.

(a) With the approval of the Secretary, the Commission may establish 1 or more real estate hearing boards. If established, each hearing board shall be a unit in the Department.

(b) (1) If established, each hearing board shall consist of at least 3 members of the Commission, appointed by the Commission.

(2) Of the 3 mandatory positions on the hearing board:

(i) at least 1 shall be a professional member of the Commission; and

(ii) at least 1 shall be a consumer member of the Commission.

(c) From among the members of each hearing board, the Commission shall designate a chairman.

§17–326.

(a) Except as otherwise provided in this subtitle, the Commission may refer to a hearing board for a hearing:

(1) a complaint or claim that has been submitted to the Commission; and

(2) any matter for which a hearing may be required under § 17-327 or § 17-328 of this subtitle.

(b) The hearing board may exercise the same powers and shall conduct a hearing in accordance with the same procedures applicable to the Commission under § 17-324 of this subtitle.

(c) (1) The hearing board shall determine if there is a reasonable basis to believe that there are grounds for disciplinary action under § 17-322 of this subtitle against an applicant or licensee.

(2) (i) If the hearing board finds a reasonable basis as provided under paragraph (1) of this subsection, the hearing board shall:

1. hold a hearing on the matter; and

2. file its finding with the Commission.

(ii) If the hearing board does not find a reasonable basis as provided under paragraph (1) of this subsection, the hearing board shall dismiss the complaint.

(3) A hearing board shall advise the Commission specifically of any action brought against a licensee as a result of monetary loss, misappropriation of money, or fraud.

(d) The decision of the hearing board shall be considered as the final decision of the Commission and any party aggrieved by the decision may take a judicial appeal as provided in § 17-329 of this subtitle.

§17–327.

(a) Subject to the provisions of subsection (b) of this section, the Commission may order summarily the revocation of:

(1) the license of any licensee, if:

(i) the licensee is convicted of a violation of this title;

(ii) the conviction is final; and

(iii) the period for appeal has expired; or

(2) the license of any nonresident licensee, if the real estate regulatory agency of the state where the licensee is a resident:

(i) revokes the license issued by that state; and

(ii) certifies the order of revocation to the Commission.

(b) The Commission may order summarily a revocation under this section only if it gives the licensee:

(1) written notice of the revocation and the finding on which the revocation is based; and

(2) after the summary revocation is effective, an opportunity to be heard promptly before the Commission or, as provided under § 17-326 of this subtitle, before a hearing board.

(c) (1) Rather than order summarily a revocation of a license under this section, the Commission may elect not to revoke the license until after the licensee is given an opportunity for a hearing.

(2) If the Commission elects to give the licensee an opportunity for a hearing before revoking the license for the grounds set forth in this section, the

Commission shall give notice and hold the hearing in the same manner as required under § 17-324 of this subtitle.

(d) (1) In any hearing held on the grounds for revocation under subsection (a) of this section, the Commission may restrict the admission of evidence to the issue whether:

(i) the alleged conviction in fact occurred; or

(ii) the alleged revocation in fact occurred.

(2) Notwithstanding paragraph (1) of this subsection, in any hearing held on the grounds for revocation under subsection (a) of this section, a licensee may present matters in mitigation of the offense charged.

§17–328.

(a) Subject to the provisions of subsection (b) of this section, the Commission may order summarily the suspension of the license of a licensee if the licensee:

(1) fails to account promptly for any money held in trust;

(2) on demand, fails to display to the Commission all records, books, and accounts of any money held in trust;

(3) has been convicted of a felony under the laws of the United States or of any state; or

(4) within 10 days after the conviction or within 10 days following release from incarceration as a result of the conviction, whichever is later, fails to disclose to the Commission that the licensee has been convicted of a felony under the laws of the United States or of any state.

(b) The Commission may order summarily a suspension under this section only if the Commission gives the licensee:

(1) written notice of the suspension and the finding on which the suspension is based; and

(2) after the summary suspension is effective, an opportunity to be heard promptly before the Commission or, as provided under § 17–326 of this subtitle, before a hearing board.

(c) A summary suspension ordered by the Commission under this section:

(1) may start immediately or at any later date, as set by the order; and

(2) shall continue until:

(i) the licensee complies with the conditions set forth by the Commission in its order; or

(ii) the Commission orders a different disposition after a hearing held under this section.

(d) (1) Rather than order summarily a suspension of a license under this section, the Commission may elect not to suspend the license until after the licensee is given an opportunity for a hearing.

(2) If the Commission elects to give the licensee an opportunity for a hearing before suspending the license for the grounds set forth in this section, the Commission shall give notice and hold the hearing in the same manner as required under § 17–324 of this subtitle.

§17–329.

(a) Any person aggrieved by a final decision of the Commission 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.

(b) Except as provided in subsection (c) of this section, unless stayed by the Commission or a court, a decision of the Commission is not stayed pending review.

(c) A court may grant a stay of the suspension or revocation of the license of the licensee only on the filing of a bond by a licensee as provided in subsection (d) of this section.

(d) (1) The court may set the bond required under subsection (c) of this section in any amount not exceeding $50,000.

(2) The bond shall be conditioned for the use and benefit of any person who, as a member of the public, might sustain pecuniary loss because of any violation of this title by the licensee.

§17–330.

(a) Whenever the Commission revokes or suspends the license of a licensee under § 17-322 of this subtitle and a stay is not ordered by the Commission or the court, the Commission shall mail notice of the suspension or revocation:

(1) to the licensee;

(2) if the licensee is an associate real estate broker or a real estate salesperson, to each real estate broker with whom the licensee is affiliated;

(3) to the Maryland Association of Realtors; and

(4) to the local board of realtors and the realtist organization having jurisdiction over the geographic area where the licensee maintained an office.

(b) (1) If the Commission revokes or suspends the license of a nonresident licensee, the Commission also shall notify by mail the real estate commission or other licensing authority in the state where the licensee is a resident.

(2) The Commission shall include in the notice the cause for the revocation or suspension of the license.

§17–3A–01.

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

(b) "Reciprocal license" means a license issued under this subtitle.

(c) "Standard license" means a license issued under Subtitle 3 of this title.

§17–3A–02.

(a) Subject to the limitations of this subtitle, the Commission may issue a reciprocal license to a person:

(1) holding a current license to provide real estate brokerage services issued by another state; and

(2) whose principal place of business for the provision of real estate brokerage services is outside the State.

(b) The reciprocal license shall be for the category of license the Commission determines is most similar to the category of license issued by the other state.

§17–3A–03.

Obtaining a reciprocal license from the Commission shall constitute sufficient contact with the State for the exercise of personal jurisdiction by the Commission and the courts of the State over the holder of a reciprocal license in any action or proceeding arising out of acts or omissions by the holder of the reciprocal license:

(1) in the State; or

(2) relating to an actual or proposed transaction involving real property located in the State.

§17–3A–04.

(a) Except as otherwise provided in this subtitle, the Commission shall issue a reciprocal license to an applicant licensed in another state to provide real estate brokerage services if:

(1) the applicant files with the Commission an application for a reciprocal license;

(2) (i) the jurisdiction in which the principal place of business of the applicant is located submits a certified copy of a current license issued to the applicant; or

(ii) the licensing body for the other state submits a certified statement indicating that the applicant holds a current license in the other state;

(3) the licensing body for the other state submits:

(i) a statement indicating whether the applicant has been the subject of any disciplinary proceeding; and

(ii) if the applicant has been the subject of any disciplinary proceeding, the details of the proceeding;

(4) the applicant submits to the Commission a statement attesting to the fact that:

(i) to the knowledge of the applicant, the applicant is not the subject of discipline or a current investigation or proceeding alleging misconduct under a licensing law or criminal law of this State or any other jurisdiction;

(ii) the applicant has not been convicted under the laws of the United States or of any state of:

1. a felony;

2. a misdemeanor that is directly related to the fitness and qualifications of the applicant to provide real estate brokerage services; or

3. a crime that constitutes a violation of any provision of this title;

(iii) the applicant has reviewed, is familiar with, and agrees to be bound by the:

1. provisions of this title;

2. regulations of the Commission; and

3. Maryland Code of Ethics; and

(iv) the applicant agrees to permit the disclosure to the Commission of the record in any disciplinary proceeding involving alleged misconduct by the applicant from any jurisdiction in which the applicant is or has been licensed;

(5) the applicant pays the fees required under this title for the comparable or equivalent license for which the applicant is seeking a reciprocal license; and

(6) the applicant submits a consent form to service of process, in a form required by the Commission.

(b) The Commission may deny an application for a reciprocal license if the Commission finds that an applicant is not of good character and conduct based on:

(1) the applicant's violation of a real estate licensing law of another state;

(2) the applicant's conviction of a crime described in subsection (a)(4)(ii) of this section; or

(3) the applicant's being the subject of a disciplinary proceeding in another jurisdiction.

§17–3A–05.

A real estate salesperson or associate real estate broker holding a reciprocal license may not conduct business in the State except in affiliation with a real estate broker holding a standard or reciprocal license.

§17–3A–06.

(a) This subtitle may be implemented by written reciprocal licensing agreements with the real estate licensing authorities of other states.

(b) Subject to § 17-3A-07 of this subtitle, the Commission is not required to enter into an agreement with another state before issuing a reciprocal license to a licensee from that other jurisdiction.

§17–3A–07.

(a) Subject to subsection (b) of this section, if the Commission determines that another state does not offer reciprocal licensure opportunities to a licensee of this State that are substantially comparable to those afforded to licensees of that other state by this subtitle, the Commission shall require that reciprocal license applicants from that other state meet education, experience, and examination requirements substantially comparable to those required by that state with respect to licensees of this State who seek a reciprocal license in that other state.

(b) Any requirements imposed under subsection (a) of this section may not exceed the requirements imposed on residents of this State for obtaining a standard license.

§17–3A–08.

The Commission shall annually publish in the Maryland Register and make available both on request and on the Internet:

(1) (i) a list of states with which the Commission has signed agreements under § 17-3A-06 of this subtitle; and

(ii) a summary of the terms of each agreement listed under item (i) of this paragraph; and

(2) (i) a list of the states that the Commission has identified under § 17-3A-07 of this subtitle as not offering substantially comparable reciprocal licensure opportunities; and

(ii) a description of the additional requirements the Commission determines are necessary for applicants from other states to comply with the requirements of § 17-3A-07 of this subtitle.

§17–3A–09.

(a) A person that holds a reciprocal license shall promptly notify the Commission if the person establishes a principal place of business for the provision of real estate brokerage services in the State.

(b) A person that holds a reciprocal license shall obtain a standard license under the licensing provisions of this title within 90 days after establishing a principal place of business in the State.

§17–3A–10.

(a) Subject to subsection (c) of this section, the holder of a reciprocal license has the same rights and responsibilities as a person who holds a comparable standard license issued under this title.

(b) (1) Subject to paragraph (2) of this subsection, a person that holds a reciprocal license issued by the Commission may renew the reciprocal license in accordance with the renewal procedures for the comparable or equivalent standard license under § 17-314 of this title.

(2) At the time of application for the renewal of a reciprocal license, the applicant shall provide proof that the applicant:

(i) continues to hold a current license in the state in which the applicant's principal place of business is located; and

(ii) is not the subject of a disciplinary action or a current investigation or proceeding alleging misconduct under a real estate licensing law of the state in which the applicant's principal place of business is located.

(c) The holder of a reciprocal license is:

(1) not eligible to be a member of the Commission;

(2) exempt from the requirements of §§ 17-303, 17-304, 17-305, 17-315, 17-503, and 17-517 of this title; and

(3) exempt from having to pass an examination required for a comparable standard license.

§17–401.

This subtitle does not limit the authority of the Commission to take:

(1) any action against a licensee under the disciplinary provisions of Subtitle 3 of this title; or

(2) any other action authorized under this title.

§17–402.

(a) The Commission shall:

(1) establish a Real Estate Guaranty Fund; and

(2) maintain the Guaranty Fund at a level of at least $250,000.

(b) (1) The Commission shall deposit all money collected to the credit of the Guaranty Fund with the State Treasurer for placement into a special account.

(2) (i) The State Treasurer may invest or reinvest money in the Guaranty Fund in the same manner as money in the State Retirement and Pension System.

(ii) The investment earnings shall be:

1. credited to the Guaranty Fund; and

2. available for the same purposes as the money deposited into the Guaranty Fund.

(c) The Commission may adopt regulations for the administration of a Guaranty Fund.

§17–403.

(a) (1) Subject to paragraph (2) of this subsection, before the Commission issues a real estate broker license, an associate real estate broker license, or a real estate salesperson license to any individual, the individual shall pay a fee of $20 to be credited to the Guaranty Fund.

(2) Regardless of how many times an individual applies to the Commission for a license under this title, the Commission may charge the individual only once for the fee required under this subsection.

(b) If the amount in the Guaranty Fund falls below $300,000, and the Commission is projected to have an operating surplus of at least $500,000 in the current fiscal year, the Commission may transfer up to $500,000 to the Guaranty Fund from the State Real Estate Commission Fund established under § 2–106.3 of the Business Regulation Article.

(c) If the amount in the Guaranty Fund falls below $250,000, the Commission shall assess each real estate broker, each associate real estate broker, and each real estate salesperson a fee in an amount that will return the Guaranty Fund to a level of at least $250,000.

§17–404.

(a) (1) Subject to the provisions of this subtitle, a person may recover compensation from the Guaranty Fund for an actual loss.

(2) A claim shall:

(i) be based on an act or omission that occurs in the provision of real estate brokerage services by:

1. a licensed real estate broker;

2. a licensed associate real estate broker;

3. a licensed real estate salesperson; or

4. an unlicensed employee of a licensed real estate broker;

(ii) involve a transaction that relates to real estate that is located in the State; and

(iii) be based on an act or omission:

1. in which money or property is obtained from a person by theft, embezzlement, false pretenses, or forgery; or

2. that constitutes fraud or misrepresentation.

(b) The amount recovered for any claim against the Guaranty Fund may not exceed $50,000 for each claim.

(c) (1) A person may not recover from the Guaranty Fund for any loss that relates to:

(i) the purchase of any interest in a limited partnership that is formed for the purpose of investment in real estate;

(ii) a joint venture that is promoted by a licensed real estate broker, a licensed associate real estate broker, or licensed real estate salesperson for the purpose of investment in real estate by 2 or more individuals; or

(iii) the purchase of commercial paper that is secured by real estate.

(2) A claim under the Guaranty Fund may not be made by:

(i) the spouse of the licensee or the unlicensed employee alleged to be responsible for the act or omission giving rise to the claim; or

(ii) the personal representative of the spouse of the licensee or the unlicensed employee alleged to be responsible for the act or omission giving rise to the claim.

(d) A claim under this subtitle shall be submitted to the Commission within 3 years after the claimant discovers or, by the exercise of ordinary diligence, should have discovered the loss or damage.

§17–405.

A real estate broker shall include in each sales contract that is provided by the real estate broker a written notice to the buyer that the buyer is protected by the Guaranty Fund in an amount not exceeding $50,000.

§17–406.

(a) Each claim against the Guaranty Fund shall be made in accordance with this section.

(b) Each claim shall:

(1) be in writing;

(2) be made under oath;

(3) state the amount of loss claimed;

(4) state the facts on which the claim is based; and

(5) be accompanied by any documentation or other evidence that supports the claim.

§17–407.

(a) The Commission shall act promptly on a claim made under this subtitle.

(b) Upon receipt of a claim, the Commission shall:

(1) forward a copy of the claim:

(i) to each licensee alleged to be responsible for the act or omission giving rise to the claim;

(ii) to each unlicensed employee alleged to be responsible for the act or omission giving rise to the claim; and

(iii) if the licensee alleged to be responsible for the act or omission giving rise to the claim is an associate real estate broker or a real estate salesperson, to each real estate broker with whom the associate real estate broker or the real estate salesperson is affiliated; and

(2) request from each of those individuals a written response within 10 days to the allegations set forth in the claim.

(c) (1) The Commission:

(i) shall review the claim and any response to the claim; and

(ii) may conduct an investigation of the claim.

(2) On the basis of its review and any investigation that the Commission conducts, it shall:

(i) issue a proposed award under subsection (d) of this section;

(ii) set the matter for a hearing; or

(iii) if the claim is frivolous, made in bad faith, or legally insufficient, dismiss the claim.

(d) (1) (i) If a claimant's total claim arising from the conduct of one licensee does not exceed $5,000, the Commission may issue a proposed order to either pay the claim in whole or in part or to deny the claim.

(ii) The Commission shall send the proposed order to the claimant and the licensee by personal delivery or by both regular and certified mail, return receipt requested.

(iii) The proposed order shall be sent to the licensee at the most recent address on record with the Commission.

(2) (i) Within 30 days after the date of personal service of the proposed order or receipt of the proposed order by certified mail, the licensee or the claimant may request in writing a hearing before the Commission or file written exceptions to the proposed order issued under paragraph (1) of this subsection.

(ii) On receipt of a written request for a hearing or written exceptions to the proposed order in accordance with subparagraph (i) of this paragraph, the Commission shall schedule a hearing on the claim.

(iii) If a hearing is not requested or if timely exceptions are not filed to the proposed order, the proposed order shall become a final order of the Commission.

(e) At any claim hearing, the burden of proof shall be on the claimant to establish the validity of the claim.

§17–408.

(a) The Commission shall give the claimant and the licensee or unlicensed employee alleged to be responsible for the act or omission giving rise to the claim an opportunity to participate in the hearing before the Commission.

(b) The Commission shall give notice of the hearing to:

(1) the claimant;

(2) each licensee alleged to be responsible for the act or omission giving rise to the claim; and

(3) each unlicensed employee alleged to be responsible for the act or omission giving rise to the claim.

(c) The Commission may not proceed with the hearing unless the records of the Commission show that all notices required under this subtitle were sent to each licensee and each unlicensed employee alleged to be responsible for the act or omission giving rise to the claim.

§17–409.

(a) If a claim against the Guaranty Fund alleges that the act or omission giving rise to the claim was performed by a licensed real estate broker, a licensed associate real estate broker, or a licensed real estate salesperson, the Commission shall join the proceeding on the claim with any disciplinary proceeding against the licensee under this title arising from the same facts alleged in the claim.

(b) (1) For that part of a hearing on consolidated proceedings that relates to disciplinary action but does not relate to the Guaranty Fund claim against a licensee, the claimant:

(i) may not be a party; and

(ii) may participate only as a witness.

(2) For that part of a hearing on consolidated proceedings that relates to the claim against the Guaranty Fund, the claimant is a party.

§17–410.

(a) The Commission shall order payment of a claim by the Guaranty Fund if, on the hearing, the claimant:

(1) proves that the claimant has a valid claim under this subtitle; and

(2) presents evidence, satisfactory to the Commission, that the claimant is not:

(i) the spouse of the licensee or the unlicensed employee alleged to be responsible for the act or omission giving rise to the claim; or

(ii) the personal representative of the spouse of the licensee or the unlicensed employee alleged to be responsible for the act or omission giving rise to the claim.

(b) (1) The Commission may order payment by the Guaranty Fund only for the actual monetary loss suffered by the claimant as a result of the claim proven by the claimant.

(2) For any claim, the Commission may not order a payment by the Guaranty Fund of more than $50,000.

(c) A payment may not be made by the Guaranty Fund under an order of the Commission until:

(1) the expiration of the time provided under Title 10, Subtitle 2 of the State Government Article for seeking judicial review of the Commission's order; or

(2) the expiration of any judicial stay of the order of the Commission.

(d) The Commission shall order payment of each claim due in the order in which the claim was awarded.

(e) If, at the time a payment is due, the money in the Guaranty Fund is insufficient to satisfy fully the order for payment, the Commission:

(1) immediately shall pay to the claimant the amount that is available in the Guaranty Fund; and

(2) when sufficient funds are available in the Guaranty Fund, shall pay the claimant:

(i) the balance due on the order; plus

(ii) interest calculated on that balance at an annual rate of 10%.

§17–411.

(a) After payment of a claim by the Guaranty Fund, a licensee who the Commission finds responsible for the act or omission that gave rise to the claim shall reimburse the Guaranty Fund in full for:

(1) the amount paid by the Guaranty Fund; and

(2) interest on the amount paid by the Guaranty Fund at an annual rate of at least 10%, as set by the Commission.

(b) Each licensee who the Commission finds responsible for the act or omission that gave rise to a claim is jointly and severally liable for the claim.

(c) If a licensee does not reimburse the Guaranty Fund as provided in subsection (a) of this section, the Commission or the State Central Collection Unit, as assignee of the Commission, may bring an action against the licensee for the amount that has not been reimbursed.

(d) The Commission or the State Central Collection Unit, as assignee of the Commission, shall be entitled to a judgment for the amount that the licensee has not reimbursed the Guaranty Fund if the Commission proves that:

(1) payment was made by the Guaranty Fund based on an act or omission for which the Commission found the licensee was responsible;

(2) a period of at least 30 days has passed since payment was made by the Guaranty Fund; and

(3) the licensee has not reimbursed the Guaranty Fund for the amount for which the judgment is sought.

(e) (1) If a person liable for reimbursing the Guaranty Fund under this section receives a demand for reimbursement and fails to reimburse the Fund, the reimbursement amount and any accrued interest or cost are a lien in favor of the State on any real property of the person if the lien is recorded and indexed as provided in this subsection.

(2) The lien in favor of the State created by this subsection may not attach to specific property until the State Central Collection Unit records written notice of the lien in the office of the clerk of the court for the county in which the property subject to the lien or any part of the property is located.

(3) The lien in favor of the State created by this subsection does not have priority as to any specific property over any person who is a lienholder of record at the time the notice required under paragraph (2) of this subsection is recorded.

(4) The notice required under paragraph (2) of this subsection shall contain the name and address of the person against whose property the lien exists, the amount of the lien, a description of or reference to the property subject to the lien, and the date the Guaranty Fund paid the claim giving rise to the lien.

(5) Upon presentation of a release of any lien in favor of the State created by this subsection, the clerk of the court in which the lien is recorded and

indexed shall record and index the release and shall note in the lien docket the date the release is filed and the fact that the lien is released.

(6) The notice required under paragraph (2) of this subsection and any release filed under paragraph (5) of this subsection shall be indexed with the judgment lien records maintained by the office of the clerk of the court where the notice is recorded.

(7) The clerk may collect a reasonable fee for recording and indexing each notice of lien or release of any lien under this subsection.

(f) For the purpose of excepting to a discharge of a licensee under 11 U.S.C. § 523, the Commission or the State Central Collection Unit, as assignee of the Commission, is a creditor of the licensee for the amount that was paid by the Guaranty Fund but that has not been reimbursed by the licensee.

§17–412.

(a) If the Commission orders payment by the Guaranty Fund of a claim based on an act or omission for which a licensee is responsible, the Commission immediately and without further proceedings shall suspend the license of the licensee.

(b) The Commission may not reinstate a license that is suspended under this section until the individual whose license was suspended:

(1) repays in full:

(i) the amount paid by the Guaranty Fund; and

(ii) the interest due under § 17-411(a)(2) of this subtitle; and

(2) applies to the Commission for reinstatement of the license.

(c) Regardless of whether the disciplinary sanction was imposed for the same act or omission that gave rise to the claim against the Guaranty Fund, the reimbursement of the Guaranty Fund by a licensee does not affect any sanction imposed by the Commission against an individual under the disciplinary provisions of Subtitle 3 of this title.

§17–501.

(a) In this Part I of this subtitle the following words have the meanings indicated.

(b) "Beneficial owner" means a person, other than the owner of the trust money, for whose benefit a real estate broker or, on behalf of a real estate broker, an associate real estate broker or a real estate salesperson is entrusted to hold trust money.

(c) "Trust money" means a deposit, payment, or other money that a person entrusts to a real estate broker or, on behalf of a real estate broker, to an associate real estate broker or a real estate salesperson to hold for:

(1) the benefit of the owner or beneficial owner of the trust money; and

(2) a purpose that relates to a real estate transaction involving real estate in the State.

§17–502.

(a) An associate real estate broker or a real estate salesperson who obtains trust money while providing real estate brokerage services promptly shall submit the trust money to the real estate broker on whose behalf the associate real estate broker or the real estate salesperson provided the real estate brokerage services.

(b) (1) Except as otherwise provided in subsection (c) of this section, a real estate broker promptly, but not more than 7 business days after the acceptance of a contract of sale by both parties, shall deposit trust money in an account that is maintained by the real estate broker:

(i) separately from the real estate broker's own accounts; and

(ii) solely for trust money.

(2) A real estate broker may not use trust money for any purpose other than that for which it is entrusted to the real estate broker.

(c) Subsection (b)(1) of this section does not apply if the real estate broker receives written directions to the contrary as authorized under § 17-505(d) of this subtitle.

§17–503.

Except as authorized under § 17-505 of this subtitle, a real estate broker shall deposit all trust money in a financial institution that is located in the State and whose deposits are insured by:

(1) the Federal Deposit Insurance Corporation;

(2) the Federal Savings and Loan Insurance Corporation;

(3) the National Credit Union Administration;

(4) the State of Maryland Deposit Insurance Fund Corporation; or

(5) the Credit Union Insurance Corporation.

§17–504.

Unless the owner and beneficial owner give written instructions to the contrary, a real estate broker may deposit trust money in:

(1) a noninterest bearing checking account;

(2) a noninterest bearing savings account; or

(3) any combination of these accounts.

§17–505.

(a) A real estate broker shall maintain trust money in an account authorized under this Part I of this subtitle until:

(1) the real estate transaction for which the trust money was entrusted is consummated or terminated;

(2) the real estate broker receives proper written instructions from the owner and beneficial owner directing withdrawal or other disposition of the trust money;

(3) on an interpleader filed by the real estate broker, a court orders a different disposition; or

(4) the owner or beneficial owner of the trust money fails to complete the real estate transaction for which the trust money was entrusted and the real estate broker, in the real estate broker's sole discretion, decides to distribute the trust money in accordance with subsection (b) of this section.

(b) (1) Prior to distributing the trust money under subsection (a)(4) of this section, the real estate broker shall notify both the owner and the beneficial

owner that the real estate broker intends to distribute the trust money to the person who, in the good faith opinion of the real estate broker, is entitled to receive the trust money in accordance with the terms of the real estate contract which established the trust.

(2) The notice required under this subsection shall:

(i) be in writing;

(ii) state whether the trust money will be paid to the owner or beneficial owner; and

(iii) disclose to the owner and the beneficial owner that:

1. either party may prevent distribution of the trust money under subsection (a)(4) of this section by submitting a protest within 30 days from the date the notice was delivered or mailed by the real estate broker; and

2. if neither party submits a protest within 30 days from the date the notice was delivered or mailed by the real estate broker, the trust money will be distributed in accordance with the real estate broker's notice.

(3) The notice required under this subsection shall be:

(i) hand delivered to both the owner and beneficial owner; or

(ii) sent by certified mail, return receipt requested, and regular mail to both the owner and beneficial owner.

(4) (i) An owner or beneficial owner may protest the distribution of the trust money.

(ii) An owner or beneficial owner shall submit the protest to the real estate broker holding the trust money within 30 days from the date the notice required in paragraph (1) of this subsection was delivered or mailed by the real estate broker.

(iii) A protest shall be in writing and either:

1. hand delivered; or

2. sent by certified mail, return receipt requested, and regular mail.

(5) (i) If a written protest is received by the real estate broker, the real estate broker shall distribute the trust money in accordance with subsection (a)(1), (2), or (3) of this section.

(ii) If no written protest is received by the real estate broker holding the trust money, the real estate broker shall distribute the trust money in accordance with the terms of the notice as required in this section.

(c) If a purchaser of residential real estate, as defined in § 10–802 of the Real Property Article, terminates a real estate transaction in accordance with § 10–803 of the Real Property Article, the real estate broker shall distribute the trust money to the purchaser in accordance with this section.

(d) When the duty of the real estate broker to maintain trust money in an account terminates, the real estate broker promptly shall account for all trust money.

(e) A real estate broker may invest trust money:

(1) as the owner and beneficial owner of the trust money instruct in writing; or

(2) as the real estate broker, owner, and beneficial owner of the trust money agree in writing.

(f) A real estate broker may not be liable to an owner or beneficial owner of the trust money for:

(1) a good faith decision to distribute the trust money under subsection (a)(4) of this section; or

(2) a decision not to distribute the trust money under subsection (a)(4) of this section.

(g) An agreement under which a real estate broker is entrusted with the trust money shall contain a statement that the real estate broker may distribute the trust money in accordance with subsection (b) of this section if the owner or beneficial owner of the trust money fails to complete the real estate transaction for which the trust money was entrusted.

§17–507.

(a) Each real estate broker shall maintain all records of trust money in a secured area within the office of the broker.

(b) (1) Each licensee shall keep copies of:

(i) listings; and

(ii) any other document executed or obtained by the licensee in connection with a transaction involving the provision of real estate brokerage services, including any electronic signature contained on a document.

(2) (i) A licensee shall keep the records required by this section for 5 years, starting on the date of the closing of a real estate transaction, or, if the transaction is not closed, 5 years after the date of the listing.

(ii) A licensee providing property management services shall keep the records required by this section for 5 years after the termination of the management agreement.

(c) For any record required to be kept under subsections (a) and (b) of this section, a licensee may keep and store an electronic record of the information if:

(1) the stored record cannot be erased or edited;

(2) the stored record is made or preserved as part of, and in the regular course of, the licensee's business;

(3) the original record from which the stored record was copied was made or prepared by the licensee or the licensee's employees at or near the time of the activity described in the record;

(4) the custodian of the record is able to identify the stored record, the mode of its preparation, and the mode of storage; and

(5) the electronic storage system contains a reliable indexing system that provides:

(i) convenient access to the document or record;

(ii) appropriate quality control of the storage process; and

(iii) chronological arrangement of stored documents or records.

(d) (1) On reasonable notice from the Commission, a licensee shall allow a representative of the Commission to enter the licensee's place of business during business hours to inspect a record required to be kept under subsection (b) of this section.

(2) The licensee shall provide, at the licensee's expense, a paper copy of any document or record requested by the Commission.

(3) A licensee shall display to the Commission on demand all records, books, and accounts of any money held in trust.

§17–508.

In addition to being subject to disciplinary action under §§ 17-322 and 17-328 of this title, a real estate broker, an associate real estate broker, or a real estate salesperson who violates any provision of this Part I of this subtitle is subject to any other civil or criminal action provided by law.

§17–511.

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

(2) "Business" means a person or entity, regardless of legal structure, through which real estate brokerage services are provided.

(3) (i) "Immediate family member" means a spouse, parent, child, or sibling.

(ii) "Immediate family member" includes a stepparent, stepchild, or stepsibling.

(4) "Interest in a business" means, in the case of a business that is in a corporation, the outstanding voting stock of the corporation through which real estate brokerage services are provided.

(b) (1) Not more than 50% of the interest in a business may be held directly or indirectly by associate real estate brokers, real estate salespersons, or any combination of associate brokers or salespersons.

(2) Unless the immediate family member is affiliated with the business as an associate real estate broker or real estate salesperson, an interest of a licensee in a business through which real estate brokerage services are provided shall include any interest in the business held by an immediate family member of the licensee.

(c) Except as to the limitation of interest of the professional service corporation in a business through which real estate brokerage services are provided, this section does not affect the formation of a professional service corporation by

associate real estate brokers and real estate salespersons authorized by § 17–512 of this subtitle.

§17–512.

(a) With the consent of a licensed real estate broker, one or more licensed real estate salespersons and licensed associate real estate brokers who are affiliated with the licensed real estate broker may:

(1) organize and wholly own a professional service corporation under the Maryland Professional Service Corporation Act;

(2) form a limited liability company under the Maryland Limited Liability Company Act; or

(3) form any other business entity authorized under Maryland law.

(b) A professional service corporation may be organized and owned or a limited liability company or other business entity may be formed under this section by any number and any combination of licensed real estate salespersons and licensed associate real estate brokers. However, each shareholder in the corporation, member of the limited liability company, or owner of any other business entity shall be either a licensed real estate salesperson or a licensed associate real estate broker.

(c) A licensed real estate salesperson or a licensed associate real estate broker who is a shareholder of a professional service corporation, a member of a limited liability company, or the owner of any other business entity may direct that any commission due the salesperson or associate broker be paid to the corporation, limited liability company, or other business entity.

§17–513.

An individual licensed by this State may divide a fee that is earned on a real estate transaction in this State with an individual licensed to provide real estate brokerage services in another state if the other state allows a fee that is earned on a real estate transaction in that state to be divided with an individual licensed by this State.

§17–514.

(a) A nonresident applicant for a license shall submit to the Commission an irrevocable consent, as provided under this section.

(b) The consent required under this section shall:

(1) specify that service of process on the executive director of the Commission shall bind the applicant in any action, suit, or proceeding brought against the applicant;

(2) specify that an action, suit, or proceeding may be brought against the applicant in any county in which:

(i) the cause of action arose; or

(ii) the plaintiff resides;

(3) specify that the consent is irrevocable; and

(4) be signed by the applicant.

(c) The Commission may not issue a license to a nonresident applicant, unless the nonresident applicant complies with the requirements of subsections (a) and (b) of this section.

(d) (1) Subject to paragraph (2) of this subsection, service of process on the executive director of the Commission binds any person who has submitted a consent to the Commission, as required under this section.

(2) If service of process is made on the executive director of the Commission as authorized under this section, the person filing immediately shall:

(i) submit a copy of the filing to the Commission; and

(ii) send a copy of the filing, by certified mail, return receipt requested, to the principal office of the person against whom the action, suit, or proceeding is directed.

(3) As to any person who submits a consent as required under this section, any action, suit, or proceeding may be brought in any county of the State in which:

(i) the cause of action arose; or

(ii) the plaintiff resides.

§17–515.

(a) If any of the following acts are performed by a nonresident real estate broker, nonresident associate real estate broker, or nonresident real estate salesperson, the act shall constitute an irrevocable consent, as provided in subsection (b) of this section:

(1) participating in any real estate transaction in the State; or

(2) dividing fees or holding deposits from any real estate transaction in the State.

(b) A consent arising under this section shall have the same effect and be subject to the same procedures for service of process as a consent submitted under § 17-514 of this subtitle.

§17–516.

A person may not bring an action or recover on an action for compensation for providing real estate brokerage services in a court of the State unless the person was authorized to provide real estate brokerage services under this title at the time of offering to provide and providing real estate brokerage services.

§17–517.

(a) Each licensed real estate broker who is a resident of the State shall maintain an office in the State.

(b) Each licensed real estate broker who is a nonresident of the State shall maintain an office in this State if the state in which the nonresident broker resides requires a resident of this State who is licensed in the other state to maintain an office in that state.

§17–518.

(a) Subject to the provisions of this subtitle, a licensed real estate broker may maintain branch offices in the State.

(b) A licensed real estate broker shall obtain a branch office certificate before the broker may maintain a branch office in the State.

(c) (1) An applicant for a branch office certificate shall:

(i) submit to the Commission an application on the form that the Commission provides;

(ii) submit to the Commission written notice of the identity of the individual appointed as manager of the branch office under subsection (d) of this section; and

(iii) pay to the Commission an application fee of $5.

(2) The Commission shall issue a branch office certificate to each licensed real estate broker who meets the requirements of this section.

(d) (1) Subject to paragraph (2) of this subsection, the licensed real estate broker shall designate a manager, which may be the broker, for each branch office of the broker.

(2) If the licensed real estate broker designates another individual as a branch office manager, the manager shall be:

(i) a licensed associate real estate broker;

(ii) a licensed real estate salesperson who has at least 3 years' experience providing real estate brokerage services; or

(iii) a licensed real estate salesperson who:

1. has completed successfully a course in real estate approved by the Commission for real estate brokers; and

2. has passed the real estate broker's examination given by the Commission under § 17–306 of this title.

(3) A licensed real estate salesperson seeking to qualify as a branch office manager under paragraph (2)(iii) of this subsection shall submit to the Commission, before taking the real estate broker's examination, a commitment from the licensed real estate broker proposing to engage the salesperson as a branch office manager.

(4) The manager shall have the responsibility to supervise the provision of real estate brokerage services by the associate brokers and sales agents registered to that office as provided for in § 17–320 of this title.

(e) (1) Unless a branch office certificate is renewed for a 2–year term as provided in this subsection, the certificate expires on the first April 30 that comes:

(i) after the effective date of the certificate; and

(ii) in an even–numbered year.

(2) Before a branch office certificate expires, a licensed real estate broker periodically may renew it for an additional 2–year term, if the broker:

(i) submits to the Commission a renewal application on the form that the Commission provides accompanied by the license renewal application of the manager of the branch office; and

(ii) pays to the Commission a renewal fee of $5.

(3) The Commission shall renew the branch office certificate of each licensed real estate broker who meets the requirements of this section.

§17–519.

(a) In accordance with this section, a real estate broker shall display a sign at each office and branch office that the real estate broker maintains for the provision of real estate brokerage services.

(b) The real estate broker shall display the sign conspicuously on the door or outside of the premises of each office or branch office so that the sign is visible to the public.

(c) The real estate broker shall include on the sign the words "real estate" or, where authorized by the respective trade associations, "realtor" or "realtist".

§17–520.

(a) Within the time set by the Commission, a real estate broker shall submit to the Commission:

(1) written notice of any change in the address of the principal office of the broker on the form that the Commission provides;

(2) the license certificate and pocket card of the broker; and

(3) a fee for issuance of a new license certificate and pocket card of $5.

(b) On receipt of the notice, fee, license certificate, and pocket card, the Commission shall issue a new license certificate and pocket card to the real estate broker for the unexpired period of the broker's license.

(c) Within the time set by the Commission, a real estate broker shall submit to the Commission:

(1) written notice of any change in the address of a branch office of the broker on the form that the Commission provides;

(2) the branch office certificate; and

(3) a fee for the issuance of a new branch office certificate of $5.

(d) On receipt of the notice, fee, and branch office certificate, the Commission shall issue a new branch office certificate to the real estate broker for the unexpired period of the branch office certificate.

(e) If a real estate broker changes the address of the principal office or a branch office of the broker and fails to submit the required notice, the license of the broker shall be suspended automatically until the broker submits the required notice.

(f) If the address of the affiliated brokerage of a licensed associate real estate broker or a licensed real estate salesperson changes, within the time set by the Commission, the licensee shall submit to the Commission:

(1) written or electronic notice of any change in the address of the brokerage;

(2) the license certificate and pocket card of the licensee; and

(3) a fee for the issuance of a new license certificate and pocket card of $5.

§17–521.

(a) If a person tenders a check to the Commission in payment of a fee and the check is dishonored, the person shall pay to the Commission an additional fee for cost of collection of $35 for each dishonored check.

(b) If a person is charged an additional fee under this section by the Commission, the original fee may not be considered paid until both the original fee and the additional fee are paid in full.

§17–522.

(a) After a public hearing, the Commission may declare an urban area a "real estate conservation area" if the Commission finds that the racial stability of the area is threatened by the volume of real estate transactions.

(b) (1) Subject to the provisions of this subsection, the Commission may suspend, by order, any methods of advertising real estate brokerage services or soliciting listings of houses for the purpose of resale or rental in a real estate conservation area if the Commission determines that:

(i) the area would benefit by the suspension;

(ii) the suspension would advance a State interest;

(iii) there is a reasonable basis to believe that panic selling, blockbusting, or depressed real estate market values would occur without the suspension; and

(iv) there is no less restrictive alternative available.

(2) In determining whether to impose a suspension, the Commission shall base its determination on a preponderance of the evidence.

(3) When determining whether to impose a suspension, the Commission shall provide information to the community affected, including:

(i) the racial and economic composition of the real estate conservation area;

(ii) the number of real estate transactions in the area; and

(iii) the fair market values of properties affected.

(4) A suspension under paragraph (1) of this subsection may not:

(i) apply to advertising in regularly distributed newspapers, magazines, radio, television, or telephone directories; or

(ii) exceed 24 months in duration.

(c) (1) Subject to the provisions of this subsection, the Commission may:

(i) modify a suspension;

(ii) remove a suspension; or

(iii) periodically renew a suspension for a period not exceeding 24 months.

(2) In determining whether to modify, remove, or renew a suspension, the Commission shall follow the same requirements for originally imposing a suspension under subsection (b) of this section.

(d) Any person aggrieved by a suspension may take an appeal to the circuit court of any county.

§17–523.

(a) Each real estate contract submitted to a party by a real estate broker, an associate real estate broker, or a real estate salesperson for use in the sale of residential property used as a dwelling place for one or two single-family units shall contain, in the manner provided under subsection (b) of this section, the following statement, as required by § 14-117 of the Real Property Article:

"Section 14-104 of the Real Property Article of the Annotated Code of Maryland provides that, unless otherwise negotiated in the contract or provided by local law, the cost of any recordation tax or any State or local transfer tax shall be shared equally between the buyer and seller."

(b) The statement required under subsection (a) of this section shall be printed in conspicuous type or handwritten in the contract or an addendum to the contract.

(c) A real estate contract is not rendered invalid by the omission of the statement to the buyer required under subsection (a) of this section.

§17–524.

(a) Each real estate contract submitted to a party by a real estate broker, an associate real estate broker, or a real estate salesperson for use in the sale of a single-family dwelling shall contain, in bold-faced type, a statement that the buyer has the right to select the buyer's own:

(1) title insurance company;

(2) settlement company;

(3) escrow company;

(4) mortgage lender, or financial institution as defined in the Financial Institutions Article; or

(5) title lawyer.

(b) The statement required under subsection (a) of this section shall also contain, in bold-faced type, a statement that a seller may not be prohibited from offering owner financing as a condition of settlement.

(c) A real estate contract is not rendered invalid by the omission of the statement to the buyer required under subsections (a) and (b) of this section.

§17–524.1.

(a) (1) In this section, "commercial real estate" means:

(i) real property improved by five or more single–family units;

(ii) improved and unimproved real property zoned for commercial, industrial, or nonresidential use by the local zoning authority of the county or municipality in which the property is located; or

(iii) unimproved real property zoned for improvement as multifamily units by the local zoning authority of the county or municipality in which the property is located.

(2) "Commercial real estate" does not include:

(i) property zoned for agricultural use; and

(ii) single–family units, including a condominium or co–op unit, for sale or for lease, or otherwise conveyed or to be conveyed on a single basis.

(b) Each real estate contract submitted to a party by a real estate broker, a nonresident real estate broker, an associate real estate broker, a real estate salesperson, or a nonresident real estate salesperson for use in the sale of commercial real estate shall contain, in bold–faced type, a statement that the buyer has the right to select the buyer's own:

(1) title insurance company;

(2) settlement company;

(3) escrow company; or

(4) title lawyer.

(c) The statement required under subsection (b) of this section shall also contain, in bold–faced type, a statement that a seller may not be prohibited from offering owner financing as a condition of settlement.

§17–525.

(a) The purpose of this section is to prohibit steering and other discriminatory real estate practices with respect to residential housing in Baltimore City to:

(1) ensure fair and equal real estate housing practices in Baltimore City for all of its residents, regardless of race, color, sex, religion, or national origin;

(2) provide fair and equal real estate housing opportunities in Baltimore City for all of its residents, regardless of race, color, sex, religion, or national origin; and

(3) protect and ensure the peace, health, safety, prosperity, and general welfare of all residents of Baltimore City.

(b) This section applies only in regard to residential property in Baltimore City.

(c) (1) (i) Except as provided in paragraph (2) of this subsection, each real estate broker shall maintain a current and complete registry of all residential properties that the broker lists for sale in Baltimore City.

(ii) The real estate broker shall break down the properties listed in the registry into price categories that are established by the Commission.

(iii) If a prospective buyer requests to see the registry, the real estate broker shall allow the prospective buyer to see the part of the registry for the price category in which the prospective buyer indicates interest.

(2) This subsection does not require a real estate broker who is a member of a multiple listing service to disclose properties that are obtained from multiple listing.

(d) (1) Unless requested to do so by a prospective buyer or renter, a real estate broker, an associate real estate broker, or a real estate salesperson may not

fail or refuse to show any residential property that is available for sale, rent, or sublease to a prospective buyer or renter because of:

(i) the race, color, sex, religion, or national origin of the prospective buyer or renter; or

(ii) the racial composition or character of the neighborhood where the property is located.

(2) A real estate broker, an associate real estate broker, or a real estate salesperson may not fail or refuse to show all available listed residential properties that are in a certain area and within a specified price range to a prospective buyer or renter who has requested to be shown all available properties that are in the area and within the specified price range.

(3) If the representation is made because of the race, color, sex, religion, or national origin of the prospective buyer or renter or because of the racial composition or character of the area where the property is located, a real estate broker, an associate real estate broker, or a real estate salesperson may not represent to a prospective buyer or renter that the available residential properties, prospective sites for a residence, or listings are limited to those already shown when, in fact, there is a residential property, a prospective site for a residence, or a listing that is available and within the price range specified by the prospective buyer or renter.

(e) This section does not prohibit a real estate broker, an associate real estate broker, or a real estate salesperson from charging a reasonable fee for showing a residential property to a prospective buyer or renter.

(f) The Commission shall enforce the provisions of this section and, for this purpose, may receive complaints, conduct investigations, issue subpoenas, administer oaths, and hold hearings.

§17–526.

(a) The purpose of this section is to prohibit certain discriminatory real estate practices with respect to housing in Montgomery County to:

(1) ensure fair and equal real estate housing practices for all of its residents, regardless of race, color, religion, sex, marital status, national origin, or, as defined in § 20–701 of the State Government Article, disability;

(2) provide fair and equal real estate housing opportunities for all of its residents, regardless of race, color, religion, sex, marital status, national origin, or, as defined in § 20–701 of the State Government Article, disability;

(3) ensure fair and equal real estate housing practices and provide fair and equal real estate housing opportunities for those individuals who are at least 62 years of age; and

(4) protect and ensure the peace, health, safety, prosperity, and general welfare of all residents of Montgomery County.

(b) This section applies only in regard to residential property in Montgomery County.

(c) (1) Each real estate broker shall maintain a current and complete registry of all residential properties that:

(i) the broker personally lists for sale or rent in Montgomery County; and

(ii) if the broker is a member of a multiple listing service, are listed with the multiple listing service in Montgomery County.

(2) The real estate broker shall break down the properties listed in the registry into price categories that are established by the Commission or the multiple listing service.

(3) If a prospective buyer or renter requests to see the registry, the real estate broker shall allow the prospective buyer or renter to see the part of the registry for the price category in which the prospective buyer or renter indicates interest.

(4) The Commission shall:

(i) prepare a notice that sets forth the exact language of paragraphs (1) through (3) of this subsection; and

(ii) distribute a copy of the notice to each real estate office that is located in Montgomery County.

(5) Each real estate broker shall post the notice in a conspicuous place in each real estate office of the broker that is located in Montgomery County.

(d) (1) A real estate broker, an associate real estate broker, or a real estate salesperson may not refuse to show any residential property or prospective site for a residence that is available for sale, rent, or sublease to a prospective buyer or renter because of:

(i) the race, color, religion, sex, marital status, national origin, or, as defined in § 20–701 of the State Government Article, disability of the prospective buyer or renter; or

(ii) the composition or character of the neighborhood where the property is located.

(2) If the representation is made because of the race, color, religion, sex, marital status, national origin, or, as defined in § 20–701 of the State Government Article, disability of the prospective buyer or renter or because of the composition or character of the neighborhood where the property is located, a real estate broker, an associate real estate broker, or a real estate salesperson may not represent to a prospective buyer or renter that the available residential properties, prospective sites for a residence, or listings in a specified price range are limited to those already shown when, in fact, there is an additional residential property, a prospective site for a residence, or a listing in a specified price range that is available and within the price range specified by the prospective buyer or renter.

(e) The Commission shall enforce the provisions of this section and, for this purpose, may receive complaints, conduct investigations, issue subpoenas, and hold hearings.

§17–527.

In Baltimore City and Baltimore County, a real estate broker, associate real estate broker, or real estate salesperson may not mass solicit listings by using the name or address of a present or previous client without the written consent of both parties to the contract.

§17–527.1.

(a) This section applies to a real estate broker who purchases errors and omissions insurance that provides coverage to the associate real estate brokers and the real estate salespersons who are affiliated with or employed by the real estate broker.

(b) A real estate broker shall provide immediate notice of a discontinuance of the broker's errors and omissions insurance to those associate real estate brokers and real estate salespersons who were covered under the broker's policy.

§17–527.2.

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

(2) "Advertise" means the use of any oral, written, or visual advertisement by a licensed real estate salesperson, licensed real estate broker, licensed associate real estate broker, or other person on behalf of a licensed real estate salesperson, licensed real estate broker, or licensed associate real estate broker.

(3) (i) "Advertisement" means, unless the context requires otherwise, any oral, written, or printed media advertisement.

(ii) "Advertisement" includes any correspondence, mailing, newsletter, brochure, business card, for sale or for lease sign and sign rider, promotional item, automobile signage, telephone directory listing, television announcement, radio announcement, telephone solicitation, and World Wide Web and Internet voice-overs.

(4) (i) "Designated name" means the individual name of a licensed real estate salesperson, licensed real estate broker, or licensed associate real estate broker other than the licensed real estate salesperson's, licensed real estate broker's, or licensed associate real estate broker's full legal name.

(ii) "Designated name" includes a first name, nickname, or last name.

(b) A licensed real estate salesperson, licensed real estate broker, or licensed associate real estate broker may not advertise unless:

(1) the name or designated name of the licensed real estate salesperson, licensed real estate broker, or licensed associate real estate broker, as the name or designated name appears on the license certificate and pocket card issued by the Commission, is meaningfully and conspicuously included in the advertisement; and

(2) the name of the business with which the licensed real estate salesperson, licensed real estate broker, or licensed associate real estate broker is affiliated:

(i) is meaningfully and conspicuously included in the advertisement; and

(ii) is the full name of the business and not a logo used by the business.

§17–527.3.

(a) A licensed real estate salesperson, licensed real estate broker, or licensed associate real estate broker may provide real estate brokerage services under a designated name that has been approved by the Commission.

(b) Subject to the approval of the Commission, a licensed real estate salesperson, licensed real estate broker, or licensed associate real estate broker may add a designated name on a license certificate and pocket card if the licensee submits to the Commission:

(1) an application on the form that the Commission provides;

(2) the license certificate and pocket card of the licensee;

(3) any documentation about the designated name that the Commission requires; and

(4) a fee of $5.

(c) The full legal name of the licensee and the approved designated name shall be displayed on the new license certificate and pocket card.

§17–527.4.

(a) (1) In this section, "service provider" includes a mortgage lender, a mortgage broker, a real estate appraiser, a home inspector, a plumber, an electrician, and a heating, ventilation, air–conditioning, and refrigeration contractor.

(2) "Service provider" does not include a home improvement contractor.

(b) Notwithstanding any other provision of law and except as otherwise provided in subsection (c) of this section, if a licensee offers the name of a service provider to a client in the provision of real estate brokerage services, the licensee need not verify that the service provider is currently licensed by the State to perform the services.

(c) If a licensee offers the name of a home improvement contractor to a client, the licensee shall:

(1) annually verify that the home improvement contractor is licensed by the Home Improvement Commission under Title 8 of the Business Regulation Article to act as a home improvement contractor before offering the name to the client; and

(2) inform the client of the website on which the licensing information may be found, and the date on which the licensee verified the information.

§17–528.

(a) In this Part III of this subtitle the following words have the meanings indicated.

(b) "Broker" means a licensed real estate broker, including a corporation, limited liability company, partnership, or sole proprietorship through which a licensed real estate broker provides real estate brokerage services under § 17–321 of this title.

(c) "Brokerage agreement" means a written agreement between a broker and a client to provide real estate brokerage services under a brokerage relationship.

(d) "Brokerage relationship" means a relationship under a brokerage agreement between a client and a broker who has been authorized by the client to provide real estate brokerage services in a residential real estate transaction.

(e) "Buyer's agent" means a licensed real estate broker, licensed associate real estate broker, or licensed real estate salesperson who, in accordance with a written brokerage agreement, represents a prospective buyer or lessee in the acquisition of real estate for sale or for lease.

(f) "Client" means a person who has entered into a brokerage agreement with a broker under a brokerage relationship.

(g) (1) "Common source information company" means any person that is a source, compiler, or supplier of information regarding residential real estate for sale or lease or other data.

(2) "Common source information company" includes a multiple listing service.

(h) "Confidential information" includes information that:

(1) the seller or lessor will accept a price or rent less than the price or rent as set forth in the brokerage agreement or will accept terms other than those contained in the brokerage agreement;

(2) the buyer or lessee is willing to pay a price or rent higher than the price or rent the buyer or lessee offered or will accept terms other than those contained in the offer of the buyer or lessee;

(3) discloses the motivation of a buyer, lessee, seller, or lessor or the need or urgency of a seller to sell, a buyer to buy, a lessee to lease, or a lessor to lease;

(4) discloses any facts that led the seller to sell, the buyer to buy, the lessee to lease, or the lessor to lease; or

(5) relates to the negotiating strategy of a client.

(i) "Dual agency" means each relationship in which a licensed real estate broker or branch office manager acts as a dual agent.

(j) "Dual agent" means a licensed real estate broker who acts as, or a branch office manager described in § 17–518(d) of this subtitle who has been designated by the licensed real estate broker to act as, an agent for both the seller and the buyer or the lessor and the lessee in the same real estate transaction.

(k) "Intra–company agent" means a licensed associate real estate broker or licensed real estate salesperson who has been designated by a dual agent to act on behalf of a seller or lessor or buyer or lessee in the purchase, sale, or lease of real estate.

(l) "Ministerial act" means an act that:

(1) a licensee performs on behalf of a client before and after the execution of a contract of sale or lease;

(2) assists another person to complete or fulfill a contract of sale or lease with the client of the licensee; and

(3) does not involve discretion or the exercise of the licensee's own judgment.

(m) "Seller's agent" means a licensed real estate broker who, in accordance with a written brokerage agreement, acts as the listing broker for real estate, or a licensed associate real estate broker or licensed real estate salesperson who is affiliated with the listing broker.

(n) "Subagent" means a licensed real estate broker, licensed associate real estate broker, or licensed real estate salesperson who:

(1) is not affiliated with or acting as the listing real estate broker for a property;

(2) is not a buyer's agent;

(3) has a brokerage relationship with the seller or lessor; and

(4) assists a prospective buyer or lessee in the acquisition of real estate for sale or for lease in a nonagency capacity.

(o) "Timely" means a reasonable time under the particular facts and circumstances.

§17–529.

(a) This Part III of this subtitle applies only to:

(1) the sale or lease of real property improved by one, two, three, or four single-family units; and

(2) unimproved real property zoned for residential use by the local zoning authority of the county or municipality in which the real property is located.

(b) This Part III of this subtitle does not apply to a lease of 125 days or less.

§17–530.

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, a licensee who participates in a residential real estate transaction as a seller's agent, buyer's agent, or a subagent shall disclose in writing that the licensee represents the seller or lessor or the buyer or lessee as provided in this section.

(2) The disclosure required under this section does not apply to a seller, lessor, buyer, or lessee with whom a broker has entered into a written brokerage agreement.

(3) In addition to the written disclosure required under subsection (b) of this section:

(i) if the first contact between a seller's agent and a prospective buyer or lessee is not a face–to–face contact, the seller's agent shall disclose, through the medium in which the contact occurs, that the seller's agent represents the seller or lessor; and

(ii) if the first contact between a buyer's agent and a prospective seller or lessor is not a face–to–face contact, the buyer's agent shall disclose, through the medium in which the contact occurs, that the buyer's agent represents the buyer or lessee.

(b) (1) Except as provided in paragraph (2) of this subsection, the disclosure shall occur not later than the first scheduled face–to–face contact with the seller or lessor or the buyer or lessee.

(2) (i) If a licensee is holding a property open to the public, the licensee complies with the disclosure requirements of this section if the licensee displays, in a conspicuous manner, a notice to prospective buyers or lessees that the licensee present on the property represents the seller or lessor.

(ii) The Commission shall prepare and provide the notice required under this paragraph.

(c) In any residential real estate transaction involving a subagent, the subagent shall disclose in writing to the buyer or lessee as required under this section that the subagent represents the seller or lessor.

(d) In any residential real estate transaction that does not involve a subagent or buyer's agent, the seller's agent shall make the written disclosure to the buyer or lessee required under this section that the seller's agent represents the seller or lessor.

(e) In any residential real estate transaction that does not involve a seller's agent, the buyer's agent shall make the written disclosure to the seller or lessor required under this section that the buyer's agent represents the buyer or lessee.

(f) The written disclosure shall explain:

(1) the differences between a seller's agent, buyer's agent, subagent, dual agent, and intra–company agent;

(2) the duties of a licensee to exercise reasonable care and diligence and maintain confidentiality;

(3) that regardless of whom a licensee represents in a real estate transaction, the licensee has a duty to treat each party fairly and honestly, promptly present each written offer and counteroffer, respond truthfully to each question, disclose all material facts that are known or should be known relating to a property, and offer each property without discrimination;

(4) that a licensee is qualified to advise only on real estate matters and that legal or tax advice should be obtained from a licensed attorney or accountant;

(5) the need for an agreement with a seller's agent, buyer's agent, or dual agent to be in writing and to include the duties and obligations of the agent, how and by whom the agent will be compensated, and any fee–sharing arrangements with other agents;

(6) the duty of a buyer's agent to assist in the:

(i) evaluation of a property, including the provision of a market analysis of the property; and

(ii) preparation of an offer on a property and to negotiate in the best interests of the buyer;

(7) the possibility that a dual agency may arise in a real estate transaction and the options that would become available to the buyer and seller or lessee and lessor; and

(8) that any complaints concerning a licensee may be filed with the Commission.

§17–530.1.

(a) Except as otherwise provided in subsection (b) of this section, a licensed real estate broker, licensed associate real estate broker, or licensed real estate salesperson may not act as a dual agent in this State.

(b) (1) (i) If a licensed real estate broker obtains the written informed consent of all parties to a real estate transaction, the real estate broker, or a branch office manager described in § 17–518(d) of this subtitle who has been designated by the licensed real estate broker, may act as a dual agent for both the seller and the buyer or the lessor and the lessee in the same real estate transaction.

(ii) The dual agent in a real estate transaction shall assign a licensed associate real estate broker or licensed real estate salesperson affiliated with the real estate broker to act as the intra–company agent on behalf of the seller or lessor and another licensed associate real estate broker or licensed real estate salesperson affiliated with the real estate broker to act as the intra–company agent on behalf of the buyer or lessee.

(iii) 1. Except as otherwise required by this title and except to the dual agent, an intra–company agent may not disclose confidential information.

2. Except as otherwise required by this title, the dual agent may not disclose confidential information to the buyer or seller or the buyer's or seller's intra–company agent in the same real estate transaction.

(iv) If a real estate broker offers any financial bonuses to licensees affiliated with the broker for the sale or lease of real property listed with the real estate broker, the real estate broker shall provide to each party to a real estate transaction a statement that discloses that financial bonuses are offered.

(v) An intra–company agent representing the seller or buyer shall provide the same services to the client as an agent for the seller or buyer would provide in a real estate transaction that does not involve dual agency, including advising the client as to price and negotiation strategy, provided that the intra–company agent has made the appropriate disclosures to the client and the client has consented, as required by this section, to dual agency representation.

(vi) The provisions of the services specified in this subsection may not be construed to be a breach of duty of the licensee, provided that the licensee has complied with the duties specified in § 17–522 of this subtitle.

(vii) 1. A dual agent may not also act as an intra–company agent in the same real estate transaction.

2. An intra–company agent may not also act as a dual agent in the same real estate transaction.

(2) The written consent for dual agency shall include an affirmation that identifies the property and the buyer when the real estate broker or branch office manager is serving as a dual agent and the buyer and seller or lessee and lessor enter into a written contract for sale or for a lease, respectively.

(c) The written consent for dual agency shall include a statement that:

(1) the real estate broker receives compensation on the sale of a property listed only by the broker;

(2) as a dual agent the real estate broker represents both the seller and the buyer and there may be a conflict of interest because the interests of the seller and the buyer may be different or adverse;

(3) as a dual agent the real estate broker does not owe undivided loyalty to either the seller or the buyer;

(4) except as otherwise required by this title, a dual agent may not disclose confidential information to the buyer or seller in the same real estate transaction;

(5) unless authorized by the seller, neither an intra–company agent nor a dual agent may tell a buyer that the seller will accept a price lower than the listing price or accept terms other than those contained in the listing agreement or suggest that the seller accept a lower price in the presence of the buyer;

(6) unless authorized by the buyer, neither an intra–company agent nor a dual agent may tell a seller that the buyer is willing to pay a price higher than the price the buyer offered or accept terms other than those contained in the offer of the buyer or suggest that the buyer pay a higher price in the presence of the seller;

(7) a dual agent may not disclose the motivation of a buyer or seller or the need or urgency of a seller to sell or a buyer to buy;

(8) except as otherwise required by this title, if the information is confidential, a dual agent may not disclose any facts that lead the seller to sell;

(9) the buyer or seller does not have to consent to the dual agency;

(10) the buyer or seller has voluntarily consented to the dual agency; and

(11) the terms of the dual agency are understood by the buyer or seller.

(d) (1) A cause of action may not arise against a licensee for disclosure of the dual agency relationship as provided by this section.

(2) A dual agent does not terminate any brokerage relationship by making any required disclosure of dual agency.

(e) (1) In any residential real estate transaction, a licensed real estate broker may withdraw from representing a client who refuses to consent to a disclosed dual agency and to terminate the brokerage relationship with the client.

(2) The withdrawal may not prejudice the ability of the licensed real estate broker to continue to represent the other client in the transaction, nor to limit the licensed real estate broker from representing the client who refused the dual agency in other transactions not involving dual agency.

§17–530.2.

(a) (1) A licensed real estate broker, licensed associate real estate broker, or licensed real estate salesperson who participates in a residential real estate transaction shall utilize a standard disclosure form in each real estate transaction that includes the information specified in § 17–530(f) of this subtitle.

(2) A licensed real estate broker or branch office manager who acts as a dual agent and a licensed real estate associate broker or licensed real estate salesperson who acts as an intra–company agent in a real estate transaction shall utilize a standard consent form that includes the information specified in § 17–530.1(c) of this subtitle.

(b) (1) The Commission shall prepare and provide:

(i) the standard disclosure form required under subsection (a)(1) of this section to each licensee in this State; and

(ii) the standard consent form for dual agency required under subsection (a)(2) of this section to each licensee in this State.

(2) The standard disclosure form and the standard consent form for dual agency shall be:

(i) written in a clear and coherent manner using words with common and everyday meanings;

(ii) appropriately divided and captioned by their various sections; and

(iii) printed in at least 10 point type.

§17–531.

This Part III of this subtitle does not prohibit a licensee and a client from entering a brokerage agreement that imposes on a licensee duties and obligations in addition to the duties and obligations specified in § 17-532 of this subtitle.

§17–532.

(a) A licensee shall comply with the provisions of this section when providing real estate brokerage services.

(b) (1) A licensee shall:

(i) act in accordance with the terms of the brokerage agreement;

(ii) promote the interests of the client by:

1. seeking a sale or lease of real estate at a price or rent specified in the brokerage agreement or at a price or rent acceptable to the client;

2. seeking a sale or lease of real estate on terms specified in the brokerage agreement or on terms acceptable to the client; and

3. unless otherwise specified in the brokerage agreement, presenting in a timely manner all written offers or counteroffers to and from the client, even if the real estate is subject to an existing contract of sale or lease;

(iii) disclose to the client all material facts as required under § 17–322 of this title;

(iv) treat all parties to the transaction honestly and fairly and answer all questions truthfully;

(v) in a timely manner account for all trust money received;

(vi) exercise reasonable care and diligence; and

(vii) comply with all:

1. requirements of this title;

2. applicable federal, State, and local fair housing laws and regulations; and

3. other applicable laws and regulations.

(2) Unless the client consents in writing to the disclosure, a licensee may not disclose confidential information received from or about a client to any other party or licensee acting as the agent of that party or other representative of that party.

(3) Unless the client to whom the confidential information relates consents in writing to a disclosure of that confidential information, a licensee who receives confidential information from or about the licensee's own past or present

client or a past or present client of the licensee's broker may not disclose that information to:

(i) any of the licensee's other clients;

(ii) any of the clients of the licensee's broker;

(iii) any other party;

(iv) any licensee acting as an agent for another party; or

(v) any representative of another party.

(4) Unless otherwise specified in the brokerage agreement, a licensee is not required to seek additional offers to purchase or lease real estate while the real estate is subject to an existing contract of sale or lease.

(5) An intra–company agent may disclose confidential information to the broker or dual agent for whom the intra–company agent works but the broker or dual agent may not disclose that confidential information to the other party or the intra–company agent for the other party, as provided in § 17–530.1(b) of this subtitle.

(c) A licensee does not breach any duty or obligation to the client by:

(1) showing other available properties to prospective buyers or lessees;

(2) representing other clients who have or are looking for similar properties for sale or lease;

(3) representing other sellers or lessors who have similar properties to that sought by the buyer or lessee;

(4) showing the buyer or lessee other available properties; and

(5) during an open house, discussing other properties with prospective buyers or lessees, if the licensee has the written consent of the seller or lessor to do so.

(d) A licensee may not disclose confidential information obtained from a prospective client in anticipation of forming a brokerage relationship, unless the prospective client consents in writing to the disclosure.

(e) This title does not limit the applicability of § 10–702 of the Real Property Article.

(f) The requirements of this section are in addition to any other duties required of the agent by law that are not inconsistent with these duties.

(g) The duties specified in this section may not be waived or modified.

(h) A licensee who performs ministerial acts for a person may not be construed to:

(1) violate the licensee's duties to the client, provided that the client has consented in the brokerage agreement to the licensee's provision of ministerial acts; or

(2) form a brokerage relationship between the licensee and the person for whom the ministerial acts are performed.

§17–534.

(a) A brokerage relationship commences at the time that a client enters into a brokerage agreement and shall continue until:

(1) the completion of performance in accordance with the brokerage agreement; or

(2) the earlier of:

(i) any date of expiration as agreed on by the parties in the brokerage agreement or in any amendments to the brokerage agreement;

(ii) any mutually agreed on termination of the brokerage relationship;

(iii) a default by any party under the terms of the brokerage agreement; or

(iv) a termination under § 17–530 of this subtitle.

(b) The brokerage agreement between a broker and a seller or lessor shall:

(1) have a definite termination date that is effective automatically without notice from the client;

(2) state the amount of compensation to be paid to the broker;

(3) state whether the broker is authorized to cooperate with other brokers and share compensation with the other brokers and the amount of the compensation described as a percentage of the purchase price, a specific dollar amount, or a combination of both;

(4) explain the events or conditions that will entitle the broker to a commission or other compensation; and

(5) contain a provision for the cancellation of the brokerage relationship by either the client or the broker or by mutual agreement of the client and the broker.

(c) The brokerage agreement between a broker and a buyer or lessee shall:

(1) have a definite termination date that is effective automatically without notice from the client;

(2) state the amount of compensation to be paid to the broker, described as a percentage of the purchase price, a specific dollar amount, or a combination of both;

(3) state whether the broker is authorized to receive some or all of the compensation to be paid to the broker from a person other than the client;

(4) state the client's rights and obligations regarding the compensation to be paid to the broker if the broker is authorized to receive some or all of the compensation to be paid to the broker from a person other than the client;

(5) explain the events that must occur or conditions that must be met in order for the broker to be entitled to a commission or other compensation; and

(6) contain a provision for the cancellation of the brokerage relationship by either the client or the broker or by mutual agreement of the client and the broker.

(d) Except as otherwise provided in the brokerage agreement, a licensee shall have no further duties or obligations to a client after the termination, expiration, or completion of performance of the brokerage relationship, except to:

(1) account for all trust money in the licensee's possession in accordance with this title; and

(2) except as otherwise provided by this title or another law, keep confidential all personal and financial information received from the client during the course of the brokerage relationship and any other information that the client requests during the brokerage relationship to be kept confidential, unless:

(i) the client consents in writing to the disclosure of the information; or

(ii) the information becomes public from a source other than the licensee.

(e) The payment or promise of payment of compensation to a licensed real estate broker by a seller, lessor, buyer, or lessee, or by a licensee acting for a seller, lessor, buyer, or lessee:

(1) is not determinative of whether a brokerage relationship has been created or exists; and

(2) does not create or determine the existence of a brokerage relationship between a broker and a seller, lessor, buyer, lessee, or licensee.

§17–535.

(a) A licensee may not be deemed to be an agent or subagent of or to have a brokerage relationship with a common source information company solely by reason of a licensee's participation in a common source information company.

(b) A licensee may not be deemed to be an agent or subagent of any client of another broker solely by reason of a licensee's participation in or use of a common source information company.

(c) A common source information company may not restrict access to its services to any licensee solely based on the size or type of licensee.

§17–536.

(a) In this Part IV of this subtitle the following words have the meanings indicated.

(b) (1) "Commercial real estate" means:

(i) real property improved by five or more single–family units;

(ii) improved and unimproved real property zoned for commercial, industrial, or nonresidential use by the local zoning authority of the county or municipality in which the property is located; or

(iii) unimproved real property zoned for improvement as multifamily units by the local zoning authority of the county or municipality in which the property is located.

(2) "Commercial real estate" does not include:

(i) property zoned for agricultural use; and

(ii) single–family units, including a condominium or co–op unit, for sale or for lease, or otherwise conveyed or to be conveyed on a single basis.

(c) "Nonresident real estate broker" means an individual, partnership, joint venture, limited liability company, limited liability partnership, or corporation that is not licensed under Subtitle 3 of this title but is licensed to provide real estate brokerage services in a jurisdiction other than this State.

(d) "Nonresident real estate salesperson" means an individual who is not licensed under Subtitle 3 of this title but is licensed to provide real estate brokerage services and is affiliated with a nonresident real estate broker.

§17–537.

(a) A nonresident real estate broker may engage in a transaction under this title with respect to commercial real estate located in this State and receive compensation provided the nonresident real estate broker:

(1) provides real estate brokerage services through a real estate broker licensed under this title;

(2) enters into a written agreement with a licensed real estate broker in this State which:

(i) specifies the terms of cooperation and compensation and includes a statement by the nonresident real estate broker that the nonresident real estate broker and the nonresident real estate salespersons licensed and affiliated with the nonresident real estate broker will both adhere to the laws of this State and this title; and

(ii) allocates the responsibility for the actions of the nonresident real estate broker in the transaction; and

(3) complies with the requirements of subsection (b) of this section.

(b) Before a nonresident real estate broker may provide real estate brokerage services in this State, the nonresident real estate broker shall make written application to the Commission including:

(1) the name, address, and telephone number of the nonresident real estate broker;

(2) the name, address, and telephone number of the business entity through which the nonresident real estate broker provides real estate brokerage services;

(3) the name, address, and telephone number of each nonresident real estate salesperson who will offer or provide real estate brokerage services in this State on behalf of the nonresident real estate broker;

(4) a copy of the agreement required by subsection (a) of this section;

(5) written evidence that the nonresident real estate broker and each nonresident real estate salesperson listed under paragraph (3) of this subsection, are duly licensed in another jurisdiction, and that the license is valid, current, and active;

(6) written consent signed by the nonresident real estate broker, individually and on behalf of the business entity, and by each nonresident real estate salesperson listed under paragraph (3) of this subsection, that service of process on the Executive Director of the Commission shall bind the applicant in any action, suit, or proceeding brought against the broker or salesperson;

(7) written consent signed by the nonresident real estate broker and by each nonresident salesperson listed under paragraph (3) of this subsection, to submit to the jurisdiction of the Commission for the purposes of disciplinary action under § 17-322 of this title;

(8) any other information that is requested by the Commission; and

(9) a temporary license fee of $45.

(c) The Commission shall issue a temporary license to a nonresident real estate broker who complies with the requirements of this section if the jurisdiction in which the real estate broker holds a current license:

(1) allows a Maryland broker to obtain a temporary license under similar circumstances; or

(2) waives the examination and qualification requirements for licensure for individuals licensed in Maryland.

§17–538.

(a) Upon approval by the Commission, a nonresident real estate broker may engage in a transaction in this State with respect to commercial real estate.

(b) A nonresident real estate salesperson licensed in another jurisdiction and affiliated with a nonresident real estate broker may engage in a transaction in this State with respect to commercial real estate if:

(1) the nonresident real estate salesperson is licensed with and provides real estate brokerage services under the direct supervision of the nonresident real estate broker;

(2) the nonresident real estate broker satisfies the requirements of § 17-537 of this subtitle; and

(3) the nonresident real estate salesperson provides real estate brokerage services in the name of the nonresident real estate broker.

§17–539.

All trust money paid on account of a transaction involving commercial real estate in this State shall be received and deposited in the trust account of the Maryland broker in accordance with Part I of this subtitle.

§17–540.

By filing the written consent required under § 17-537(b)(6) of this subtitle, the nonresident real estate broker or nonresident real estate salesperson appoints the Executive Director of the Commission as agent to receive a subpoena, summons, or other process.

§17–543.

In this Part V of this subtitle, "team" means two or more licensed associate real estate brokers or licensed real estate salespersons, or any combination of licensed associate real estate brokers or licensed real estate salespersons, who:

(1) work together on a regular basis to provide real estate brokerage services;

(2) represent themselves to the public as being part of one entity; and

(3) designate themselves by a collective name such as team or group, or by using the words "and associates".

§17–544.

(a) Each team shall designate a team leader who shall be:

(1) a licensed associate real estate broker; or

(2) a licensed real estate salesperson who has at least 3 years of experience in providing real estate brokerage services.

(b) The team leader shall:

(1) maintain a current list of all members and employees of the team; and

(2) provide the list and any revisions of the list to the broker or the branch office manager of the brokerage with which the licensees are affiliated.

(c) The real estate broker or branch office manager of a real estate broker shall:

(1) maintain copies of the lists; and

(2) make the copies available to the Commission on request.

§17–545.

(a) The team leader shall exercise reasonable and adequate supervision over the provision of real estate brokerage services by members of the team.

(b) The responsibility of the team leader to supervise the associate real estate brokers and real estate salespersons on the team shall be in addition to the supervision responsibilities of the real estate broker and branch office manager of the real estate broker provided for in § 17–320 of this title.

(c) The team leader and the members of the team shall adhere to all office rules, practices, and procedures established by the real estate broker and the branch office manager of the real estate broker.

§17–546.

(a) A real estate broker or a designee of the real estate broker may designate two members of a team as intracompany agents for the seller and the buyer in the same transaction if the parties have first been advised in writing that the licensees are part of the same team and the team could have a financial interest in the outcome of the transaction.

(b) If a broker's designee designates intracompany agents under subsection (a) of this section, the broker's designee may not be a member of the real estate team.

§17–547.

(a) The name of the team may not contain the terms "real estate", "real estate brokerage", or any other term that would lead the public to believe that the team is offering real estate brokerage services independent of the real estate broker.

(b) All advertising by the team must contain:

(1) the name of the brokerage displayed in a meaningful and conspicuous way;

(2) the name of at least one of the licensee members of the team; and

(3) the telephone number of the real estate broker or branch office manager of the real estate broker.

(c) The team name in the advertisement must be directly connected to the name of the brokerage.

§17–548.

Team members must conduct all real estate brokerage activities from the office or branch office where their licenses are displayed as provided in § 17–317 of this title.

§17–601.

(a) Except as otherwise provided in this title, a person may not provide, attempt to provide, or offer to provide real estate brokerage services unless licensed by the Commission as a real estate broker.

(b) Except as otherwise provided in this title, a person may not, on behalf of a real estate broker, provide, attempt to provide, or offer to provide real estate brokerage services unless licensed by the Commission as an associate real estate broker or a real estate salesperson to provide real estate brokerage services for that real estate broker.

§17–602.

(a) Unless authorized under this title to provide real estate brokerage services, a person may not represent to the public, by use of the title "licensed real estate broker", by other title, by description of services, methods, or procedures, or otherwise, that the person is authorized to provide real estate brokerage services in the State.

(b) Unless authorized under this title to provide real estate brokerage services on behalf of a real estate broker, a person may not represent to the public, by use of the titles "licensed associate real estate broker" or "licensed real estate salesperson", by other title, by description of services, methods, or procedures, or otherwise, that the person is authorized to provide real estate brokerage services in the State on behalf of that real estate broker.

§17–603.

(a) A real estate broker may not allow an associate real estate broker, a real estate salesperson, or any other unauthorized individual to provide real estate brokerage services independently as a real estate broker.

(b) A real estate broker may not retain an unlicensed individual to provide real estate brokerage services on behalf of the real estate broker.

(c) A licensed real estate broker may not lend the license certificate or pocket card of the broker to another individual.

§17–604.

(a) Except as provided in subsection (b) of this section, a real estate broker, an associate real estate broker, or a real estate salesperson may not pay compensation, in any form, for the provision of real estate brokerage services to any person who is not licensed under this title.

(b) Subsection (a) of this section does not prohibit the payment of compensation to:

(1) an individual:

(i) who is licensed in another state; and

(ii) who meets the requirements of § 17–513 of this title;

(2) a professional service corporation formed under § 17–512 of this title;

(3) a limited liability company formed under § 17–512 of this title;

(4) a business entity formed under § 17–512 of this title; or

(5) a title insurance producer licensed under Title 10 of the Insurance Article acting in accordance with subsection (c) of this section.

(c) During the settlement of property, a licensed title insurance producer may, on behalf of a real estate broker and in accordance with a written disbursement authorization provided by the real estate broker, pay compensation to:

(1) an associate real estate broker;

(2) a real estate salesperson; or

(3) a business entity formed under § 17–512 of this title.

§17–605.

(a) (1) Except as otherwise provided in subsection (b) of this section, a real estate broker, an associate real estate broker, or a real estate salesperson may not pay or offer to pay a commission to a lawyer simply for the referral of a person as a possible party to a residential real estate transaction.

(2) A real estate broker, an associate real estate broker, or a real estate salesperson may not solicit referral business from lawyers by a mass solicitation that offers to pay fees or commissions to the lawyers.

(b) Subsection (a)(1) of this section does not apply to payments or offers of payments to lawyers who hold a real estate broker license under this title or are otherwise entitled to a commission.

(c) Other than the commissions expressly prohibited, subsection (a) of this section does not prohibit the payment or the offer of a payment of a commission by a real estate broker, an associate real estate broker, or a real estate salesperson to a lawyer for any service that relates to a real estate transaction.

§17–606.

A real estate broker, an associate real estate broker, or a real estate salesperson may not post, on real property that is offered for sale or exchange, an outdoor sign or other advertisement on which the cost and capitalization of ground rent on the real property is shown in print or lettering that is smaller than the size of the print or lettering that is used to show the price of the real property.

§17–607.

(a) Except as otherwise provided in subsection (b) of this section, in a real estate transaction involving a single-family dwelling, a real estate broker, an associate real estate broker, a real estate salesperson, or a lawyer acting as a real estate broker may not require a buyer, as a condition of settlement, to employ a particular:

(1) title insurance company;

(2) settlement company;

(3) escrow company;

(4) mortgage lender, or financial institution as defined in the Financial Institutions Article; or

(5) title lawyer.

(b) A seller may not be prohibited from offering owner financing as a condition of settlement.

§17–607.1.

(a) In this section, "commercial real estate" has the meaning stated in § 17–524.1 of this title.

(b) Except as otherwise provided in subsection (c) of this section, in a real estate transaction involving commercial real estate, a real estate broker, a nonresident real estate broker, an associate real estate broker, a real estate

salesperson, a nonresident real estate salesperson, or a lawyer acting as a real estate broker may not require a buyer, as a condition of settlement, to employ a particular:

(1) title insurance company;

(2) settlement company;

(3) escrow company; or

(4) title lawyer.

(c) A seller may not be prohibited from offering owner financing as a condition of settlement.

§17–608.

(a) (1) In this subsection, "handicap" and "familial status" each have the meanings indicated in the federal Fair Housing Act.

(2) Whether or not acting for monetary gain, a person may not knowingly induce or attempt to induce another person to sell or rent a dwelling or otherwise transfer real estate or knowingly discourage or attempt to discourage another person from buying real estate by:

(i) making representations about the entry or prospective entry into a neighborhood of individuals of a particular race, color, sex, religion, handicap, familial status, or national origin;

(ii) making representations about the existing or potential proximity of real property owned or used by individuals of a particular race, color, sex, religion, handicap, familial status, or national origin; or

(iii) representing that the existing or potential proximity of real property owned or used by individuals of a particular race, color, sex, religion, handicap, familial status, or national origin will or may result in:

1. the lowering of property values;

2. a change in the racial, religious, or ethnic character of the block, neighborhood, or area;

3. an increase in criminal or antisocial behavior in the area; or

4. a decline in the quality of schools serving the area.

(b) A person may not provide financial assistance by loan, gift, or otherwise to another person if the person has actual knowledge that the financial assistance will be used in a transaction that results from a violation of subsection (a) of this section.

§17–609.

If one of the purposes of the solicitation or attempted solicitation is to change the racial composition of a neighborhood, a person may not solicit or attempt to solicit the listing of residential properties for sale or lease by:

(1) in person door-to-door solicitation;

(2) telephone solicitation; or

(3) mass distribution of circulars.

§17–610.

A person may not submit to the Commission any notice, statement, or other document under Subtitle 4 of this title that a person knows to be false or to contain any material misstatement of fact.

§17–611.

A person may not violate a suspension order issued under § 17-522 of this title.

§17–612.

A corporation, partnership, or other association may not:

(1) commit or cause any other person to commit any act that constitutes a ground for disciplinary action against a licensee under § 17-322 or § 17-328 of this title; or

(2) violate or cause any other person to violate any other provision of this title.

§17–613.

(a) Subject to the provisions of subsection (d) of this section, a person who violates any provision of the following sections of this title is guilty of a misdemeanor

and on conviction for a first offense is subject to a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both:

(1) § 17–502;

(2) § 17–525;

(3) § 17–526;

(4) § 17–527;

(5) § 17–530;

(6) § 17–532;

(7) § 17–601;

(8) § 17–602;

(9) § 17–603;

(10) § 17–604;

(11) § 17–605;

(12) § 17–606;

(13) § 17–607;

(14) § 17–608;

(15) § 17–609;

(16) § 17–610; or

(17) § 17–611.

(b) A corporation, partnership, or other association that violates § 17–612 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine:

(1) not exceeding $5,000 for a first violation;

(2) not exceeding $15,000 for a second violation; and

(3) not exceeding $25,000 for a third or subsequent violation.

(c) (1) The Commission may impose on a person who violates any provision of this title a penalty not exceeding:

(i) $5,000 for a first violation;

(ii) $15,000 for a second violation; and

(iii) $25,000 for a third or subsequent violation.

(2) In setting the amount of the penalty, the Board shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the violator;

(iv) any history of previous violations by the violator; and

(v) any other relevant factors.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(d) (1) Any person found guilty of a second violation of any provision of the sections listed in subsection (a) of this section is subject to a fine not exceeding $15,000 or 2 years imprisonment or both.

(2) Any person found guilty of a third or subsequent violation of any provision of the sections listed in subsection (a) of this section is subject to a fine not exceeding $25,000 or 3 years imprisonment or both.

§17–614.

A court shall report to the Commission for appropriate action under this title each conviction of a real estate broker, an associate real estate broker, or a real estate salesperson for a violation of any provision of the following sections of this title:

(1) § 17-608;

(2) § 17-525; and

(3) § 17-526.

§17–701.

This title may be cited as the "Maryland Real Estate Brokers Act".

§17–702.

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, 2032.

§18–101.

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

(b) (1) "Circumventional information" means information, including pass codes, that allows an individual to alter the operation of a security system.

(2) "Circumventional information" does not include generic user or installation manuals.

(c) "Firm" means a partnership or corporation.

(d) "Firm member" means a partner of a partnership or an officer or director of a corporation.

(e) "License" means a license issued by the Secretary or the Secretary's designee to engage in the business of providing security systems services for compensation.

(f) "Providing security systems services" means providing, on the premises of a person's residential or commercial property, the service of:

(1) surveying the property for purposes of installing a security system;

(2) physically installing, maintaining, or repairing a security system for the customer; or

(3) responding to a distress call or an alarm sounding from a security system.

(g) "Representative member" means a firm member who is appointed under this title to act on behalf of the firm.

(h) "Secretary" means the Secretary of State Police or the Secretary's designee.

(i) "Security systems agency" means an individual or a firm that conducts a business that provides security systems services.

(j) "Security systems technician" means a person who personally provides security systems services.

§18–102.

(a) This title does not apply to an officer or employee of any unit of the United States, of any state, or of any county, municipal corporation, or other political subdivision of any state, while performing a duty of the office or employment.

(b) (1) This title does not supersede any local law or ordinance in the State that establishes standards or qualifications for electricians or for electrical work involved in the installation of security systems or security alarms.

(2) This title does not authorize an individual to perform electrical work that otherwise requires an electrician's license under any State or local law or ordinance.

(3) Except as provided in paragraph (4) of this subsection, this title supersedes any local law or ordinance in the State that requires registration, training, bonding, or insurance for security systems technicians or other individuals who have access to circumventional information.

(4) This title does not preempt local governments from licensing or regulating security system agencies or security system users.

(c) (1) The licensing requirements of this title do not apply to a master electrician who:

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

(ii) is acting only within the scope of that occupation.

(2) A master electrician may not:

(i) personally provide security systems services unless the master electrician is registered as a security systems technician; or

(ii) obtain access to circumventional information unless the master electrician is registered as an individual with access to circumventional information.

(d) This title does not apply to a person who sells security systems at a retail establishment or by means of a catalog or brochure for future delivery, provided that the person does not:

(1) enter the premises of the customer's property; or

(2) have access to circumventional information.

(e) This title does not apply to a commercial property owner or its authorized agent performing the routine operation, including the changing of the passcodes, of a security system that protects the premises of the owner's commercial property.

(f) This title may not be construed to require:

(1) a person engaged in the business of providing security systems services for compensation to obtain more than one license under this title to provide security systems services;

(2) a security systems technician, in addition to being registered under this title, to obtain a license under this title, if the security systems technician is employed by or under contract with a security systems agency; or

(3) an individual who is licensed under this title to be registered under Subtitle 3A of this title.

§18–201.

Subject to the provisions of this title, the Secretary is responsible for:

(1) the licensing and regulation of security systems agencies in the State; and

(2) the registration of security systems technicians and other individuals who have access to circumventional information.

§18–202.

(a) In addition to any powers set forth elsewhere, the Secretary may:

(1) adopt regulations to carry out this title;

(2) use any member of the Department of State Police, as necessary, to carry out and enforce this title; and

(3) make inquiries and conduct an investigation regarding any applicant for a license or for registration.

(b) In addition to any duties set forth elsewhere, the Secretary shall:

(1) adopt regulations that set standards for the licensure of security systems agencies;

(2) adopt regulations that set standards for the registration of security systems technicians and other individuals who have access to circumventional information; and

(3) keep a roster of individuals registered as security systems technicians or as individuals who have access to circumventional information.

§18–203.

The Secretary and all members of the Department of State Police:

(1) shall treat as confidential any information obtained through an investigation of an applicant for a license or for registration under this title; and

(2) unless required by a court order, may not divulge to a person who is not a law enforcement officer any information obtained through an investigation of an applicant for a license or for registration under this title.

§18–204.

Except for the cost of the Maryland and national criminal records check, the Secretary shall pay all money collected under this title into the General Fund of the State.

§18–205.

(a) Subject to this section, the Secretary shall conduct an investigation that relates to any complaint alleging that an unauthorized person has provided security systems services.

(b) A complaint shall:

(1) be in writing and under oath;

(2) state specifically the facts on which the complaint is based; and

(3) be filed with the Secretary.

§18–301.

Except as otherwise provided in this title, a person may not engage, or solicit to engage, in the business of providing security systems services in the State unless the person obtains a license and meets the requirements of § 18-401 of this title.

§18–302.

(a) If the applicant for a license is a firm, the firm shall appoint a firm member as the representative member to make the application on behalf of the firm.

(b) To qualify for a license, if an applicant is an individual, an applicant shall:

(1) be at least 18 years old; and

(2) be of good moral character.

(c) To qualify for a license, if the applicant is a firm, each firm member shall be:

(1) at least 18 years old; and

(2) of good moral character.

(d) The applicant shall meet any other requirements that the Secretary establishes for license applicants.

§18–303.

(a) An applicant for a license shall:

(1) submit to the Secretary an application in the manner and format designated by the Secretary;

(2) submit the documents required by this section; and

(3) pay to the Secretary in a method approved by the Secretary:

(i) an application fee of $100;

(ii) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(b) The application provided by the Secretary shall contain a statement advising the applicant that willfully making a false statement on an application is a misdemeanor, subject to a fine or imprisonment or both, as provided under § 18–504 of this title.

(c) If the applicant is a firm, the representative member shall complete the application and otherwise be responsible for the firm's compliance with this section.

(d) (1) The application shall be accompanied by at least two written recommendations for the applicant.

(2) Each recommendation shall be signed, under oath, by a reputable citizen of the State.

(e) (1) An applicant for a license shall submit with the application two complete sets of the applicant's legible fingerprints taken in a format approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation.

(2) If the applicant is a firm, the applicant shall pay the cost of the fingerprint records check for each firm member.

(f) An applicant for a license shall submit with the application a copy of a bond or proof of insurance in accordance with the requirements of § 18–401 of this title.

(g) The Secretary may waive the requirements of subsections (a)(2) and (3), (d), and (e) of this section and issue a license to an applicant who:

(1) provides adequate evidence that the applicant:

(i) is licensed to engage in the business of providing security systems services in another state; and

(ii) became licensed in the other state:

1. after meeting qualifications that are at least equivalent to those required in this State; and

2. after submitting to a State and national criminal records check; and

(2) pays to the Secretary, in a method approved by the Secretary, a processing fee of $100.

§18–304.

(a) Except for a license issued under § 18-303(g) of this subtitle, before issuing a license, the Secretary shall conduct a State and national criminal records check for each applicant who applies for a license.

(b) If the applicant is a firm, the Secretary shall conduct a State and national criminal records check for each firm member.

§18–305.

(a) The Secretary shall issue a license to each applicant who meets the requirements of this title.

(b) The Secretary shall include on each license that the Secretary issues:

(1) the full name of the licensee;

(2) the current address of the licensee;

(3) the date of issuance of the license; and

(4) the date on which the license expires.

(c) Except as provided in subsection (d) of this section, the Secretary shall issue to an individual licensee a pocket identification card that includes:

(1) a photograph of the licensee, supplied by the licensee; and

(2) the license expiration date.

(d) (1) For each license issued under § 18-303(g) of this subtitle, the Secretary shall issue to an individual licensee a licensing certificate instead of a pocket identification card.

(2) The licensing certificate shall be in a format approved by the Secretary.

§18–306.

(a) While a license is in effect, it authorizes the licensee to engage in the business of providing security systems services.

(b) An individual or a firm may qualify for a license as a security systems agency.

§18–307.

(a) By regulation, the Secretary shall stagger the terms of the licenses.

(b) Unless a license is renewed for a 3–year term as provided in this section, the license expires on the date the Secretary sets.

(c) At least 1 month before a license expires, the Secretary shall electronically transmit to the agency a notice that states:

(1) the date on which the current license expires;

(2) that the Secretary must receive the renewal application and proof of insurance or bonding as required in § 18–401 of this title at least 15 days before the license expiration date for the renewal to be issued and mailed before the license expires;

(3) the amount of the renewal fee;

(4) that, if the complete renewal application and proof of insurance or bonding as required in § 18–401 of this title are not received at least 15 days before the license expiration date, a fee of $25 per day shall be charged against the agency until the day the license expires, at which time the agency shall be considered closed;

(5) that an agency may not be issued a license under this title until all outstanding obligations are satisfied with the Secretary; and

(6) that the submission of a false statement in the renewal application or the submission of altered or false documents that are otherwise required is cause for revocation of the agency license.

(d) An agency periodically may renew the license for an additional 3–year term, if the license holder:

(1) otherwise is entitled to be licensed;

(2) pays to the Secretary in a method approved by the Secretary:

(i) a renewal fee of $100;

(ii) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records;

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check; and

(iv) any late fee required under this subtitle; and

(3) submits to the Secretary:

(i) a renewal application in the manner and format designated by the Secretary;

(ii) two complete sets of the applicant's legible fingerprints taken in a format approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation; and

(iii) satisfactory evidence of compliance with any other requirements under this section for renewal of registration.

(e) In accordance with §§ 10–201 through 10–235 of the Criminal Procedure Article, the Central Repository shall forward to the applicant and the Department of State Police a printed statement of the applicant's criminal history records information.

(f) The Secretary may waive the national criminal history records check required under subsection (d) of this section for an applicant who was issued a license under § 18–303(g) of this subtitle if the applicant pays to the Secretary, in a method approved by the Secretary, a processing fee of $100.

(g) If the renewal application was submitted as required in subsection (d) of this section and the national criminal history records check required under this section is not completed before the licensee's license expires, the Secretary shall allow the licensee to operate in a temporary license status if the licensee otherwise meets the requirements of this section.

(h) A licensee may operate in a temporary license status at the time of renewal only if the renewal application and all required documents and fees were submitted by the expiration date of the license.

(i) The temporary license status shall expire at the earlier of:

(1) the completion of the national criminal history records check of the applicant; or

(2) the renewal or denial of the license.

(j) The Secretary shall renew the license of each applicant who meets the requirements of this section.

§18–308.

(a) (1) If the licensee is an individual, the licensee and each security systems technician employed by the licensee shall carry and display the license on demand of any customer or law enforcement officer.

(2) If the licensee is a firm, each firm member and security systems technician employed by the firm shall carry and display a copy of the license on demand of any customer or law enforcement officer.

(b) Each licensee shall record the license with the Secretary of State.

(c) Each licensee shall give the Secretary written notice of any change of address within 10 business days after the change.

§18–309.

Subject to the hearing provisions of § 18-310 of this subtitle, the Secretary may deny a license to any applicant, reprimand any licensee, fine a licensee, or suspend or revoke a license if the applicant or licensee, or a firm member or employee of an applicant or licensee that is a firm:

(1) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(2) fraudulently or deceptively uses a license;

(3) has a similar license denied, suspended, or revoked in another jurisdiction;

(4) pleads guilty or nolo contendere to or is convicted of a felony, theft offense, or crime of moral turpitude;

(5) aids an individual in obtaining or attempting to obtain fraudulently or deceptively licensure under this title as a security systems technician;

(6) while not licensed, solicits to engage in or willfully engages in a business providing security systems services;

(7) while not licensed, willfully advertises as a security systems technician;

(8) willfully makes a false statement or misrepresentation in any renewal application or in any other document that the Secretary requires to be submitted; or

(9) violates any other provision of this title or any regulation adopted by the Secretary under this title.

§18–310.

(a) Before the Secretary takes any final action under § 18-309 of this subtitle, the Secretary shall give the person against whom the action is contemplated an opportunity for a hearing before the Secretary.

(b) The Secretary shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The hearing notice to be given to the person shall be sent by certified mail to the last known address of the person at least 10 business days before the hearing.

(d) The Secretary may administer oaths in connection with any proceeding under this section.

(e) The person may be represented at the hearing by counsel.

(f) If, after due notice, the person against whom the action is contemplated fails or refuses to appear, nevertheless, the Secretary may hear and determine the matter.

§18–311.

Any person aggrieved by a final decision of the Secretary in a contested case, as defined in § 10-202 of the State Government Article, may take an appeal as allowed in Title 10, Subtitle 2 of the State Government Article.

§18–3A–01.

Except as otherwise provided in this title:

(1) an individual may not personally provide security systems services unless the individual is registered as a security systems technician;

(2) a person licensed under this title may not employ or contract with an individual with access to circumventional information unless the individual is registered as required under this subtitle;

(3) neither a licensee nor a registrant may provide access to circumventional information to an individual who is not registered under this subtitle; and

(4) an employee of a person licensed under this title may not obtain access to circumventional information unless the employee is registered as an individual with access to circumventional information.

§18–3A–02.

(a) To qualify for registration as a security systems technician or other individual who has access to circumventional information, an applicant shall:

(1) be at least 18 years old; and

(2) be of good moral character.

(b) In addition to any other requirements and except for those applicants who survey properties only for the purpose of installing a security system, an applicant for registration as a security systems technician shall meet any training requirements that the Secretary establishes by regulation.

(c) The State Department of Education, in conjunction with the Secretary, may establish by regulation a cooperative education program under which a minor may learn the security systems trade with on–site supervision by a security systems registrant under the auspices of cooperative education registration with the schools.

§18–3A–03.

(a) An applicant for registration shall:

(1) submit to the Secretary an application in the manner and format designated by the Secretary;

(2) submit the documents required by this section; and

(3) pay to the Secretary in a method approved by the Secretary:

(i) an application fee that is the higher of $15 or an amount the Secretary determines based on actual processing costs; and

(ii) the cost of any background checks.

(b) The application provided by the Secretary shall contain a statement advising the applicant that willfully making a false statement on an application is a misdemeanor, subject to a fine or imprisonment or both, as provided under § 18–504 of this title.

(c) An applicant for registration shall submit with the application two complete sets of the applicant's legible fingerprints taken in a format approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation.

(d) The Secretary may waive the requirements of this section and register an applicant who:

(1) provides adequate evidence that the applicant:

(i) is licensed in another state to engage in the business of providing security systems services or registered in another state as a security systems technician or other individual who has access to circumventional information; and

(ii) became licensed or registered in the other state:

1. after meeting qualifications that are at least equivalent to those required in this State; and

2. after submitting to a State and national criminal records check; and

(2) pays to the Secretary, in a method approved by the Secretary, a processing fee that is the higher of $15 or an amount the Secretary determines based on actual processing costs.

(e) A minor in an apprenticeship program approved by the Maryland Department of Labor or a cooperative education program established under § 18–3A–02 of this subtitle is not required to meet the criminal background check and fingerprint requirements of this section.

§18–3A–04.

(a) Except for registration under § 18-3A-03(d) of this subtitle, the Secretary shall conduct a State and national criminal records check of an applicant before registering the applicant.

(b) An applicant shall pay to the Secretary the cost of any background checks before the applicant may be registered.

§18–3A–05.

(a) The Secretary shall register each applicant who meets the requirements of this subtitle.

(b) The Secretary shall include on each registration that the Secretary issues:

(1) the full name of the registrant;

(2) the current address of the registrant;

(3) the date of issuance of the registration; and

(4) the date on which the registration expires.

(c) For all registrations other than temporary registrations, the Secretary shall issue to each registrant a pocket identification card that includes:

(1) a photograph of the registrant, supplied by the registrant; and

(2) the expiration date of the registrant's registration.

(d) Each registrant shall give the Secretary written notice of any change of address within 10 business days after the change.

§18–3A–06.

(a) While an individual is registered as a security systems technician and employed by or under contract with a security systems agency licensed under this title, the individual is authorized to personally provide security systems services.

(b) While an individual is registered as a security systems technician and employed by or under contract with a security systems agency licensed under this title, the individual is authorized to have access to circumventional information.

§18–3A–07.

(a) By regulation, the Secretary shall stagger the terms of the registrations under this subtitle.

(b) Unless a registration is renewed for a 3–year term as provided in this section, the registration expires on the date the Secretary sets.

(c) At least 90 days before a registration expires, the applicant shall submit to the Secretary:

(1) a renewal application in the manner and format designated by the Secretary;

(2) the amount of the renewal fee in a method approved by the Secretary; and

(3) the amount of any late fee, as determined by the Secretary.

(d) An individual periodically may renew a registration for an additional 3–year term if the individual:

(1) otherwise is entitled to be registered;

(2) pays to the Secretary in a method approved by the Secretary:

(i) a renewal fee that is the higher of $15 or an amount which the Secretary determines based on the actual processing costs;

(ii) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records;

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check; and

(iv) any late fee required under this subtitle; and

(3) submits to the Secretary:

(i) a renewal application in the manner and format designated by the Secretary;

(ii) two complete sets of the applicant's legible fingerprints taken in a format approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation; and

(iii) satisfactory evidence of compliance with any other requirements under this section for renewal of registration.

(e) In accordance with §§ 10–201 through 10–235 of the Criminal Procedure Article, the Central Repository shall forward to the applicant and the Department of State Police a printed statement of the applicant's criminal history records information.

(f) (1) Subject to paragraph (2) of this subsection, if a complete application for renewal of registration as required under this subtitle is not received by the Secretary at least 30 calendar days before the certification expires, the Secretary shall assess a late fee of $5 per day until the application is received by the Secretary.

(2) The total amount of late fees assessed under this subsection may not exceed $150.

(3) The Secretary may not register any applicant under this title if the applicant has outstanding late fee obligations.

(g) The Secretary may waive the national criminal history records check required under subsection (d) of this section for an applicant who was registered under § 18–3A–03 of this subtitle if the applicant pays to the Secretary, in a method approved by the Secretary, a processing fee of $15.

(h) If the renewal application was submitted as required under this section and the national criminal history records check required under this section is not completed before a registration expires, the Secretary shall allow the applicant to operate in a temporary registration status if the applicant otherwise meets the requirements of this section.

(i) The temporary registration status shall expire at the earlier of:

(1) the completion of the national criminal history records check of the applicant; or

(2) the renewal or denial of the registration.

(j) (1) The Secretary shall renew the registration of each individual who meets the requirements of this section.

(2) Within 5 days after the Secretary refuses to renew the registration of an individual under this title, the Secretary shall send written notice of the refusal to the individual who submitted the renewal application.

§18–3A–08.

(a) (1) Subject to paragraph (2) of this subsection, the Secretary shall temporarily register any individual who:

(i) does not have the training required under § 18-3A-02(b) of this subtitle but otherwise meets the requirements for registration under this title; or

(ii) does not have the State and national criminal records check required under § 18-3A-04(a) of this subtitle.

(2) If the Secretary determines after a preliminary background investigation that the issuance of a temporary registration to an individual would result in a potential threat to public safety, the Secretary may refuse to temporarily register that individual.

(b) Temporary registration of a registrant under this section shall expire at the earlier of:

(1) if the temporary registration was issued pursuant to subsection (a)(1) of this section, acquisition by the registrant of the training required under § 18-3A-02(b) of this subtitle; or

(2) if the temporary registration was issued pursuant to subsection (a)(2) of this section, completion of the State and national criminal records check required under § 18-3A-04(a) of this subtitle.

(c) An applicant obtaining temporary registration under this section:

(1) shall receive a form of identification as determined by the Secretary; and

(2) shall work under the supervision of an individual who has met the requirements of §§ 18-3A-02, 18-3A-03, and 18-3A-04 of this subtitle and is registered under § 18-3A-05 of this subtitle.

§18–3A–09.

Subject to the hearing provisions of § 18-3A-10 of this subtitle, the Secretary may deny registration to any applicant, reprimand any registrant, fine any registrant, or suspend or revoke a registration if the applicant or registrant:

(1) fraudulently or deceptively obtains or attempts to obtain a registration for the applicant or registrant or for another;

(2) fraudulently or deceptively uses a registration;

(3) has a similar license or registration denied, suspended, or revoked in another jurisdiction;

(4) pleads guilty or nolo contendere to or is convicted of a felony, theft offense, or crime of moral turpitude;

(5) aids an individual in obtaining or attempting to obtain fraudulently or deceptively registration under this title;

(6) while not registered as a security systems technician and employed by or under contract with a security systems agency licensed under this title, solicits to engage in or willfully engages in personally providing security systems services;

(7) while not registered as a security systems technician and employed by or under contract with a security systems agency licensed under this title, willfully advertises as a security systems technician;

(8) willfully makes a false statement or misrepresentation in any renewal application or in any other document that the Secretary requires to be submitted; or

(9) violates any other provision of this title or any regulation adopted by the Secretary under this title.

§18–3A–09.1.

Before the Secretary denies the registration of an applicant under § 18-3A-09(4) of this subtitle, the Secretary shall consider the following factors:

(1) the length of time that has passed since the applicant pleaded guilty or nolo contendere or was convicted of the felony, theft offense, or crime of moral turpitude;

(2) whether the applicant was a security systems technician prior to the requirement of registration under this subtitle; and

(3) any evidence that the applicant has been a good citizen since the applicant pleaded guilty or nolo contendere or was convicted of the felony, theft offense, or crime of moral turpitude.

§18–3A–10.

(a) (1) Before the Secretary takes any final action under § 18-3A-09 of this subtitle, the Secretary shall give the individual against whom the action is contemplated an opportunity for either:

(i) a hearing before the Secretary; or

(ii) a hearing before an advisory panel consisting of the following members appointed by the Secretary:

1. a member of the Department of State Police;

2. a representative of the security systems industry;

3. one member who has engaged the services of a security systems agency; and

4. two members representing consumers.

(2) A hearing before an advisory panel under this section does not preclude a hearing before the Secretary.

(b) The Secretary or the advisory panel shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The hearing notice to be given to the individual shall be sent by certified mail to the last known address of the individual at least 10 business days before the hearing.

(d) The Secretary or the advisory panel may administer oaths in connection with any proceeding under this section.

(e) The individual may be represented at the hearing by counsel.

(f) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, the Secretary or the advisory panel may, nevertheless, hear and determine the matter.

§18–3A–11.

Any person aggrieved by a final decision of the Secretary in a contested case, as defined in § 10-202 of the State Government Article, may take an appeal as allowed in Title 10, Subtitle 2 of the State Government Article.

§18–401.

(a) In order to obtain a license, an applicant shall:

(1) (i) execute a fidelity bond as provided in subsection (c) of this section; or

(ii) maintain general liability insurance as provided in subsection (d) of this section; and

(2) maintain in an office in the State, documents or other records that are made in the State or relate to a service performed in the State and make those records available for inspection by the Secretary for compliance with this title.

(b) The Secretary may not issue or renew a license or registration unless the applicant, licensee, or registrant submits proof of compliance with subsection (a) of this section.

(c) (1) The fidelity bond required by subsection (a)(1) of this section shall cover all individuals who:

(i) are licensed to provide security systems services, are registered as security systems technicians, or have access to circumventional information; or

(ii) are applicants for a license or registration.

(2) The fidelity bond shall be used for the benefit of any person injured on the premises of a consumer of security systems services by any fraudulent or dishonest act of a licensee, a security systems technician, or other individual who has access to circumventional information that is willful or malicious.

(3) The applicant for a license or registration shall submit a copy of the fidelity bond to the Secretary with the license or registration application.

(4) (i) The amount of the fidelity bond required under subsection (c)(1) of this section shall be at least $50,000.

(ii) The total liability of the surety to all insured persons under the fidelity bond may not exceed the sum of the fidelity bond.

(5) (i) If an employer's fidelity bond is canceled, forfeited, or terminated by the surety, the surety shall immediately notify the Secretary.

(ii) If a surety fails to notify the Secretary as required by this paragraph, the fidelity bond shall continue in effect until the notice is given to the Secretary.

(d) (1) General liability insurance required by subsection (a)(1)(ii) of this section shall be in the amount of at least $50,000.

(2) An applicant for a license or registration shall submit proof of insurance meeting the requirements of paragraph (1) of this subsection to the Secretary with the application.

(3) If the general liability insurance required under this section is canceled, the insured shall immediately notify the Secretary.

(e) If an agency fails to maintain the required fidelity bond or liability insurance as required in this section, upon notification, the Secretary:

(1) shall suspend the license; and

(2) may not reinstate the license until the agency submits proof of the required bond or insurance to the Secretary.

(f) In addition to § 18-504 of this title, a court of competent jurisdiction may enjoin the operation of any employer who violates the requirements of this section.

§18–402.

The Department of State Police shall adopt regulations necessary to effectuate and enforce this subtitle. The regulations shall include a schedule of fines for violations of this subtitle that may be assessed by the Secretary under §§ 18-309 and 18-3A-09 of this title.

§18–501.

A person may not engage, attempt to engage, offer to engage, or solicit to engage in a business of providing security systems services in the State unless licensed by the Secretary.

§18–502.

Unless authorized under this title to engage in the business of providing security systems services, a person may not represent to the public, by use of the title "security systems agency" or "security systems technician", by description of services, methods, or procedures, or otherwise, that the person is authorized to engage in the business of providing security systems services in the State.

§18–503.

A person may not willfully make a false statement on any application form or other document submitted to the Secretary under this title.

§18–504.

(a) A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(b) The fines assessed under §§ 18-309 and 18-3A-09 of this title may not exceed $5,000 per violation and shall be paid to the Secretary within 10 days after final adjudication of any hearing or the waiver of any hearing.

§18–601.

This title may be cited as the "Maryland Security Systems Technicians Act".

§18–701.

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 further force and effect after July 1, 2031.

§19–101.

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

(b) "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(c) "Certification card" means a card issued by the Secretary under § 19–405 of this title to an individual certified as a security guard.

(d) "Firm" means a partnership or corporation.

(e) "Firm member" means a partner of a partnership or an officer or director of a corporation.

(f) "License" means, unless the context requires otherwise, a license issued by the Secretary to conduct a business to provide security guard services.

(g) "Licensed security guard agency" means a person who is licensed by the Secretary to conduct a business that provides security guard services.

(h) "Police officer" has the meaning stated in § 2–101 of the Criminal Procedure Article.

(i) "Representative member" means a firm member who is appointed under § 19–302(b) of this title to act on behalf of the firm.

(j) "Secretary", unless the context requires otherwise, means the Secretary of State Police.

(k) "Security guard" means an individual who, regardless of whether the individual is described as a security guard, watchman, or private patrolman or by other title:

(1) (i) is an employee of a security guard agency; and

(ii) provides security guard services to another person on behalf of the security guard agency; or

(2) (i) is an employee of a security guard employer; and

(ii) provides security guard services to the security guard employer.

(l) (1) "Security guard agency" means a person who conducts a business that provides security guard services.

(2) "Security guard agency" does not include:

(i) a person that is primarily engaged in the business of owning, maintaining, or otherwise managing property; or

(ii) a security guard employer.

(m) (1) "Security guard employer" means a person who employs security guards only to provide security guard services to the person.

(2) "Security guard employer" does not include:

(i) a security guard agency;

(ii) a video lottery operator, as defined under § 9–1A–01 of the State Government Article;

(iii) a sports wagering facility licensee, as defined under § 9–1E–01 of the State Government Article; or

(iv) a health care facility, as defined under § 19–114 of the Health – General Article.

(n) "Security guard services" includes any activity that is performed for compensation as a security guard to protect any individual or property, except the activities of an individual while performing as:

(1) a marine guard or ship watchman, regardless of whether the guard or watchman is stationed aboard a ship or on a pier;

(2) a special police officer appointed and while performing under Title 3, Subtitle 3 of the Public Safety Article or § 16–16 of the Code of Public Local Laws of Baltimore City; or

(3) an unarmed employee of a bar, tavern, or restaurant.

§19–201.

Subject to the provisions of this title, the Secretary is responsible for the licensing of security guard agencies and the regulation of those persons who provide security guard services in the State.

§19–202.

(a) In addition to any powers set forth elsewhere, the Secretary may:

(1) adopt regulations to carry out this title;

(2) use any member of the Department of State Police, as necessary, to carry out and enforce this title; and

(3) make inquiries and conduct an investigation regarding any applicant:

(i) for a license; or

(ii) for employment with a licensee as a security guard.

(b) In addition to any duties set forth elsewhere, the Secretary shall:

(1) adopt regulations that set standards for the certification of employees of security guard agencies as security guards;

(2) keep a roster of the individuals certified as security guards under this title, including on the roster:

(i) the names of individuals certified;

(ii) the name of the licensed security guard agency with or by which each individual is associated or employed; and

(iii) any other information that the Secretary considers appropriate; and

(3) adopt by regulation a schedule of fines for violations of this title that may be assessed by the Secretary under §§ 19-313 and 19-408 of this title.

§19–301.

(a) Except as otherwise provided in this title, a person shall be licensed by the Secretary as a security guard agency before the person may:

(1) conduct a business that provides security guard services in the State; and

(2) solicit to engage in a business that provides security guard services in the State.

(b) An individual or a firm may qualify for a license as a security guard agency.

§19–302.

(a) To qualify for a license, an applicant shall meet the requirements of this section.

(b) If the applicant is a firm, the firm shall appoint a firm member as the representative member to make the application on behalf of the firm.

(c) (1) If the applicant is an individual, the applicant shall be of good character and reputation.

(2) If the applicant is a firm, each firm member shall be of good character and reputation.

(d) The individual applicant or the representative member shall be at least 25 years old.

(e) The applicant shall meet the experience requirements of § 19-303 of this subtitle.

§19–303.

(a) In this section, "organized police agency" means:

(1) a police department of the State or of a county or municipal corporation of the State;

(2) a private police department that is allowed to enroll its officers in approved Maryland Police Training and Standards Commission schools and academies; or

(3) a law enforcement agency of the United States, of any state, or of any county or municipal corporation of any state.

(b) An individual applicant or, if the applicant is a firm, the representative member shall have:

(1) at least 5 years experience as a full–time private detective certified under Title 13 of this article;

(2) at least:

(i) 5 years of experience as a full–time police officer with an organized police agency; and

(ii) completed successfully a police officer training course that is recognized and approved by the Maryland Police Training and Standards Commission;

(3) at least 3 years of experience in an investigative capacity as a detective while serving as a police officer with an organized police agency;

(4) at least:

(i) 3 years of experience in an investigative capacity in any unit of the United States, of the State, or of a county or municipal corporation of the State for the purpose of law enforcement; and

(ii) completed successfully the police officer training that is recognized and approved by the Maryland Police Training and Standards Commission;

(5) at least:

(i) 5 years of experience as a full–time fire investigator for a fire department or law enforcement agency of the State or of a county or municipal corporation of the State; and

(ii) completed successfully the training certified by the Maryland Police Training and Standards Commission or the Maryland Fire–Rescue Education and Training Commission; or

(6) at least:

(i) 5 years of experience as a full–time correctional supervisor in a correctional facility in the State; and

(ii) completed successfully the training required by the Correctional Training Commission.

§19–304.

(a) (1) An applicant for a license shall:

(i) submit to the Secretary an application in the manner and format designated by the Secretary;

(ii) submit the documents required under this section; and

(iii) pay to the Secretary, in a method approved by the Secretary, the fees required under subsection (b) of this section.

(2) If the applicant is a firm, the representative member shall complete the application and otherwise be responsible for the firm's compliance with this section.

(b) (1) An applicant for a license shall pay to the Secretary an application fee of:

(i) 1. $200, if the applicant is an individual; or

2. $375, if the applicant is a firm; and

(ii) the fees authorized under subsection (c) of this section.

(2) (i) As part of the application for a license, the applicant shall submit to the Secretary the fingerprints required under subsection (c) of this section.

(ii) If the applicant is a firm, the applicant shall pay the cost of the fingerprint card record checks for each firm member.

(c) (1) The Department of State Police shall apply to the Central Repository for a State and national criminal history records check for each applicant.

(2) As part of the application for a criminal history records check, the Department of State Police shall submit to the Central Repository:

(i) two complete sets of the applicant's legible fingerprints taken in a format approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(3) In accordance with §§ 10–201 through 10–235 of the Criminal Procedure Article, the Central Repository shall forward to the applicant and the Department of State Police a printed statement of the applicant's criminal history record information.

(4) Information obtained from the Central Repository under this section shall be:

(i) confidential and may not be disseminated; and

(ii) used only for the purpose authorized by this section.

(5) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

(d) (1) If the applicant is an individual, the application provided by the Secretary shall require:

(i) the name of the applicant;

(ii) the age of the applicant;

(iii) the address of the applicant; and

(iv) the current and previous employment of the applicant.

(2) If the applicant is a firm, the application provided by the Secretary shall require:

(i) a list of all of the firm members; and

(ii) for each firm member, the same information required regarding an individual applicant under paragraph (1) of this subsection.

(3) For all applicants, the application shall require:

(i) the address of the applicant's proposed principal place of business and of each proposed branch office;

(ii) any trade or fictitious name that the applicant intends to use while conducting the business of the security guard agency;

(iii) the submission of a facsimile of any trademark that the applicant intends to use while conducting the business of the security guard agency; and

(iv) as the Secretary considers appropriate, any other information to assist in the evaluation of:

1. an individual applicant; or

2. if the applicant is a firm, any firm member.

(e) The application provided by the Secretary shall contain a statement advising the applicant that willfully making a false statement on an application is a misdemeanor, subject to a fine or imprisonment or both, as provided under §§ 19–605 and 19–607 of this title.

(f) (1) If the applicant is an individual, the application shall be signed, under oath, by the individual.

(2) If the applicant is a firm, the application shall be signed, under oath, by the representative member, as the representative member, and shall provide proof to the Secretary that the representative member is a member of the firm.

(g) (1) If the applicant is an individual, the application shall be accompanied by at least three names of individuals who can attest to the character of the applicant.

(2) If the applicant is a firm, the application shall be accompanied by at least three names of individuals who can attest to the character of each firm member.

(h) An applicant for a license who intends to employ one or more individuals as security guards shall submit with the application proof of commercial general liability insurance, as required under § 19–504 of this title.

(i) In addition to meeting the other requirements of this section, a nonresident applicant shall submit a consent and any related document, as required by § 19–505 of this title.

§19–305.

The Secretary may not issue a license to an applicant whose trade or fictitious name or trademark is so similar to that used by another licensee that the public may be confused or misled by the similarity.

§19–306.

(a) (1) The Secretary shall issue a license to each applicant who meets the requirements of this subtitle.

(2) The Secretary shall issue an agency license certificate to each licensed security guard agency and a branch office certificate for each proposed branch office.

(b) (1) The Secretary shall include on each agency license certificate that the Secretary issues:

(i) the full name of the licensee;

(ii) the location of the principal office and of each branch office of the licensed security guard agency;

(iii) the date of issuance of the license;

(iv) the date on which the license expires; and

(v) the name of the representative member, if the licensee is a firm.

(2) The Secretary shall include on each branch office certificate:

(i) the full name of the licensee;

(ii) the location of the principal office of the licensee and of the agency branch office for which the certificate is issued;

(iii) the date of issuance of the branch office certificate;

(iv) the date on which the license of the licensee expires; and

(v) the name and agency address of the representative member, if the licensee is applying on behalf of a firm.

§19–307.

While a license is in effect, it authorizes the licensee to:

(1) conduct a business that provides security guard services for compensation or for hire;

(2) maintain an office for the conduct of business at each location stated in the security guard agency license certificate;

(3) employ individuals as security guards to provide security guard services to the public on behalf of the licensee; and

(4) represent the licensee to the public as a licensed security guard agency.

§19–308.

(a) By regulation, the Secretary shall stagger the terms of the licenses.

(b) Unless a license is renewed for a 3–year term as provided in this section, the license expires on the date the Secretary sets.

(c) At least 1 month before a license expires, the Secretary shall electronically transmit to the licensee a notice that states:

(1) the date on which the current license expires;

(2) that the Secretary must receive the renewal application and the statements required under § 19–309 of this subtitle, at least 15 days before the license expiration date, for the renewal to be issued and mailed before the license expires;

(3) the amount of the renewal fee;

(4) that, if the statements required under § 19–309 of this subtitle are not received at least 15 days before the license expiration date, a fee of $10 per day shall be charged against the licensee until the statements are received; and

(5) that the submission of a false statement in the renewal application or in the annual statements is cause for revocation of the license.

(d) A licensee periodically may renew the license for an additional 3–year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Secretary in a method approved by the Secretary:

(i) a renewal fee of:

1. $200, if the licensee is an individual; or

2. $400, if the licensee is a firm;

(ii) payment for the cost of a fingerprint card record check by the Federal Bureau of Investigation; and

(iii) any late fee required under § 19–309 of this subtitle; and

(3) submits to the Secretary:

(i) a renewal application in the manner and format designated by the Secretary;

(ii) a complete set of the applicant's legible fingerprints taken in a format approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(iii) the statements required under § 19–309 of this subtitle and any other documentation that may be required by the Secretary to renew the agency license under this subtitle; and

(iv) two photographs of the applicant in a format approved by the Secretary.

(e) The Secretary shall renew the license of each licensee who meets the requirements of this section.

§19–309.

(a) As a condition for license renewal, a licensee shall submit to the Secretary with the renewal application:

(1) a certification or, as authorized by the Secretary, other documentation that the licensed security guard agency has paid, for the past 3 years, all withholding and Social Security taxes;

(2) a certification or, as authorized by the Secretary, other documentation that the licensed security guard agency has paid, for the past 3 years, all other obligations payable for the employees of the licensed security guard agency to the State or the federal government;

(3) a certificate from an insurance carrier or, as authorized by the Secretary, other documentation showing that the licensed security guard agency has in effect commercial general and workers' compensation insurance for its covered employees, as defined in § 9-101 of the Labor and Employment Article; and

(4) a certificate from the Comptroller's Office or, as authorized by the Secretary, other documentation showing that the State income tax of the licensed security guard agency has been paid for the past 3 years.

(b) If the Secretary does not receive the documents required under subsection (a) of this section at least 15 days before the license expiration date, the Secretary shall charge the licensee a late fee of $10 per day until the documents are received.

(c) The Secretary may inspect any of the business records of a licensee that relate to any matter that is subject to certification or documentation under this section.

§19–310.

(a) Each licensee shall maintain an office in the State.

(b) Each licensee shall keep in an office in the State all files or other records that:

(1) are made in the State; and

(2) relate to any business activities in the State.

§19–311.

(a) (1) Within 5 days after the change, a licensee shall submit to the Secretary written notice of:

(i) the addition of a branch office; and

(ii) any change in the address or telephone number of an existing office.

(2) The licensee shall submit with the notice:

(i) the agency license certificate; and

(ii) if the proposed change affects an existing branch office, the branch office certificate for that office.

(3) The Secretary may:

(i) endorse the change on the agency license certificate and, if applicable, on the branch office certificate of the affected branch office; or

(ii) issue a new agency license certificate and, if applicable, a new branch office certificate, both of which shall set forth the same date as the original agency license certificate.

(b) Within 5 days after the occurrence, a firm shall submit to the Secretary written notice of:

(1) the withdrawal of any firm member; and

(2) the death of any firm member.

§19–312.

(a) Each licensed security guard agency shall display at all times:

(1) the agency license certificate in a conspicuous place in the principal office of the security guard agency; and

(2) each branch office certificate in a conspicuous place in the agency branch office for which the certificate was issued.

(b) (1) If an agency license certificate or branch office certificate is lost or destroyed, the licensee immediately shall notify the Secretary.

(2) On receipt of notice of the loss or destruction of an agency license certificate or branch office certificate, the Secretary may issue a duplicate.

§19–313.

(a) Subject to the hearing provisions of § 19-315 of this subtitle, the Secretary may deny a license to any applicant, reprimand any licensee, fine any licensee or agency, or suspend or revoke a license if the applicant or licensee:

(1) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(2) fraudulently or deceptively uses a license;

(3) aids an individual to obtain or to attempt to obtain fraudulently or deceptively certification under this title as a security guard;

(4) while not licensed, solicits to engage in or willfully engages in a business providing security guard services in the State;

(5) while not licensed, willfully advertises:

(i) as a security guard agency; or

(ii) the provision of security guard services;

(6) willfully makes a false statement or misrepresentation that an individual is or was in the employ of the applicant or licensee;

(7) willfully makes a false statement or misrepresentation in any renewal application, in any annual statement, or in any other report or document that the Secretary requires to be submitted;

(8) fails to notify the Secretary about any change among the firm members or in the address of the principal office or any branch office of a licensee;

(9) fails to maintain the liability insurance required under § 19-504 of this title; or

(10) violates any other provision of this title.

(b) For purposes of this section, an act or omission of any principal, agent, or employee of an applicant or licensee may be construed to be the act or omission of the applicant or licensee, as well as of the principal, agent, or employee.

§19–314.

(a) Subject to this section, the Secretary shall commence proceedings under § 19-313 of this subtitle on the Secretary's own complaint or on a complaint made to the Secretary by any person.

(b) (1) A complaint shall:

(i) be in writing;

(ii) be signed by the complainant; and

(iii) state specifically the facts on which the complaint is based.

(2) If a complaint is made by any person other than the Secretary, the complaint shall be made under oath by the person who submits the complaint.

(c) (1) On receipt of a complaint that alleges facts that are grounds for action under § 19-313 of this subtitle, the Secretary shall appoint an officer of the Department of State Police, with the rank of lieutenant or above, as the investigating officer for the complaint.

(2) The investigating officer may assign responsibility for conducting the investigation to other members of the Department of State Police.

(d) (1) On conclusion of the investigation, the investigating officer shall determine whether there is a reasonable basis to believe that there are grounds for disciplinary action under § 19-313 of this subtitle.

(2) If the investigating officer finds a reasonable basis as provided under paragraph (1) of this subsection, the Secretary shall act on the complaint as provided under § 19-315 of this subtitle.

§19–315.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Secretary takes any final action under § 19-313 of this subtitle, the Secretary shall give the person against whom the action is contemplated an opportunity for a hearing before the Secretary.

(b) The Secretary shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Secretary may administer oaths in connection with any proceeding under this section.

(d) The hearing notice to be given to the person shall be written and sent at least 10 days before the hearing.

(e) The person may be represented at the hearing by counsel.

(f) If, after due notice, the person against whom the action is contemplated fails or refuses to appear, nevertheless the Secretary may hear and determine the matter.

§19–316.

(a) Within 5 days after the Secretary suspends or revokes the license of a person, the person shall surrender to the Secretary the agency license certificate and each branch office certificate of the person.

(b) The Secretary may not refund to a person whose license is suspended or revoked any fee paid under this title.

§19–401.

(a) Except as provided under subsection (b) of this section, a licensed security guard agency may provide an individual for hire as a security guard only if the individual is certified by the Secretary as a security guard.

(b) A licensed security guard agency may provide an uncertified individual for hire as a security guard if:

(1) (i) the security guard agency has submitted to the Secretary the application of the individual for certification as a security guard, fingerprint cards, and records fee as required under § 19–402(b) of this subtitle; and

(ii) the Secretary has not disapproved the application; or

(2) the individual has obtained and currently possesses certification by the Maryland Police Training and Standards Commission as a police officer.

(c) Except as provided under subsection (d) of this section, a security guard employer may employ a security guard to provide security guard services only if the individual is certified by the Secretary as a security guard.

(d) A security guard employer may employ an uncertified security guard to provide security guard services for the security guard employer if:

(1) (i) the security guard employer has submitted to the Secretary the application of the individual for certification as a security guard, fingerprint cards, and records fee as required under § 19–402(b) of this subtitle; and

(ii) the Secretary has not disapproved the application; or

(2) the individual has obtained and currently possesses certification by the Maryland Police Training and Standards Commission as a police officer.

(e) This subtitle does not prohibit a security guard employer from hiring security guards from a licensed security guard agency.

§19–402.

(a) To qualify for certification as a security guard, an individual shall:

(1) meet the standards set by the Secretary;

(2) be an employee of or an applicant for employment with a licensed security guard agency or a security guard employer;

(3) be of good moral character and reputation;

(4) submit to the licensed security guard agency or the security guard employer, for forwarding to the Secretary:

(i) a sworn application in the manner and format designated by the Secretary;

(ii) the fingerprints required under § 19–304(c) of this title;

(iii) a nonrefundable application fee of $15;

(iv) a declaration under the penalties of perjury stating whether:

1. the individual has been convicted of:

A. a disqualifying crime, under § 5–101 of the Public Safety Article; or

B. a crime of violence, under § 14–101 of the Criminal Law Article;

2. if currently or formerly employed as a police officer, the individual has had any formal findings by a court, hearing board, or other governmental entity of unlawful or excessive use of force or of making a false statement during the individual's employment with the law enforcement agency; and

3. the individual plans to carry a handgun in the course of providing security guard services; and

(v) documentation that the individual has either:

1. satisfactorily completed 12 hours of initial security training that is approved by the Maryland Police Training and Standards Commission under § 19–412 of this subtitle; or

2. been employed as a police officer in the 3 years immediately preceding the application;

(5) pay to the licensed security guard agency or the security guard employer, for forwarding to the Secretary, the fees authorized under § 19–304(c) of this title; and

(6) be at least 18 years old.

(b) On receipt from an applicant for certification as a security guard, a licensed security guard agency or security guard employer shall forward to the Secretary the applicant's application, fingerprint cards, and criminal history records check fees.

(c) (1) Subject to paragraph (2) of this subsection, an applicant for certification as a security guard shall complete 12 hours of initial security training that is approved by the Maryland Police Training and Standards Commission under § 19–412 of this subtitle.

(2) An applicant for certification may not be required to complete the training specified in paragraph (1) of this subsection if the applicant:

(i) has been employed as a police officer in the 3 years immediately preceding the application; and

(ii) provides supporting documentation with the application for certification as a security guard in accordance with subsection (a)(4)(v)2 of this section.

§19–403.

(a) The Secretary shall certify as a security guard each individual whose application has been submitted as required by this subtitle and who meets the requirements of this subtitle.

(b) Within 5 days after the Secretary denies the application of an individual for certification as a security guard, the Secretary shall send written notice of the denial to the licensed security guard agency that submitted the application.

§19–404.

While certification of an individual as a security guard is in effect, the certification authorizes the individual to represent to the public that the individual is certified by the Secretary for employment as a security guard.

§19–404.1.

(a) By regulation, the Secretary shall stagger the terms of the certifications.

(b) Unless a certification is renewed for a 3–year term as provided in this section, the certification expires on the date the Secretary sets.

(c) At least 90 days before a certification expires, the applicant shall submit to the Secretary in the manner and format designated by the Secretary:

(1) a renewal application;

(2) the amount of the renewal fee in a method approved by the Secretary; and

(3) the amount of any late fee, as determined by the Secretary.

(d) An individual periodically may renew the certification for an additional 3–year term, if the individual:

(1) otherwise is entitled to be certified;

(2) pays to the Secretary in a method approved by the Secretary:

(i) a renewal fee of $10;

(ii) payment for the cost of a fingerprint card record check by the Federal Bureau of Investigation; and

(iii) any late fee required under this subtitle;

(3) (i) satisfactorily completes 8 hours of continuing security training that is approved by the Maryland Police Training and Standards Commission under § 19–412 of this subtitle; and

(ii) submits to the Secretary supporting documentation that demonstrates completion of the training; and

(4) submits to the Secretary a renewal application in the manner and format designated by the Secretary.

(e) (1) Subject to paragraph (2) of this subsection, if a complete application for renewal of certification as required under this subtitle is not received by the Secretary on or before the first business day of the next calendar month immediately following the renewal date, the Secretary shall assess a late fee of $5 per day until the application is received by the Secretary.

(2) (i) The Secretary may not charge a late fee under paragraph (1) of this subsection if the applicant did not make timely renewal because of incapacity, hospitalization, being called to active military duty, or other hardship.

(ii) The total amount of late fees assessed against an applicant under this subsection may not exceed $150.

(3) The Secretary may not certify any applicant under this subtitle if the applicant has outstanding late fee obligations.

(f) (1) The Secretary shall renew the certification of each individual who meets the requirements of this section.

(2) Within 5 days after the Secretary refuses to renew the certification of an individual as a security guard, the Secretary shall send written notice of the refusal to the individual who submitted the renewal application.

(g) At least 90 days before a certification expires, the licensed security guard agency or security guard employer shall submit a declaration to the Secretary under the penalties of perjury stating whether it knows that a certified security guard who provides security guard services on the security guard agency's behalf or for the security guard employer no longer satisfies all of the criteria for certification under § 19–402 of this subtitle.

§19–405.

(a) The Secretary shall issue to each individual who is certified as a security guard under this subtitle a certification card that identifies the individual as a certified security guard.

(b) (1) Subject to this subsection, the Secretary shall determine the form and content of the certification card.

(2) The certification card shall be of a size and made of materials appropriate for its intended use, as provided under § 19-406 of this subtitle.

(3) The certification card shall contain:

(i) a statement that in substance specifies that the individual is certified by the Secretary as a security guard;

(ii) any information that the Secretary considers appropriate to:

1. identify the individual; or

2. specify the authority of the individual; and

(iii) the date on which the certification expires.

§19–406.

(a) At any time that a certified security guard provides a security guard service, the security guard shall carry the certification card issued under § 19-405 of this subtitle.

(b) On request of a law enforcement officer, a certified security guard shall show the security guard's certification card.

§19–407.

(a) Whenever a security guard is in uniform, the security guard may wear a badge that is:

(1) of a design approved by the Secretary; and

(2) issued by the licensed security guard agency or the security guard employer that employs the security guard.

(b) Whenever a security guard is in uniform, the security guard shall clearly display and wear the clearance card issued by the Secretary which identifies the security guard.

§19–408.

(a) Subject to the hearing provisions of § 19–410 of this subtitle, the Secretary may deny certification as a security guard to any applicant, reprimand or fine any individual certified as a security guard, or suspend, revoke, or refuse to renew the certification of an individual:

(1) for any applicable ground under § 19–313 of this title;

(2) if the applicant or individual fraudulently or deceptively obtains or attempts to obtain certification as a security guard for the applicant or individual or for another;

(3) if the applicant or individual fails to maintain the standards set by the Secretary for certification as a security guard; or

(4) if, under the laws of the United States or of any state, the applicant or individual pleads guilty or nolo contendere to or is convicted of:

(i) a felony; or

(ii) a misdemeanor that is directly related to the fitness and qualification of the applicant or individual to be certified as a security guard.

(b) Subject to the hearing provisions of § 19–410 of this subtitle, the Secretary shall deny, revoke, or refuse to renew the certification of a security guard who:

(1) has been convicted of:

(i) a disqualifying crime under § 5–101 of the Public Safety Article; or

(ii) a crime of violence under § 14–101 of the Criminal Law Article;

(2) has had any formal findings by a court, hearing board, the Secretary, or other governmental entity of:

(i) unlawful or excessive use of force; or

(ii) making a false statement during the security guard's employment as a police officer with a law enforcement agency; or

(3) has not satisfactorily completed the required continuing security training under § 19–404.1 of this subtitle.

(c) (1) A licensed security guard agency or security guard employer shall notify the Secretary within 48 hours if it knows that an individual who provides security guard services on its behalf or for it has been arrested for a crime of violence under § 14–101 of the Criminal Law Article or a disqualifying crime under § 5–101 of the Public Safety Article.

(2) Subject to § 10–226(c)(2) of the State Government Article, the Secretary may impose an emergency suspension of the certification of a security guard who has been arrested for an offense under paragraph (1) of this subsection.

§19–409.

(a) Subject to this section, the Secretary shall commence proceedings under § 19-408 of this subtitle on the Secretary's own complaint or on a complaint made to the Secretary by any person.

(b) (1) A complaint shall:

(i) be in writing;

(ii) be signed by the complainant; and

(iii) state specifically the facts on which the complaint is based.

(2) If a complaint is made by any person other than the Secretary the complaint shall be made under oath by the person who submits the complaint.

(c) (1) On receipt of a complaint that alleges facts that are grounds for action under § 19-408 of this subtitle, the Secretary shall appoint an officer of the

Department of State Police, with the rank of lieutenant or above, as the investigating officer for the complaint.

(2) The investigating officer may assign responsibility for conducting the investigation to other members of the Department of State Police.

(d) (1) On conclusion of the investigation, the investigating officer shall determine whether there is a reasonable basis to believe that there are grounds for disciplinary action under § 19-408 of this subtitle.

(2) If the investigating officer finds a reasonable basis as provided under paragraph (1) of this subsection, the Secretary shall act on the complaint as provided under § 19-410 of this subtitle.

§19–410.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Secretary takes any final action under § 19-408 of this subtitle, the Secretary shall give the individual against whom the action is contemplated an opportunity for a hearing before the Secretary.

(b) The Secretary shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Secretary may administer oaths in connection with any proceeding under this section.

(d) The hearing notice to be given to the individual shall be written and sent at least 10 days before the hearing.

(e) The individual may be represented at the hearing by counsel.

(f) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Secretary may hear and determine the matter.

§19–411.

Within 5 days after the Secretary suspends or revokes the certification of an individual as security guard, the individual shall surrender to the Secretary the certification card of the individual.

§19–412.

(a) The Maryland Police Training and Standards Commission shall identify initial and continuing training programs for security guard certification and renewal of certification, as required in §§ 19–402 and 19–404.1 of this subtitle.

(b) The training programs under subsection (a) of this section shall include training on the following:

(1) relevant criminal law;

(2) the appropriate use of force;

(3) the use of alternatives to force;

(4) the use of de–escalation techniques; and

(5) promoting appropriate interactions with individuals who:

(i) are under 18 years of age;

(ii) have behavioral health or other disabilities; or

(iii) are in crisis.

(c) Subject to subsection (d) of this section, the training programs identified by the Maryland Police Training and Standards Commission under subsection (a) of this section shall satisfy the following training requirements:

(1) the 12–hour initial training requirement under § 19–402 of this subtitle; and

(2) the 8–hour continuing security training under § 19–404.1 of this subtitle.

(d) If the Maryland Police Training and Standards Commission is unable to identify an initial or continuing training program under subsection (a) of this section, the Commission shall establish an initial or continuing training program that meets the requirements under subsection (b) of this section.

(e) The Maryland Police Training and Standards Commission shall prominently publish the list of the programs identified under subsection (a) of this section or established by the Commission under subsection (d) of this section on the Commission's website.

§19–413.

(a) Subject to subsection (b) of this section, a security guard must hold a valid permit to carry a handgun under Title 5, Subtitle 3 of the Public Safety Article before carrying a handgun while providing security guard services.

(b) A security guard may not carry a handgun while providing security guard services until:

(1) receiving approval to carry a handgun from the licensed security guard agency or security guard employer;

(2) notifying the Secretary of the intent of the security guard to carry a handgun while providing security guard services; and

(3) the Secretary confirms that the security guard has a valid permit to carry a handgun under Title 5, Subtitle 3 of the Public Safety Article and has not been convicted of a disqualifying crime under § 5–101 of the Public Safety Article.

§19–414.

(a) (1) In this section, "use of force" means:

(i) any physical striking of an individual;

(ii) any significant physical contact that restricts the movement of an individual, including control techniques; or

(iii) the detainment of an individual without the individual's consent.

(2) "Use of force" includes:

(i) the discharge of a firearm;

(ii) the discharge of pepper mace, as defined in § 4–101 of the Criminal Law Article; and

(iii) the use of an electronic control device, as defined in § 4–109 of the Criminal Law Article.

(3) "Use of force" does not include mere presence, verbal commands, or escorting an individual with minimal resistance.

(b) (1) Subject to paragraph (2) of this subsection, a security guard shall report any use of force against a person while providing security guard services on behalf of the licensed security guard agency or for the security guard employer to the security guard agency or the security guard employer within 48 hours after the use of force on a form provided by the Secretary.

(2) A security guard is not required to report any use of force against a person within 48 hours after the use of force if the security guard is seriously injured or disabled.

(c) (1) A licensed security guard agency or security guard employer shall, in accordance with paragraph (2) of this subsection, report any use of force by a security guard while providing security guard services on its behalf or for it to the Secretary within 48 hours after receiving the form completed under subsection (b)(1) of this section.

(2) The use of force report under paragraph (1) of this subsection shall include:

(i) the type of encounter;

(ii) the type of force used;

(iii) the location of the incident where force was used;

(iv) whether the individual against whom force was used was arrested and, if known, what charges the individual received;

(v) whether the individual against whom force was used requested or required medical care;

(vi) whether the security guard requested or required medical care;

(vii) demographic information about any individuals against whom force was used and any security guard involved in the incident, including race, ethnicity, gender, and age; and

(viii) the form completed under subsection (b)(1) of this section.

§19–501.

A licensed security guard agency is responsible for the acts of each of its employees while the employee is conducting the business of the agency.

§19–502.

(a) The offices of each security guard agency shall be supervised by an individual who:

(1) (i) holds, as an individual, the license of the security guard agency; or

(ii) is the representative member of the security guard agency appointed under § 19-302(b) of this title; and

(2) has been investigated and approved by the Secretary under this title.

(b) If a security guard agency is a firm, the agency shall notify the Secretary about:

(1) the identity of the individual serving as the representative member of the agency; and

(2) each vacancy in that position.

(c) (1) Except as provided in paragraph (2) of this subsection, a security guard agency shall appoint a representative member within 90 days after a vacancy occurs in the position.

(2) If the vacancy is caused by the death of or an incapacitating injury to the representative member, the security guard agency shall appoint a replacement within 180 days after the vacancy occurs.

(d) If a licensed security guard agency fails to appoint a representative member as required under subsection (c) of this section, the license of the security guard agency:

(1) is suspended automatically; and

(2) shall remain suspended until the agency complies with the requirements.

(e) The Secretary may adopt regulations to carry out this section.

§19–504.

(a) (1) A security guard agency or security guard employer that employs five or more individuals as security guards shall:

(i) maintain commercial general liability insurance, including errors and omissions and completed operations with a $1,000,000 total aggregate minimum; and

(ii) submit proof of the required insurance to the Secretary.

(2) A security guard agency or security guard employer that employs fewer than five individuals as security guards shall:

(i) maintain commercial general liability insurance, including errors and omissions and completed operations with a $500,000 total aggregate minimum; and

(ii) submit proof of the required insurance to the Secretary.

(b) (1) If an applicant for a license or a security guard employer intends to employ one or more individuals as security guards, the applicant shall submit proof of the liability insurance required under subsection (a) of this section to the Secretary with the license application.

(2) (i) The Secretary may not issue a license to an applicant to whom the insurance requirements of this section would apply unless the applicant submits proof of the insurance.

(ii) The Secretary may not authorize the certification of a security guard for a security guard employer unless the security guard employer submits proof of applicable insurance under subsection (a) of this section.

(c) If the insurance required for a security guard agency or security guard employer under this section is canceled, forfeited, or otherwise terminated, both the security guard agency or the security guard employer and the insurer shall notify the Secretary.

(d) If a security guard agency fails to maintain the liability insurance required under this section, the license of the security guard agency:

(1) is suspended automatically;

(2) shall remain suspended until the agency complies with the requirements; and

(3) may not be reinstated until the agency submits proof of the required insurance to the Secretary.

(e) If a security guard employer fails to maintain the liability insurance required under this section, the Secretary may prohibit a security guard employer from employing a certified security guard until the security guard employer:

(1) complies with the applicable insurance requirements under subsection (a) of this section; and

(2) submits proof of the required insurance to the Secretary.

§19–505.

(a) A nonresident applicant for a license shall submit to the Secretary of State a consent, as provided under this section.

(b) The consent required under this section shall:

(1) specify that service of process on the Secretary of State shall bind the applicant in any action, suit, or proceeding brought against the applicant;

(2) specify that an action, suit, or proceeding may be brought against the applicant in any county where:

(i) the cause of action arose; or

(ii) the plaintiff resides; and

(3) be signed by the representative member of the applicant.

(c) In addition to submitting a consent, a nonresident applicant shall submit to the Secretary of State a certified copy of a resolution adopted by the firm that confirms that the firm members, board of directors, or other managing board of the firm authorized the representative member to execute and submit the consent on behalf of the firm.

(d) An applicant who is required under this section to submit a consent or a consent and authorization to the Secretary of State shall submit copies of the signed documents to the Secretary.

(e) The Secretary may not issue a license to a nonresident applicant, unless the nonresident applicant complies with the requirements of subsections (a) through (d) of this section.

(f) (1) Subject to paragraph (2) of this subsection, service of process on the Secretary of State binds a person who has submitted a consent to the Secretary of State, as required under this section.

(2) If service of process is made on the Secretary of State as authorized under this section, the person initiating the action, suit, or proceeding immediately shall send a copy, by certified mail, return receipt requested, to the principal office in the State of the person against whom the action, suit, or proceeding is directed.

(3) As to any person who submits a consent as required under this section, any action, suit, or proceeding may be brought in any county where:

(i) the cause of action arose; or

(ii) the plaintiff resides.

§19–506.

(a) A security guard agency may not divulge information obtained while providing services unless:

(1) directed by the client for whom the services are provided;

(2) authorized by subsection (b) of this section; or

(3) required by law.

(b) If, while providing services, a security guard agency obtains any information about a criminal offense, the agency may divulge the information to:

(1) a law enforcement officer;

(2) the Attorney General or a representative of the Attorney General; or

(3) a State's Attorney or a representative of a State's Attorney.

(c) Except as provided in subsection (d) of this section, an individual who is employed by a security guard agency may not divulge to anyone other than to authorized staff of the agency any information that:

(1) was acquired by the employee or other agency staff while providing services for the agency; and

(2) relates to the assignment in which services are provided.

(d) An employee of a security guard agency may divulge information that is restricted under subsection (c) of this section:

(1) as directed by the security guard agency; or

(2) on a request made by the Secretary in the course of an investigation by the Secretary.

§19–507.

(a) In this section, "agency equipment" means a badge, clothing, or other equipment that:

(1) belongs to a security guard agency; and

(2) bears the name, trade name, or trademark of the security guard agency.

(b) If a security guard agency issues agency equipment for use by an individual who is associated with or employed by the agency, the individual shall return the agency equipment to the agency within 10 days after:

(1) the termination of the individual's association or employment with the agency; or

(2) the written request of an authorized representative of the agency.

§19–508.

If a certified security guard loses a certification card, the security guard immediately shall give the Secretary notice of the loss and the circumstances regarding the loss.

§19–601.

A person may not engage in, attempt to engage in, offer to engage in, or solicit to engage in the business of providing security guards for hire in the State unless licensed as a security guard agency by the Secretary.

§19–602.

(a) Unless authorized under this title to engage in business for the purpose of providing security guard services, a person may not represent to the public, by use of a title, including "licensed security guard agency", "security guard agency", or "security guards", by description of services, methods, or procedures, or otherwise, that the person is authorized to engage in the business of providing security guard services in the State.

(b) Unless an individual is certified as a security guard under this title, the individual may not represent to the public, by use of a title, including "certified security guard", or by use of a badge or identification card, that the individual is certified as a security guard under this title.

§19–603.

(a) Except as authorized under this title, a security guard agency may not provide any person with a badge or a certification card or other document indicating that any individual is a security guard.

(b) A certified security guard may not lend the security guard's certification card or badge to another person or allow another person to use or display the card or badge.

(c) Regardless of any association that an individual may have with a security guard agency, unless authorized under this title, the individual may not wear or carry a badge that:

(1) represents that the individual is a security guard; or

(2) otherwise represents that the individual is associated with a security guard agency.

§19–604.

(a) (1) A licensee may not display or allow to be displayed the agency license certificate at any location other than the principal office of the licensee, as specified in the certificate.

(2) A licensee may not display or allow to be displayed a branch office certificate at any location other than the branch office specified in the certificate.

(b) A licensee may not knowingly alter, deface, or destroy or knowingly allow the alteration, defacement, or destruction of an agency license certificate or branch office certificate.

§19–605.

A person may not willfully make a false statement on any application form, annual statement, or other document submitted to the Secretary under this title.

§19–606.

An individual whom a licensee employs as a security guard may not willfully make a false statement or report to the licensee about services provided by the licensee.

§19–607.

(a) A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(b) The fines assessed under §§ 19-313 and 19-408 of this title may not exceed $5,000 per violation, or a maximum aggregate of $10,000 for a 2-year license term, and shall be paid to the Secretary within 10 days after final adjudication of any hearing or upon the waiver of any hearing.

(c) Notwithstanding the provisions of §§ 19-313 and 19-408 of this title, the Secretary may fine either the licensed agency or the individual working on behalf of the licensed agency, but not both, for the same violation.

§19–701.

This title may be cited as the "Maryland Security Guards Act".

§20–101.

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

(b) "License" means a license issued by the Secretary to operate a business that provides monitoring services for a fee to individuals who are under a court order that requires monitoring by a private home detention monitoring agency.

(c) "Licensed private home detention monitoring agency" means a person who is licensed by the Secretary to conduct a business that provides monitoring

services for a fee to individuals who are under a court order that requires monitoring by a private home detention monitoring agency.

(d) "Private home detention monitor" means an employee of a licensed private home detention monitoring agency who personally monitors individuals who are under a court order that requires monitoring by a private home detention monitoring agency.

(e) "Private home detention monitoring agency" means a person who conducts a business that provides monitoring services for a fee to individuals who are under a court order that requires monitoring by a private home detention monitoring agency.

(f) "Secretary" means the Secretary of Public Safety and Correctional Services.

§20–201.

(a) In addition to any duties set forth elsewhere, the Secretary shall adopt and enforce regulations to carry out this title, including regulations that establish:

(1) minimum standards for electronic equipment capable of monitoring 24 hours per day individuals who are under a court order that requires monitoring by a private home detention monitoring agency;

(2) minimum training and experience requirements for a private home detention monitoring agency licensee and for a private home detention monitor; and

(3) the minimum number of private home detention monitors that shall be on duty in relation to the number of defendants being monitored.

(b) The Secretary shall:

(1) maintain a roster of licensed private home detention monitoring agencies that includes:

(i) a telephone number at which a person who operates a licensed private home detention monitoring agency can be reached during normal business hours; and

(ii) a telephone or pager number at which a person who operates a licensed private home detention monitoring agency can be reached during nonbusiness hours;

(2) annually disseminate the roster of licensed private home detention monitoring agencies to:

(i) the administrative judge for the District Court in each district;

(ii) the administrative judge for the circuit court in each county; and

(iii) the Administrative Office of the Courts; and

(3) notify the agencies listed in paragraph (2) of this subsection when the license of a private home detention monitoring agency is suspended or revoked.

§20–301.

A person shall be licensed by the Secretary as a private home detention monitoring agency before operating a business that provides monitoring services for a fee to individuals who are under a court order that requires monitoring by a private home detention monitoring agency.

§20–302.

(a) To qualify for a license, an applicant shall meet the requirements of this section.

(b) The applicant and anyone the applicant employs as a private home detention monitor shall be of good character and reputation.

(c) The applicant and all individuals employed as private home detention monitors shall satisfy the minimum training and experience requirements provided in regulations adopted by the Secretary.

§20–303.

(a) (1) An applicant for a license shall submit to the Secretary:

(i) an application on the form that the Secretary provides; and

(ii) an application fee of $500.

(2) The application fee is nonrefundable.

(b) (1) The application form provided by the Secretary shall contain a statement advising the applicant that willfully making a false statement on an application is a misdemeanor, subject to a fine or imprisonment or both, as provided under § 20-701 of this title.

(2) The applicant shall sign the application under oath.

(c) In addition to any other information that the Secretary requires, the applicant shall provide:

(1) the name, date of birth, and residence address of the applicant;

(2) the address of the applicant's proposed principal place of business and of each proposed branch office;

(3) a telephone number at which the applicant can be reached during normal business hours;

(4) a telephone or pager number that can be used to reach the applicant during nonbusiness hours; and

(5) the name and permanent address of each individual the applicant intends to employ as a private home detention monitor.

(d) An applicant for a license shall submit with the application form:

(1) a bond in accordance with the requirements of § 20-601 of this title; and

(2) proof of liability insurance, as required under § 20-602 of this title.

§20–304.

Before an individual may begin working as a private home detention monitor:

(1) the private home detention monitoring agency shall submit to the Secretary, on the form that the Secretary provides, the name of the individual; and

(2) the individual shall apply for State and national criminal history records checks under § 20-305 of this subtitle.

§20–305.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) An applicant for a license under this title and an individual whose name must be submitted under § 20-303(c)(5) of this subtitle shall apply to the Central Repository for State and national criminal history records checks on a form approved by the Director of the Central Repository.

(c) For each individual applying for State and national criminal history records checks under subsection (b) of this section, the Central Repository shall:

(1) notify the Secretary of the receipt of the application for State and national criminal history records checks;

(2) process the State and national criminal history records checks and forward to the Secretary and the individual a printed statement listing the finding of a felony conviction; and

(3) process an update of the initial State criminal history records check and forward to the Secretary a revised printed statement listing the finding of a felony conviction for an offense occurring in the State after the date of the initial criminal history records check.

(d) An individual applying for State and national criminal history records checks shall submit to the Central Repository:

(1) a complete set of legible fingerprints taken at any designated State or local law enforcement office in the State or other location approved by the Secretary;

(2) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check; and

(3) the fee authorized under § 10-221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records.

(e) A private home detention monitoring agency or an applicant for a license to operate a private home detention monitoring agency may pay the fees required in subsection (d) of this section for an individual it intends to employ as a private home detention monitor.

(f) Information obtained by the Secretary under this section shall be confidential and may not:

(1) be used for any purpose other than that for which it was disseminated; and

(2) be redisseminated.

§20–306.

(a) This section applies to an individual required to apply for State and national criminal history records checks under this subtitle.

(b) An individual may contest the finding of a felony conviction reported in a printed statement issued by the Department as provided in this section.

(c) (1) In contesting the finding of a felony conviction, the individual shall contact the office of the Secretary, or a designee of the Secretary, and a hearing shall be convened within 20 workdays, unless subsequently waived by the individual.

(2) The Secretary, or a designee of the Secretary, shall render a decision regarding the appeal within 5 workdays after the hearing.

(d) For the purposes of this subtitle, the record of a felony conviction or a copy of the record certified by the clerk of the court or by a judge of the court in which the conviction occurred shall be conclusive evidence of the conviction.

(e) Failure of the individual to appear at the scheduled hearing shall be considered grounds for dismissal of the appeal.

§20–307.

(a) (1) The Secretary shall issue a license to each applicant who satisfies the requirements of this title and any regulations adopted under this title.

(2) (i) The Secretary shall issue a private home detention monitoring agency license certificate to each licensed agency.

(ii) For each additional office the private detention monitoring agency proposes to operate, the Secretary shall issue a branch office certificate.

(b) (1) The Secretary shall include on each agency license certificate that the Secretary issues:

(i) the full name of the licensee;

(ii) the location of the private home detention monitoring agency and of each branch office, if any;

(iii) the date of issuance of the license; and

(iv) the date on which the license expires.

(2) The Secretary shall include on a branch office certificate:

(i) the full name of the licensee;

(ii) the location of the principal office of the licensee and of the agency branch office for which the certificate is issued;

(iii) the date of issuance of the branch office certificate; and

(iv) the date on which the license of the licensee expires.

§20–308.

While a license is in effect, it authorizes the licensee to:

(1) operate, in accordance with applicable laws and regulations, a business that provides monitoring services for a fee to individuals who are under a court order that requires monitoring by a private home detention monitoring agency; and

(2) employ qualified individuals to work as private home detention monitors on behalf of the licensee.

§20–309.

(a) Unless a license is renewed for a 2-year term as provided in this section, the license expires on the date set by the Secretary.

(b) At least 2 months before a license expires, the Secretary shall mail or electronically transmit to the licensee:

(1) a renewal application form; and

(2) a notice that states:

(i) the date on which the current license expires;

(ii) the amount of the renewal fee; and

(iii) that the submission of a false statement in the renewal application or in the annual statements is cause for revocation of the license.

(c) The Secretary shall renew the license of each licensee who satisfies the requirements of this title and any regulations adopted under this title.

§20–310.

(a) As a condition for license renewal, a licensee shall submit to the Secretary with the renewal application:

(1) a certification or, as authorized by the Secretary, other documentation that the licensed private home detention monitoring agency has paid, for the past 2 years, all withholding and Social Security taxes;

(2) a certification or, as authorized by the Secretary, other documentation that the licensed private home detention monitoring agency has paid, for the past 2 years, all other obligations employers are required to pay on behalf of their employees to the State or federal government;

(3) a certificate of compliance issued by the State Workers' Compensation Commission, or the number of a workers' compensation insurance policy or binder as provided by § 9-105 of the Labor and Employment Article;

(4) a receipt from the Comptroller's Office or, as authorized by the Secretary, other documentation showing that the State income tax of the licensed private home detention monitoring agency has been paid for the past 2 years;

(5) (i) a bond in accordance with the requirements of § 20-601 of this title; and

(ii) proof of liability insurance, as required under § 20-602 of this title; and

(6) a renewal fee of $100.

(b) If the Secretary does not receive the documents required under subsection (a) of this section at least 21 days before the current license expires, the Secretary may charge the licensee a late fee of $10 per day until the documents are received.

(c) The Secretary may inspect any of the business records of a licensee that relate to any matter that is subject to certification or documentation under this section.

§20–311.

(a) A licensee shall maintain an office in the State.

(b) A licensee shall keep in an office in the State all files or other records that:

(1) are made in the State; and

(2) relate to individuals monitored by the licensee.

§20–312.

(a) Within 21 days after the change, a licensee shall submit to the Secretary written notice of:

(1) the addition of a branch office; and

(2) a change in the address of the private home detention monitoring agency or branch office.

(b) The licensee shall submit with the notice:

(1) a photocopy of the agency license certificate; and

(2) if the proposed change affects an existing branch office, a photocopy of the branch office certificate for that office.

(c) The Secretary shall issue a new agency license certificate and, if applicable, a new branch office certificate, both of which shall set forth the same expiration date as the original agency license certificate.

§20–313.

(a) Each licensee shall have on the premises at all times:

(1) the agency license certificate in the office of the private home detention monitoring agency; and

(2) the branch office certificate in the agency branch office for which the certificate was issued.

(b) (1) If an agency license certificate or branch office certificate is lost or destroyed, the licensee immediately shall notify the Secretary.

(2) On receipt of notice of the loss or destruction of an agency license certificate or branch office certificate, the Secretary may issue a duplicate.

§20–314.

(a) Subject to the hearing provisions of § 20-316 of this subtitle, the Secretary may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

(1) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(2) fraudulently or deceptively uses a license;

(3) while not licensed, willfully engages in a business providing private home detention monitoring services in the State;

(4) while not licensed, willfully advertises as a private home detention monitoring agency;

(5) willfully makes a false statement or misrepresentation that an individual is or was in the employ of the applicant or licensee;

(6) has a felony conviction;

(7) knowingly employs or knowingly continues to employ a private home detention monitor after being notified by the Secretary that the individual has a felony conviction;

(8) willfully makes a false statement or misrepresentation in any renewal application, in any annual statement, or in any other report or document that the Secretary requires to be submitted;

(9) fails to notify the Secretary about any change in the address of the private home detention monitoring agency or any branch office of a licensee;

(10) fails to maintain a bond as required by § 20-601 of this title;

(11) fails to maintain the liability insurance required under § 20-602 of this title;

(12) violates any other provision of this title; or

(13) violates a regulation adopted under this title.

(b) For purposes of this section, an act or omission of any principal, agent, or employee of an applicant or licensee may be construed to be the act or omission of the applicant or licensee, as well as of the principal, agent, or employee.

§20–315.

(a) (1) Subject to this section, the Secretary shall commence proceedings under § 20-316 of this subtitle on the Secretary's own complaint or on a complaint made to the Secretary by any person.

(2) If a complaint is made by any person other than the Secretary, the complaint shall be made under oath by the person who submits the complaint.

(3) A complaint shall:

(i) be in writing;

(ii) be signed by the complainant; and

(iii) state specifically the facts on which the complaint is based.

(b) On receipt of a complaint that alleges facts that are grounds for action under § 20-314 of this subtitle, the Secretary shall assign an employee to investigate the complaint.

(c) (1) On conclusion of the investigation, the employee who conducted the investigation shall determine whether there is a reasonable basis to believe that there are grounds for disciplinary action under § 20-314 of this subtitle.

(2) If the employee who conducted the investigation finds a reasonable basis as provided under paragraph (1) of this subsection, the Secretary shall act on the complaint as provided under § 20-316 of this subtitle.

§20–316.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Secretary takes final action under § 20-314 of this subtitle, the

Secretary shall give the person against whom the action is contemplated an opportunity for a hearing before the Secretary.

(b) The Secretary shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Secretary may administer oaths in connection with any proceeding under this section.

(d) The person may be represented at the hearing by counsel.

(e) If, after due notice, the person against whom the action is contemplated does not appear, nevertheless the Secretary may hear and determine the matter.

§20–317.

Within 5 days after the Secretary suspends or revokes the license of a person, the person shall surrender to the Secretary the agency license certificate and each branch office certificate issued to the person.

§20–318.

When the Secretary makes a determination to suspend or revoke the license of a private home detention monitoring agency, the Secretary shall immediately notify:

(1) the administrative judge for the circuit court in each of the counties where the private home detention monitoring agency monitors individuals who are under a court order that requires monitoring by a private home detention monitoring agency; and

(2) the administrative judge for the District Court in each of the districts where the private home detention monitoring agency monitors individuals who are under a court order that requires monitoring by a private home detention monitoring agency.

§20–401.

(a) A private home detention monitoring agency shall:

(1) monitor individuals in accordance with any applicable orders of court;

(2) monitor 24 hours a day and 7 days a week individuals who are under a court order that requires monitoring by a private home detention monitoring agency; and

(3) utilize electronic equipment or other monitoring methods that meet or exceed standards established in regulations by the Secretary.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, on determining that a defendant subject to private home detention monitoring under the provisions of § 5–201(b) of the Criminal Procedure Article has violated a condition of home detention monitoring, the private home detention monitoring agency responsible for monitoring the defendant shall notify within 24 hours:

(i) the court that ordered private home detention monitoring as a condition of the defendant's pretrial release; and

(ii) the designated law enforcement agency, as determined by the court, in Baltimore City or the county where the court is located.

(2) On determining that a defendant subject to private home detention monitoring under the provisions of § 5–201(b) of the Criminal Procedure Article has tampered with home detention monitoring equipment or failed to maintain home detention monitoring equipment as required by a court order, the private home detention monitoring agency responsible for monitoring the defendant shall notify within 1 hour:

(i) the court that ordered private home detention monitoring as a condition of the defendant's pretrial release; and

(ii) the designated law enforcement agency, as determined by the court, in Baltimore City or the county where the court is located.

(3) On determining that a defendant subject to private home detention monitoring under the provisions of § 5–201(b) of the Criminal Procedure Article has entered an area that the defendant is expressly prohibited from entering as a condition of pretrial release, the private home detention monitoring agency responsible for monitoring the defendant shall notify immediately:

(i) the court that ordered private home detention monitoring as a condition of the defendant's pretrial release; and

(ii) the designated law enforcement agency, as determined by the court, in Baltimore City or the county where the court is located.

(c) (1) Except as provided in paragraphs (2) and (3) of this subsection, on determining that an individual who is subject to private home detention monitoring as a condition of probation has violated a condition of home detention monitoring, the private home detention monitoring agency responsible for monitoring the individual shall notify within 24 hours the Division of Parole and Probation.

(2) On determining that an individual who is subject to private home detention monitoring as a condition of probation has tampered with home detention monitoring equipment, or failed to maintain home detention monitoring equipment as required by a court order, the private home detention monitoring agency responsible for monitoring the individual shall notify within 1 hour the Division of Parole and Probation.

(3) On determining that an individual who is subject to private home detention monitoring as a condition of probation has entered an area that the individual is expressly prohibited from entering as a condition of pretrial release, the private home detention monitoring agency responsible for monitoring the individual shall notify immediately the Division of Parole and Probation.

(d) (1) A private home detention monitoring agency may not knowingly fail to give notice as required by this section.

(2) The Secretary may impose a civil penalty on a private home detention monitoring agency for a violation of this subsection that does not exceed:

(i) $1,000 for the first day for which the private home detention monitoring agency fails to give notice; and

(ii) $250 for each subsequent day the private home detention monitoring agency fails to give notice.

(e) On request by the Division of Parole and Probation, the private home detention monitoring agency responsible for monitoring an individual who is subject to monitoring as a condition of probation shall forward a report of the individual's compliance during the monitoring period.

(f) A report under subsection (e) of this section, at a minimum, shall include:

(1) the conditions of monitoring set by the sentencing court;

(2) all infractions that the individual has committed during the monitoring period, even if the infraction did not result in a reported violation to the Division of Parole and Probation or the sentencing court; and

(3) any other information in the possession of the private home detention monitoring agency concerning the individual that the Division of Parole and Probation determines is relevant.

§20–501.

A licensed private home detention monitoring agency is responsible for the acts of each of its employees while the employee is conducting the business of the agency.

§20–601.

(a) (1) Subject to this section, an applicant for a license shall execute a bond that is conditioned on the faithful and honest conduct of the applicant and runs to the State for the benefit of any person injured by any wrongful act of the applicant that is willful or malicious.

(2) The applicant shall submit the bond to the Secretary with the license application.

(b) (1) The amount of the bond required under subsection (a) of this section shall be at least $2,500.

(2) The total liability of the surety to all insured persons under the bond may not exceed the penal sum of the bond.

(c) A licensee shall keep in effect at all times a bond that meets the requirements of this section.

(d) If a licensee's bond is canceled, forfeited, or terminated by the surety, the surety immediately shall notify the Secretary.

(e) If a surety fails to notify the Secretary as required by this subsection, the bond shall continue in effect until the notice is given to the Secretary.

§20–602.

(a) The Secretary may adopt regulations requiring a private home detention monitoring agency to maintain a specific minimum amount of general liability insurance.

(b) If the Secretary adopts regulations under subsection (a) of this section, a private home detention monitoring agency shall:

(1) submit proof of the insurance to the Secretary; and

(2) notify the Secretary if the insurance is canceled, forfeited, or otherwise terminated.

(c) If the Secretary adopts regulations under subsection (a) of this section, the Secretary may not issue a license to an applicant unless the applicant submits proof of the insurance required by regulation.

§20–701.

(a) A person may not operate a private home detention monitoring agency in the State unless the Secretary has issued a license to the person.

(b) A person who willfully and knowingly violates this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both.

§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 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) except as provided in subsection (c) of this section, 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.

(c) The exemption provided in subsection (b)(5) of this section does not apply to an individual who signs an individual tax return as the preparer.

§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, neglect 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.

(3) Except as provided in paragraph (4) of this subsection and subject to paragraph (5) of this subsection, a member shall be considered to have resigned if the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(4) The Governor may waive the member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(5) In accordance with § 8–501 of the State Government Article, the chair shall provide notice to the Governor and the Governor shall appoint a successor.

§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 § 2–1257 of the State Government Article.

(c) On or before January 1, 2026, after allowing for public input by the tax preparer community, the Board shall publish on the Board's website a code of ethics and rules of professional conduct for engaging in the practice of individual tax preparation.

§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) If the Board seeks an injunction or takes a disciplinary action against an individual for a violation of this title, the Board shall notify the Comptroller within 5 business days after taking the action.

(4) 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 subtitle;

(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.

§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) 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.

(e) The Board shall adopt regulations that establish the passing score for an examination.

(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 mail or electronically transmit to 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) (1) At least 1 month before a registration expires, the Board shall mail or electronically transmit to the individual:

(i) a renewal application form; and

(ii) a notice that states:

1. the date on which the current registration expires; and

2. the amount of the renewal fee.

(2) If an electronic transmission under paragraph (1) of this subsection is returned to the Board as undeliverable, the Board shall mail to the individual, at the last known address of the individual, the materials required under paragraph (1) of this subsection within 10 business days of the date the Board received the notice that the electronic transmission was undeliverable.

(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.

§21–314.

(a) (1) For the limited purpose set forth in paragraph (2) of this subsection, the registration issued to an individual tax preparer shall remain in effect and does not expire by operation of law while the individual tax preparer is under investigation by the Board or awaiting a hearing or disposition on charges related to disciplinary action under this subtitle.

(2) An extension of a registration term under this subsection is effective only for the purpose of retaining the jurisdiction of the Board over the

individual tax preparer during the course of disciplinary proceedings and does not prevent the registration from expiring for any other purpose.

(b) Unless the Board agrees to accept the surrender, an individual tax preparer may not surrender a registration while the individual tax preparer is under investigation or awaiting a hearing or disposition on charges related to disciplinary action under this subtitle.

§21–401.

(a) Except as otherwise provided in this title, an individual may not provide, attempt to provide, or offer to provide individual tax preparation services in the State unless registered by the Board.

(b) Except as otherwise provided in this title, a person may not employ an individual to provide, attempt to provide, or offer to provide individual tax preparation services in the State unless the individual is registered by the Board.

(c) The Board shall notify the Field Enforcement Bureau of the Comptroller's Office of a violation of this section within 5 business days after the Board determines that the violation has occurred.

§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) 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) 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.

§21–405.

(a) (1) The Board may impose on a person who violates any provision of this title a penalty not exceeding $5,000 for each violation.

(2) In setting the amount of the penalty, the Board shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the violator;

(iv) any history of previous violations by the violator; and

(v) any other relevant factors.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(b) A person who violates any provision of this title and who has previously been assessed a penalty under subsection (a) of this section for another violation of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.

§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, 2027.