

3 **HOUSE BILL 136**

4 M3, C2

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7 **By: Delegate Stein**

8 Introduced and read first time: January 15, 2020 Assigned
9 to: Environment and Transportation

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12 **A BILL ENTITLED**

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14 AN ACT concerning

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16 **Environment – On-Site Wastewater Services – Regulation**

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18 FOR the purpose of establishing the State Board of On-Site Wastewater Professionals in
19 the Department of the Environment; specifying the purpose and composition of the
20 Board; specifying the term of a Board member; providing for the appointment of
21 Board members; authorizing the Governor to remove a member of the Board under
22 certain circumstances; requiring the Board to designate the chair of the Board;
23 requiring the Board to make certain determinations relating to its officers; specifying
24 that a majority of the members then serving on the Board is a quorum; requiring the
25 Board to determine the times and places of its meetings; specifying that a Board
26 member is entitled to certain reimbursement; authorizing the Board to employ staff
27 in accordance with the State budget; requiring the Board to make recommendations
28 to the Department on the adoption of regulations to carry out the provisions of this
29 Act; requiring the Board to review certain regulations; specifying the duties of the
30 Board; requiring a county to enforce and adopt certain standards relating to certain
31 design, installation, and maintenance of certain on-site wastewater systems;
32 requiring the Board to set reasonable fees for a certain purpose; requiring the Board
33 to publish a schedule of the fees; requiring the Board to pay certain funds collected
34 from certain fees into the On-Site Wastewater Professionals Fund; establishing the
35 Fund as a special, nonlapsing fund; specifying the purpose of the Fund; requiring the
36 Board to administer the Fund; requiring the State Treasurer to hold the Fund, and
37 the Comptroller to account for the Fund; specifying the contents of the Fund;
38 specifying the purpose for which the Fund may be used; requiring interest earnings
39 of the Fund to be credited to the Fund; providing for expenditures from the Fund;
40 requiring the Board to submit a certain annual report to the Secretary of the
41 Environment; requiring a certain individual to be licensed by the Board before
42 performing certain on-site wastewater services in the State; requiring an applicant

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43 for a license to meet certain requirements established by regulation and to submit a
44 certain application and pay a certain fee to the Board; requiring that a business
45 performing on-site wastewater services or contracting to perform certain on-site
46 wastewater services have an employee or owner licensed by the Board; authorizing

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49 EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

50 [Brackets] indicate matter deleted from existing law.

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1 the Board to take certain disciplinary action against an applicant or a licensee under 2 certain circumstances; requiring the Board to give a certain individual an 3 opportunity for a hearing before the Board and to give certain notice and hold the 4 hearing in accordance with certain provisions of law; authorizing the Board to 5 administer oaths under certain circumstances; authorizing the Board to hear and 6 determine a matter under certain circumstances; authorizing a person aggrieved by 7 a decision of the Board to take certain action under certain circumstances; 8 prohibiting a person from performing certain on-site wastewater services without a

9 license from the Board; prohibiting the borrowing, renting, or transferring of a 10 license; establishing a certain penalty for violations of this Act; requiring that the 11 failure to pay a certain penalty be forwarded to the Central Collection Unit under 12 certain circumstances; exempting the Fund from a certain provision of law requiring 13 interest earnings on State money to accrue to the General Fund of the State; defining 14 certain terms; providing for the application of this Act; specifying that this Act does 15 not prevent or prohibit a local government from imposing certain requirements or 16 standards; requiring that the Board be fully operational on or before a certain date; 17 specifying the terms of the initial members of the Board; and generally relating to 18 the establishment of the State Board of On-Site Wastewater Professionals and the 19 regulation of individuals performing on-site wastewater services in the State.

20 BY adding to

21 Article – Environment

22 Section 9–11A–01 through 9–11A–22 to be under the new subtitle “Subtitle 11A.

23 On-Site Wastewater Services”

24 Annotated Code of Maryland

25 (2014 Replacement Volume and 2019 Supplement)

26 BY repealing and reenacting, without amendments,

27 Article – State Finance and Procurement

28 Section 6–226(a)(2)(i)

29 Annotated Code of Maryland

30 (2015 Replacement Volume and 2019 Supplement)

31 BY repealing and reenacting, with amendments, 32

and Procurement 33 Section 6–226(a)(2)(ii)121. and 122.

34 Annotated Code of Maryland

35 (2015 Replacement Volume and 2019 Supplement)

Article – State Finance

36 BY adding to

37 Article – State Finance and Procurement 38 Section 6–226(a)(2)(ii)123.

39 Annotated Code of Maryland

40 (2015 Replacement Volume and 2019 Supplement)

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

Article – Environment

2 **SUBTITLE 11A. ON-SITE WASTEWATER SERVICES.**

3 **PART I. DEFINITIONS.**

4 **9-11A-01.**

5 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
6 **INDICATED.**

7 **(B) “BOARD” MEANS THE STATE BOARD OF ON-SITE WASTEWATER**
8 **PROFESSIONALS.**

9 **(C) “LICENSE” MEANS ANY CATEGORY OF PROFESSIONAL LICENSE OR**
10 **CERTIFICATION ISSUED BY THE BOARD TO AN INDIVIDUAL TO PERFORM ON-SITE**
11 **WASTEWATER SERVICES IN THE STATE.**

12 **(D) “ON-SITE WASTEWATER SERVICES” MEANS ANY ACTIVITY ASSOCIATED WITH**
13 **THE DESIGN, INSTALLATION, OPERATION AND MAINTENANCE, PUMPING, REPAIR,**
14 **OR PROPERTY TRANSFER INSPECTION OF AN ON-SITE WASTEWATER SYSTEM.**

15 **(E) (1) “ON-SITE WASTEWATER SYSTEM” MEANS:**

16 **(I) A WASTEWATER SYSTEM DESIGNED TO TREAT AND**
17 **DISPOSE**
18 **OF EFFLUENT ON THE SAME PROPERTY THAT PRODUCES THE**
19 **WASTEWATER; OR**

20 **(II) A HOLDING TANK.**

21 **(2) “ON-SITE WASTEWATER SYSTEM” INCLUDES A SEPTIC OR**
22 **ANY**
23 **OTHER ON-SITE SEWAGE DISPOSAL SYSTEM.**

24 **9-11A-02.**

- 1
23 (A) THIS SUBTITLE DOES NOT APPLY TO AN INDIVIDUAL
EMPLOYED BY A LOCAL, STATE, OR FEDERAL AGENCY WHILE
25 PERFORMING THE DUTIES OF THAT
EMPLOYMENT.
- 26 (B) NOTHING IN THIS SUBTITLE PROHIBITS A LOCAL GOVERNMENT FROM IMPOSING
REQUIREMENTS OR STANDARDS THAT ARE MORE STRINGENT THAN THE
REQUIREMENTS AND STANDARDS ESTABLISHED IN THIS SUBTITLE.
- 27 (C) INDIVIDUALS WHO AS OF JANUARY 1,2020 HOLD LICENSES, REGISTRATIONS OR
CERTIFICATIONS TO PERFORM WASTEWATER SERVICES IN THE STATE ARE
GRANDFATHERED UNTIL SUCH TIME AS THE BOARD ESTABLISHES NEW LICENSING
OR CERTIFICATION REQUIREMENTS FOR THEIR JOBS.

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9-11A-03. RESERVED.

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9-11A-04. RESERVED.

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PART II. STATE BOARD OF ON-SITE WASTEWATER PROFESSIONALS.

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9-11A-05.

5

(A) THERE IS A STATE BOARD OF ON-SITE WASTEWATER PROFESSIONALS

6

IN THE DEPARTMENT.

7

(B) THE PURPOSE OF THE BOARD IS TO:

8

(1) REGULATE INDIVIDUALS WHO PERFORM ON-SITE WASTEWATER SERVICES IN THE STATE; AND

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(2) ESTABLISH, IN CONSULTATION WITH THE DEPARTMENT, 11 MINIMUM STANDARDS FOR ON-SITE WASTEWATER SYSTEMS THAT ARE NOT 12 REQUIRED TO BE PERMITTED UNDER § 9-323 OF THIS TITLE, INCLUDING 13 STANDARDS FOR THE PROCESSES, PROCEDURES, TECHNIQUES, AND MATERIALS 14 ASSOCIATED WITH THE PROPER DESIGN, ACCEPTABLE INSTALLATION, ADEQUATE 15 OPERATION AND MAINTENANCE, INCLUDING PUMPING OR REPAIR, AND PROPERTY

16

TRANSFER INSPECTION OF AN ON-SITE WASTEWATER SYSTEM.

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9-11A-06.

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(A) (1) THE BOARD CONSISTS OF THE FOLLOWING NINE MEMBERS:

19

(I) SIX INDIVIDUALS APPOINTED BY THE GOVERNOR WITH THE

20

ADVICE OF THE SECRETARY AND WITH THE ADVICE AND CONSENT OF THE SENATE;

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21

(II) ONE REPRESENTATIVE OF THE DEPARTMENT,
DESIGNATED BY THE SECRETARY;

25

(III) ONE REPRESENTATIVE OF THE MARYLAND CONFERENCE 24
OF LOCAL ENVIRONMENTAL HEALTH DIRECTORS, DESIGNATED
BY THE MARYLAND CONFERENCE OF LOCAL ENVIRONMENTAL
HEALTH DIRECTORS; AND

26

(IV) ONE INDIVIDUAL DESIGNATED BY THE MARYLAND ONSITE
WASTEWATER PROFESSIONALS ASSOCIATION.

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(2) OF THE MEMBERS OF THE BOARD:

PROFESSIONALS

(I) AT LEAST SIX ~~SEVEN~~ SHALL BE ON-SITE WASTEWATER

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CURRENTLY LICENSED OR CERTIFIED BY THE STATE OR A
LOCAL GOVERNMENT;

3

AND

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(II) TWO SHALL BE CONSUMER MEMBERS.

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(3) (I) 1. SUBJECT TO SUBSUBPARAGRAPH
2 OF THIS SUBPARAGRAPH AND SUBPARAGRAPH
(II) OF THIS PARAGRAPH, OF THE ~~SEVEN~~ SIX
ON-SITE WASTEWATER PROFESSIONAL MEMBERS OF THE
BOARD:

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A. AT LEAST ONE SHALL BE A LICENSED MASTER
INSTALLER;

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B. AT LEAST ONE SHALL BE A LICENSED MASTER
PUMPER;

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11

C. AT LEAST ONE SHALL BE A LICENSED MASTER
OPERATIONS AND MAINTENANCE PROVIDER;

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13 D. AT LEAST ONE SHALL BE A CERTIFIED DESIGNER;
AND

14 E. AT LEAST ONE SHALL BE A LICENSED MASTER
15 PROPERTY TRANSFER INSPECTOR.

19 2. A SINGLE BOARD MEMBER MAY SATISFY UP TO TWO 18 OF
THE PROFESSIONAL LICENSE AND CERTIFICATION
MEMBERSHIP REQUIREMENTS SPECIFIED UNDER
SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH.

20 (II) OF THE ~~SEVEN~~ SIX ON-SITE WASTEWATER
PROFESSIONAL MEMBERS OF THE BOARD:

21 1. AT LEAST ONE SHALL BE FROM THE AREA THAT
22 CONSISTS OF ALLEGANY COUNTY, FREDERICK COUNTY,
GARRETT COUNTY, AND WASHINGTON COUNTY;

23 2. AT LEAST ONE SHALL BE FROM THE AREA THAT
24 CONSISTS OF BALTIMORE CITY, BALTIMORE COUNTY,
CARROLL COUNTY, HARFORD COUNTY, HOWARD COUNTY,
AND MONTGOMERY COUNTY;

25 3. AT LEAST ONE SHALL BE FROM THE AREA THAT
26 CONSISTS OF ANNE ARUNDEL COUNTY, ~~CALVERT COUNTY,~~
~~CHARLES COUNTY,~~ PRINCE GEORGE'S COUNTY, AND ~~ST.~~
~~MARY'S COUNTY; AND~~

27 4. AT LEAST ONE SHALL BE FROM THE AREA
THAT CONSISTS OF CALVERT, CHARLES AND ST.
MARY'S, AND

28 4. 5. AT LEAST ONE SHALL BE FROM THE AREA THAT
CONSISTS OF CAROLINE COUNTY, CECIL COUNTY, DORCHESTER COUNTY, KENT
COUNTY, QUEEN ANNE'S COUNTY, SOMERSET COUNTY, TALBOT COUNTY, WICOMICO
COUNTY, AND WORCESTER COUNTY.

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4 **(4) ON OR BEFORE JULY 1, 2023, ALL ON-SITE WASTEWATER**
5 **PROFESSIONAL MEMBERS OF THE BOARD SHALL HOLD A**
 LICENSE.

6 **(5) EACH CONSUMER MEMBER OF THE BOARD:**

7 **(I) SHALL BE A MEMBER OF THE GENERAL PUBLIC;**

8 **(II) MAY NOT BE A LICENSEE OR OTHERWISE BE SUBJECT TO**
9 **REGULATION BY THE BOARD;**

10 **(III) MAY NOT BE REQUIRED TO MEET THE QUALIFICATIONS FOR**
11 **THE PROFESSIONAL MEMBERS OF THE BOARD; AND**

12 **(IV) MAY NOT, WITHIN 1 YEAR BEFORE APPOINTMENT, HAVE**
13 **HAD A FINANCIAL INTEREST IN OR HAVE RECEIVED**
14 **COMPENSATION FROM A PERSON**
 REGULATED BY THE BOARD.

15 **(B) WHILE A MEMBER OF THE BOARD, A CONSUMER MEMBER**
 MAY NOT:

16 **(1) HAVE A FINANCIAL INTEREST IN OR RECEIVE**
 COMPENSATION FROM A PERSON REGULATED BY THE BOARD; OR

17 **(2) GRADE AN EXAMINATION GIVEN BY OR FOR THE BOARD.**

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

19 **(D) (1) THE TERM OF A MEMBER IS 3 YEARS.**

20 **(2) A MEMBER MAY SERVE TWO TERMS CONSECUTIVELY.**

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21 **(3) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED
BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON JULY
1, 2020.**

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

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(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.

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(E) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR MISCONDUCT.

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9-11A-07.

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(A) THE MEMBERS OF THE BOARD SHALL DESIGNATE A CHAIR.

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

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9-11A-08.

10

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

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(B) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

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(C) EACH MEMBER OF THE BOARD IS ENTITLED TO REIMBURSEMENT FOR 16 EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN

15

THE STATE BUDGET.

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

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9-11A-09.

20

(A) THE BOARD SHALL:

21

(1) MAKE RECOMMENDATIONS TO THE DEPARTMENT ON THE

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23

ADOPTION OF REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE, INCLUDING:

24

(I) LICENSING PROCEDURES AND QUALIFICATIONS FOR THE FOLLOWING CATEGORIES:

25

1. MASTER INSTALLER AND JOURNEY INSTALLER;

26

2. MASTER ON-SITE WASTEWATER PROPERTY TRANSFER INSPECTOR AND JOURNEY ON-SITE WASTEWATER PROPERTY TRANSFER INSPECTOR;

3. MASTER PUMPER AND JOURNEY PUMPER;

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4. MASTER OPERATION AND MAINTENANCE PROVIDER AND JOURNEY OPERATION AND MAINTENANCE PROVIDER; AND

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5

~~5. ON-SITE WASTEWATER PROPERTY TRANSFER INSPECTOR;~~

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7

(II) CERTIFICATION PROCEDURES AND QUALIFICATIONS FOR THE FOLLOWING CATEGORIES:

8

1. DESIGNER;

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2. ADVANCED TREATMENT INSTALLER;

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3. MOUND INSTALLER;

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4. DRIP DISPERSAL INSTALLER;

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5. PUMP DISPERSAL SYSTEM INSTALLER;

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13 6. ADVANCED TREATMENT OPERATION AND
 MAINTENANCE PROVIDER;

14 7. ADVANCED TREATMENT UNIT PUMPER;

15 8. ADVANCED TREATMENT PROPERTY
 TRANSFER INSPECTOR; AND

16 9. ANY OTHER CATEGORY ASSOCIATED WITH A
 SPECIFIC ON-SITE WASTEWATER TREATMENT
 TECHNOLOGY;

17 ~~(III) LICENSING PROCEDURES AND~~
 ~~QUALIFICATIONS FOR ISSUING AN INITIAL LICENSE TO~~
 ~~INDIVIDUALS WHO, AS OF JANUARY 1, 2020,~~
18 ~~PERFORM ON-SITE WASTEWATER SERVICES IN THE STATE;~~
 ~~AND~~

19 ~~(IV)~~ (III) MINIMUM STANDARDS FOR ANY PROCESSES,
 PROCEDURES, TECHNIQUES, AND MATERIALS
 ASSOCIATED WITH THE PROPER DESIGN, ACCEPTABLE
 INSTALLATION, ADEQUATE OPERATION AND MAINTENANCE,
 INCLUDING PUMPING OR REPAIR, AND PROPERTY
 TRANSFER INSPECTION OF AN ON-SITE WASTEWATER
 SYSTEM THAT IS NOT REQUIRED TO BE PERMITTED UNDER
 § 9-323 OF THIS TITLE; AND

3 (2) REVIEW REGULATIONS PROPOSED TO CARRY OUT THE
 PROVISIONS OF THIS SUBTITLE.

4 (B) THE BOARD SHALL:

5 (1) CARRY OUT THE PROVISIONS OF THIS SUBTITLE;

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6 (2) ON OR BEFORE JUNE 1, 2024, MAKE RECOMMENDATIONS TO
THE DEPARTMENT FOR ESTABLISHING THE LICENSING AND
CERTIFICATION PROCEDURES SPECIFIED UNDER SUBSECTION (A)(1)
OF THIS SECTION;

7 (3) COLLECT AND ACCOUNT FOR THE FEES PROVIDED FOR UNDER
8 THIS SUBTITLE; AND

9 (4) KEEP A CURRENT RECORD OF ALL INDIVIDUALS AND ENTITIES
10 LICENSED UNDER THIS SUBTITLE.

11 9-11A-10.

12 **A COUNTY SHALL:**

13 ~~(1) ENFORCE THE MINIMUM STANDARDS ADOPTED BY REGULATION 16
BY THE BOARD FOR ANY PROCESSES, PROCEDURES, TECHNIQUES, AND
MATERIALS 17 ASSOCIATED WITH THE PROPER DESIGN, ACCEPTABLE
INSTALLATION, ADEQUATE 18 OPERATION AND MAINTENANCE,
INCLUDING PUMPING OR REPAIR, AND PROPERTY~~

19 ~~TRANSFER INSPECTIONS OF AN ON-SITE WASTEWATER SYSTEM; OR~~

20 ~~(2) ADOPT AND ENFORCE STANDARDS THAT MEET OR EXCEED THE 21 MINIMUM
STANDARDS ADOPTED BY REGULATION BY THE BOARD FOR ANY 22 PROCESSES,
PROCEDURES, TECHNIQUES, AND MATERIALS ASSOCIATED WITH THE 23 PROPER
DESIGN, ACCEPTABLE INSTALLATION, ADEQUATE OPERATION AND~~

24 ~~MAINTENANCE, INCLUDING PUMPING OR REPAIR, AND PROPERTY TRANSFER~~

25 ~~INSPECTIONS OF AN ON-SITE WASTEWATER SYSTEM.~~

26 9-11A-11.

27 (A) (1) THE BOARD, IN CONSULTATION WITH THE DEPARTMENT, SHALL SET
REASONABLE FEES FOR THE ISSUANCE AND RENEWAL OF LICENSES AND OTHER
29 SERVICES THAT THE BOARD PROVIDES.

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30 **(2) THE FEES SHALL BE SET TO PRODUCE FUNDS TO APPROXIMATE THE COSTS
OF MAINTAINING THE BOARD.**

(B) THE BOARD SHALL PUBLISH A SCHEDULE OF THE FEES.

3 **(C) THE BOARD SHALL PAY ALL FUNDS COLLECTED UNDER THIS SUBTITLE 4 INTO THE
ON-SITE WASTEWATER PROFESSIONALS FUND ESTABLISHED UNDER § 9-11A-12 OF
THIS SUBTITLE.**

6 **9-11A-12.**

7 **(A) IN THIS SECTION, "FUND" MEANS THE ON-SITE WASTEWATER
8 PROFESSIONALS FUND.**

9 **(B) THERE IS AN ON-SITE WASTEWATER PROFESSIONALS FUND.**

10 **(C) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING TO MAINTAIN THE
11 BOARD.**

12 **(D) THE BOARD SHALL ADMINISTER THE FUND.**

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

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

17 **(F) THE FUND CONSISTS OF:**

18 **(1) ALL FEES, PENALTIES, AND FINES COLLECTED UNDER THIS
19 SUBTITLE;**

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

21 **(3) INTEREST EARNINGS OF THE FUND;**

22 **(4) DONATIONS TO THE FUND; AND**

23 **(5) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR**
24 **THE BENEFIT OF THE FUND.**

25 **(G) THE FUND SHALL BE USED ONLY TO MAINTAIN THE BOARD AND**
IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.

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

3 (2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO
4 THE FUND.

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

10 (J) MONEY EXPENDED FROM THE FUND TO MAINTAIN THE BOARD OR
IMPLEMENT THE PROVISIONS OF THIS SUBTITLE IS SUPPLEMENTAL TO
AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT
OTHERWISE WOULD BE APPROPRIATED FOR THE BOARD.

11 9-11A-13.

12 ON OR BEFORE DECEMBER 31 EACH YEAR, THE BOARD SHALL PREPARE
AND SUBMIT AN ANNUAL REPORT TO THE SECRETARY ON:

13 (1) THE STATUS OF THE ON-SITE WASTEWATER PROFESSIONALS
14 FUND;

15 (2) REVENUES AND EXPENDITURES FROM THE ON-SITE
16 WASTEWATER PROFESSIONALS FUND;

17 (3) THE EFFICIENCY OF THE REGULATIONS ADOPTED TO
IMPLEMENT THE PROVISIONS OF THIS SUBTITLE;

18 (4) COMPLIANCE WITH THE REGULATIONS ADOPTED TO
IMPLEMENT THE PROVISIONS OF THIS SUBTITLE; AND

19 (5) BASED ON THE FACTORS SPECIFIED IN ITEMS (1) THROUGH (4)
OF THIS SECTION, THE NECESSITY TO REVIEW AND ADJUST THE FEES
SET BY THE BOARD.

25 9-11A-14. RESERVED.

26 9-11A-15. RESERVED.

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27 **PART III. LICENSING.**

28 **9-11A-16.**

(A) AN INDIVIDUAL MUST BE LICENSED BY THE BOARD IN ACCORDANCE WITH THIS SUBTITLE BEFORE THE INDIVIDUAL MAY PERFORM ON-SITE WASTEWATER SERVICES IN THE STATE.

3 **(B) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL MEET THE**
4 **REQUIREMENTS ESTABLISHED BY REGULATION.**

5 **(C) TO APPLY FOR A LICENSE, AN APPLICANT SHALL:**

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

8 **(2) PAY TO THE BOARD THE REQUIRED APPLICATION FEE SET BY THE BOARD.**

11 **(D) A BUSINESS PERFORMING ON-SITE WASTEWATER SERVICES OR CONTRACTING TO PERFORM ON-SITE WASTEWATER SERVICES THAT ARE REGULATED BY THE BOARD MUST HAVE AN EMPLOYEE OR OWNER LICENSED BY THE BOARD.**

15 **9-11A-17.**

16 **SUBJECT TO THE HEARING REQUIREMENTS IN § 9-11A-18 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:**

17 **(1) VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY**
18 **REGULATION ADOPTED UNDER THIS SUBTITLE;**

19 **(2) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO**
20 **OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER;**

21 **(3) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE; OR**

22 **(4) COMMITS ANY GROSS NEGLIGENCE, INCOMPETENCE, OR**
23 **MISCONDUCT WHILE PROVIDING ON-SITE WASTEWATER SERVICES.**

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24 **9-11A-18.**

25 **(A) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 2 OF THE
STATE GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL
ACTION UNDER § 9-11A-17 OF THIS SUBTITLE IT SHALL GIVE THE
INDIVIDUAL AGAINST 30 WHOM THE ACTION IS CONTEMPLATED AN
OPPORTUNITY FOR A HEARING BEFORE THE BOARD.**

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

4 **(C) THE BOARD MAY ADMINISTER OATHS IN CONNECTION WITH ANY
5 PROCEEDING UNDER THIS SECTION.**

8 **(D) IF, AFTER DUE NOTICE, THE APPLICANT OR LICENSEE AGAINST WHOM THE
ACTION IS CONTEMPLATED FAILS OR REFUSES TO APPEAR, THE BOARD MAY HEAR AND
DETERMINE THE MATTER.**

9 **(E) 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
12 GOVERNMENT ARTICLE.**

13 **9-11A-19. RESERVED.**

14 **9-11A-20. RESERVED.**

15 **PART IV. PROHIBITED ACTS; PENALTIES.**

16 **9-11A-21.**

17 **(A) AN INDIVIDUAL MAY NOT PERFORM, ATTEMPT TO
PERFORM, OR OFFER TO PERFORM ON-SITE WASTEWATER
SERVICES UNLESS THE INDIVIDUAL IS
19 LICENSED BY THE BOARD.**

20 **(B) A LICENSE MAY NOT BE BORROWED, RENTED, OR TRANSFERRED TO
21 ANOTHER INDIVIDUAL.**

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22 **9-11A-22.**

23 **(A) INSTEAD OF OR IN ADDITION TO ANY OTHER PENALTIES AUTHORIZED**
26 **UNDER THIS TITLE, THE BOARD MAY IMPOSE AN ADMINISTRATIVE**
 PENALTY ON A PERSON WHO VIOLATES THIS SUBTITLE IN AN AMOUNT
 NOT EXCEEDING \$1,000 PER DAY FOR ALL VIOLATIONS CITED ON A
 SINGLE DAY.

27 **(B) IN SETTING THE AMOUNT OF THE ADMINISTRATIVE PENALTY,**
 THE BOARD SHALL CONSIDER:

28 **(1) THE SERIOUSNESS OF THE VIOLATION;**

- 1 **(2) THE HARM CAUSED BY THE VIOLATION;**
- 2 **(3) THE GOOD FAITH OF THE VIOLATOR;**
- 3 **(4) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR; AND**
- 4 **(5) ANY OTHER RELEVANT FACTORS.**

9 **(C) IF A VIOLATOR FAILS TO PAY AN ADMINISTRATIVE PENALTY WITHIN 90 DAYS AFTER THE IMPOSITION OF THE ADMINISTRATIVE PENALTY BY THE BOARD, THE MATTER SHALL BE FORWARDED TO THE CENTRAL COLLECTION UNIT IN THE 8 DEPARTMENT OF BUDGET AND MANAGEMENT FOR THE COLLECTION OF THE ADMINISTRATIVE PENALTY.**

10 **(D) ANY PENALTIES COLLECTED UNDER THIS SECTION SHALL BE PAID INTO 11 THE ON-SITE WASTEWATER PROFESSIONALS FUND ESTABLISHED UNDER § 9-11A-12 OF THIS SUBTITLE.**

13 **Article – State Finance and Procurement**

14 6-226.

15 (a) (2) (i) Notwithstanding any other provision of law, and
 16 unless
 inconsistent with a federal law, grant agreement, or other federal
 requirement or with the terms of a gift or settlement agreement, net
 interest on all State money allocated by the State Treasurer under
 this section to special funds or accounts, and otherwise entitled to
 receive interest earnings, as accounted for by the Comptroller, shall
 accrue to the General Fund of the State.

21 (ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

23 121. the Markell Hendricks Youth Crime Prevention and
 24 Diversion Parole Fund; [and]

25 122. the Federal Government Shutdown Employee Assistance
 26 Loan Fund; AND

27 **123. THE ON-SITE WASTEWATER PROFESSIONALS FUND.**

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28 SECTION 2. AND BE IT FURTHER ENACTED, That the State
Board of On–Site Wastewater Professionals shall be fully
operational on or before June 1, 2021.

29 SECTION 3. AND BE IT FURTHER ENACTED, That the terms
of the initial members of the State Board of On–Site Wastewater
Professionals shall expire as follows:

2 (1) three members in 2022;

3 (2) three members in 2023; and

4 (3) three members in 2024.

5 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take
effect July 6 1, 2020.