

# HOUSE BILL 840

M3, C2

9lr1764

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By: **Delegate Stein**

Introduced and read first time: February 8, 2019

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of establishing the State Board of On-Site Wastewater Professionals in  
4 the Department of the Environment; specifying the purpose and composition of the  
5 Board; specifying the term of a Board member; requiring the Governor to appoint  
6 Board members with the advice and consent of the Senate of Maryland; authorizing  
7 the Governor to remove a member of the Board under certain circumstances;  
8 requiring the Governor to appoint the chair of the Board from among the members  
9 of the Board with the advice of the Secretary of the Environment; requiring the  
10 Board to make certain determinations relating to its officers; specifying that a  
11 majority of the members then serving on the Board is a quorum; requiring the Board  
12 to determine the times and places of its meetings; specifying that a Board member  
13 is entitled to certain reimbursement; authorizing the Board to employ staff in  
14 accordance with the State budget; requiring the Board to adopt certain regulations;  
15 requiring a county to enforce certain standards relating to certain design,  
16 installation, and maintenance of certain on-site wastewater systems; specifying the  
17 duties of the Board; authorizing the Board to set reasonable fees for a certain  
18 purpose; requiring the Board to publish a schedule of the fees; requiring the Board  
19 to pay certain funds collected from certain fees into the General Fund of the State;  
20 requiring a certain individual to be licensed by the Board before performing certain  
21 on-site wastewater services in the State; requiring an applicant for a license to meet  
22 certain requirements established by regulation by the Board and to submit a certain  
23 application and pay a certain fee to the Board; authorizing the Board to take certain  
24 disciplinary action against an applicant or a licensee under certain circumstances;  
25 requiring the Board to give a certain individual an opportunity for a hearing before  
26 the Board and to give certain notice and hold the hearing in accordance with certain  
27 provisions of law; authorizing the Board to administer oaths under certain  
28 circumstances; authorizing the Board to hear and determine a matter, under certain  
29 circumstances; authorizing a person aggrieved by a decision of the Board to take  
30 certain action under certain circumstances; prohibiting a person from performing  
31 certain on-site wastewater services without a license from the Board; establishing

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 certain penalties for violations of this Act; defining certain terms; specifying the  
2 terms of the initial members of the Board; and generally relating to the  
3 establishment of the State Board of On-Site Wastewater Professionals and the  
4 regulation of individuals performing on-site wastewater services in the State.

5 BY adding to

6 Article – Environment

7 Section 9-11A-01 through 9-11A-19 to be under the new subtitle “Subtitle 11A.  
8 On-Site Wastewater Services”

9 Annotated Code of Maryland

10 (2014 Replacement Volume and 2018 Supplement)

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

13 **Article – Environment**

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

15 **PART I. DEFINITIONS.**

16 **9-11A-01.**

17 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
18 INDICATED.

19 (B) “BOARD” MEANS THE STATE BOARD OF ON-SITE WASTEWATER  
20 PROFESSIONALS.

21 (C) “LICENSE” MEANS ANY CATEGORY OF A PROFESSIONAL LICENSE AND  
22 CERTIFICATION ISSUED BY THE BOARD TO AN INDIVIDUAL TO PERFORM ON-SITE  
23 WASTEWATER SERVICES IN THE STATE.

24 (D) “ON-SITE WASTEWATER SERVICES” MEANS ANY ACTIVITY ASSOCIATED  
25 WITH THE DESIGN, INSTALLATION, OPERATION AND MAINTENANCE, PUMPING, OR  
26 REPAIR OF AN ON-SITE WASTEWATER SYSTEM.

27 (E) (1) “ON-SITE WASTEWATER SYSTEM” MEANS A WASTEWATER SYSTEM  
28 DESIGNED TO TREAT AND DISPOSE OF EFFLUENT ON THE SAME PROPERTY THAT  
29 PRODUCES THE WASTEWATER.

30 (2) “ON-SITE WASTEWATER SYSTEM” INCLUDES A SEPTIC OR OTHER  
31 ON-SITE SEWAGE DISPOSAL SYSTEM.

32 **9-11A-02. RESERVED.**

1 9-11A-03. RESERVED.

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

3 9-11A-04.

4 (A) THERE IS A STATE BOARD OF ON-SITE WASTEWATER PROFESSIONALS  
5 IN THE DEPARTMENT.

6 (B) THE PURPOSE OF THE BOARD IS TO:

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

9 (2) ESTABLISH MINIMUM STANDARDS FOR ANY PROCESSES,  
10 PROCEDURES, TECHNIQUES, AND MATERIALS ASSOCIATED WITH THE PROPER  
11 DESIGN, ACCEPTABLE INSTALLATION, AND ADEQUATE OPERATION AND  
12 MAINTENANCE, INCLUDING PUMPING OR REPAIR, OF AN ON-SITE WASTEWATER  
13 SYSTEM WITH A DESIGN FLOW OF LESS THAN 5,000 GALLONS PER DAY.

14 9-11A-05.

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

18 (2) OF THE NINE MEMBERS OF THE BOARD:

19 (I) SEVEN SHALL BE ON-SITE WASTEWATER PROFESSIONALS;  
20 AND

21 (II) TWO SHALL BE CONSUMER MEMBERS.

22 (3) (I) SUBJECT TO PARAGRAPH (II) OF THIS PARAGRAPH, OF THE  
23 SEVEN ON-SITE WASTEWATER PROFESSIONAL MEMBERS OF THE BOARD:

24 1. AT LEAST ONE SHALL BE A LICENSED MASTER  
25 INSTALLER;

26 2. AT LEAST ONE SHALL BE A LICENSED MASTER  
27 PUMPER;

1                   **3. AT LEAST ONE SHALL BE A LICENSED MASTER**  
2 **OPERATIONS AND MAINTENANCE PROVIDER;**

3                   **4. AT LEAST ONE SHALL BE A CERTIFIED DESIGNER;**

4                   **5. ONE SHALL BE A REPRESENTATIVE OF THE**  
5 **MARYLAND CONFERENCE OF LOCAL ENVIRONMENTAL HEALTH DIRECTORS; AND**

6                   **6. ONE SHALL BE A REPRESENTATIVE OF A STATEWIDE**  
7 **ORGANIZATION REPRESENTING THE ON-SITE WASTEWATER INDUSTRY.**

8                   **(II) OF THE SEVEN WASTEWATER PROFESSIONAL MEMBERS OF**  
9 **THE BOARD:**

10                   **1. AT LEAST ONE SHALL BE FROM THE AREA THAT**  
11 **CONSISTS OF ALLEGANY COUNTY, FREDERICK COUNTY, GARRETT COUNTY, AND**  
12 **WASHINGTON COUNTY;**

13                   **2. AT LEAST ONE SHALL BE FROM THE AREA THAT**  
14 **CONSISTS OF BALTIMORE CITY AND BALTIMORE COUNTY, CARROLL COUNTY,**  
15 **HARFORD COUNTY, HOWARD COUNTY, AND MONTGOMERY COUNTY;**

16                   **3. AT LEAST ONE SHALL BE FROM THE AREA THAT**  
17 **CONSISTS OF ANNE ARUNDEL COUNTY, CALVERT COUNTY, CHARLES COUNTY,**  
18 **PRINCE GEORGE'S COUNTY, AND ST. MARY'S COUNTY; AND**

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

23                   **(B) EACH CONSUMER MEMBER OF THE BOARD:**

24                   **(1) SHALL BE A MEMBER OF THE GENERAL PUBLIC;**

25                   **(2) MAY NOT BE A LICENSEE OR OTHERWISE BE SUBJECT TO**  
26 **REGULATION BY THE BOARD;**

27                   **(3) MAY NOT BE REQUIRED TO MEET THE QUALIFICATIONS FOR THE**  
28 **PROFESSIONAL MEMBERS OF THE BOARD; AND**

29                   **(4) MAY NOT, WITHIN 1 YEAR BEFORE APPOINTMENT, HAVE HAD A**  
30 **FINANCIAL INTEREST IN OR HAVE RECEIVED COMPENSATION FROM A PERSON**

1 REGULATED BY THE BOARD.

2 (C) WHILE A MEMBER OF THE BOARD, A CONSUMER MEMBER MAY NOT:

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

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

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

8 (E) (1) THE TERM OF A MEMBER IS 3 YEARS.

9 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE  
10 TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2019.

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

13 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES  
14 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND  
15 QUALIFIES.

16 (F) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR  
17 MISCONDUCT.

18 9-11A-06.

19 (A) FROM AMONG THE MEMBERS OF THE BOARD AND WITH THE ADVICE OF  
20 THE SECRETARY, THE GOVERNOR SHALL APPOINT A CHAIR.

21 (B) EXCEPT FOR THE CHAIR, THE BOARD SHALL DETERMINE THE MEANS OF  
22 THE ELECTION OF OFFICERS.

23 9-11A-07.

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

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

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

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

6 **9-11A-08.**

7           **(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD**  
8 **SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.**

9                   **(2) THE REGULATIONS ADOPTED BY THE BOARD SHALL ESTABLISH:**

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

12                                   1.   **MASTER INSTALLER AND JOURNEY INSTALLER;**

13                                   2.   **MASTER INSPECTOR AND JOURNEY INSPECTOR;**

14                                   3.   **MASTER PUMPER AND JOURNEY PUMPER; AND**

15                                   4.   **MASTER OPERATION AND MAINTENANCE PROVIDER**  
16 **AND JOURNEY OPERATION AND MAINTENANCE PROVIDER;**

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

19                                   1.   **DESIGNER;**

20                                   2.   **ADVANCED TREATMENT INSTALLER;**

21                                   3.   **MOUND INSTALLER;**

22                                   4.   **DRIP DISPERSAL INSTALLER;**

23                                   5.   **PUMP DISPERSAL SYSTEM INSTALLER;**

24                                   6.   **ADVANCED TREATMENT OPERATION AND**  
25 **MAINTENANCE PROVIDER;**

26                                   7.   **ADVANCED TREATMENT UNIT PUMPER; AND**

1                   8.     **ANY OTHER CATEGORY ASSOCIATED WITH A SPECIFIC**  
2 **ON-SITE WASTEWATER TREATMENT TECHNOLOGY;**

3                   **(III) LICENSING PROCEDURES AND QUALIFICATIONS FOR**  
4 **ISSUING AN INITIAL LICENSE TO INDIVIDUALS WHO, AS OF JANUARY 1, 2019,**  
5 **PERFORM ON-SITE WASTEWATER SERVICES IN THE STATE; AND**

6                   **(IV) MINIMUM STANDARDS FOR ANY PROCESSES, PROCEDURES,**  
7 **TECHNIQUES, AND MATERIALS ASSOCIATED WITH THE PROPER DESIGN,**  
8 **ACCEPTABLE INSTALLATION, AND ADEQUATE OPERATION AND MAINTENANCE,**  
9 **INCLUDING PUMPING OR REPAIR, OF AN ON-SITE WASTEWATER SYSTEM WITH A**  
10 **DESIGN FLOW OF LESS THAN 5,000 GALLONS PER DAY.**

11           **(B) THE BOARD SHALL:**

12                   **(1) CARRY OUT THE PROVISIONS OF THIS SUBTITLE;**

13                   **(2) COLLECT AND ACCOUNT FOR THE FEES PROVIDED FOR UNDER**  
14 **THIS SUBTITLE; AND**

15                   **(3) KEEP A CURRENT RECORD OF ALL INDIVIDUALS AND ENTITIES**  
16 **LICENSED UNDER THIS SUBTITLE.**

17 **9-11A-09.**

18           **A COUNTY SHALL:**

19                   **(1) ENFORCE THE MINIMUM STANDARDS ADOPTED BY REGULATION**  
20 **BY THE BOARD FOR ANY PROCESSES, PROCEDURES, TECHNIQUES, AND MATERIALS**  
21 **ASSOCIATED WITH THE PROPER DESIGN, ACCEPTABLE INSTALLATION, AND**  
22 **ADEQUATE OPERATION AND MAINTENANCE, INCLUDING PUMPING OR REPAIR, OF**  
23 **AN ON-SITE WASTEWATER SYSTEM WITH A DESIGN FLOW OF LESS THAN 5,000**  
24 **GALLONS PER DAY; OR**

25                   **(2) ADOPT AND ENFORCE STANDARDS THAT MEET OR EXCEED THE**  
26 **MINIMUM STANDARDS ADOPTED BY REGULATION BY THE BOARD FOR THE PROPER**  
27 **DESIGN, ACCEPTABLE INSTALLATION, AND ADEQUATE OPERATION AND**  
28 **MAINTENANCE OF ON-SITE WASTEWATER SYSTEMS.**

29 **9-11A-10.**

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

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

3           **(B) THE BOARD SHALL PUBLISH A SCHEDULE OF THE FEES SET BY THE**  
4 **BOARD.**

5           **(C) THE BOARD SHALL PAY ALL FUNDS COLLECTED UNDER THIS SUBTITLE**  
6 **INTO THE GENERAL FUND OF THE STATE.**

7 **9-11A-11. RESERVED.**

8 **9-11A-12. RESERVED.**

9                                   **PART III. LICENSING.**

10 **9-11A-13.**

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

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

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

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

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

21 **9-11A-14.**

22           **SUBJECT TO THE HEARING PROVISIONS OF § 9-11A-15 OF THIS SUBTITLE,**  
23 **THE BOARD MAY DENY A LICENSE TO ANY APPLICANT, REPRIMAND ANY LICENSEE,**  
24 **OR SUSPEND OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE:**

25                   **(1) VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY**  
26 **REGULATION ADOPTED UNDER THIS SUBTITLE;**

27                   **(2) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO**



1 OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER;

2 (3) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE; OR

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

5 9-11A-15.

6 (A) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 2 OF THE  
7 STATE GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION  
8 UNDER § 9-11A-14 OF THIS SUBTITLE, IT SHALL GIVE THE INDIVIDUAL AGAINST  
9 WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE  
10 THE BOARD.

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

13 (C) THE BOARD MAY ADMINISTER OATHS IN CONNECTION WITH ANY  
14 PROCEEDING UNDER THIS SECTION.

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

18 (E) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD IN A  
19 CONTESTED CASE, AS DEFINED IN § 10-202 OF THE STATE GOVERNMENT ARTICLE,  
20 MAY TAKE AN APPEAL AS ALLOWED IN §§ 10-222 AND 10-223 OF THE STATE  
21 GOVERNMENT ARTICLE.

22 9-11A-16. RESERVED.

23 9-11A-17. RESERVED.

24 PART IV. PROHIBITED ACTS; PENALTIES.

25 9-11A-18.

26 AN INDIVIDUAL MAY NOT PERFORM, ATTEMPT TO PERFORM, OR OFFER TO  
27 PERFORM ON-SITE WASTEWATER SERVICES UNLESS THE INDIVIDUAL IS LICENSED  
28 BY THE BOARD.

29 9-11A-19.

1           **(A) (1) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR**  
2 **ANY REGULATION ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR**  
3 **AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000 OR**  
4 **IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.**

5           **(2) EACH DAY THAT A PERSON PERFORMS ON-SITE WASTEWATER**  
6 **SERVICES WITHOUT A LICENSE CONSTITUTES A SEPARATE OFFENSE.**

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

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

12           **(C) ANY PENALTIES COLLECTED UNDER THIS SECTION SHALL BE PAID INTO**  
13 **THE GENERAL FUND OF THE STATE.**

14           SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial  
15 members of the State Board of On-Site Wastewater Professionals shall expire as follows:

16           (1) three members in 2020;

17           (2) three members in 2021; and

18           (3) three members in 2022.

19           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2019.