

SEC. 2-106. FAILURE TO QUALIFY FOR OFFICE.

(A) REFUSAL OR NEGLECT TO TAKE OATH OR GIVE BOND.

A PERSON WHO IS REQUIRED TO TAKE AN OATH UNDER §2-104 OR TO FILE A BCND UNDER §2-105 BUT WHO FAILS TO QUALIFY FOR OFFICE BY TAKING AND SUBSCRIBING THE REQUIRED OATH OR AFFIRMATION OR GIVING THE REQUIRED BOND WITHIN 30 DAYS FROM THE DATE HIS COMMISSION IS RECEIVED BY THE CLERK, OR IF NO COMMISSION IS SENT TO THE CLERK, WITHIN 30 DAYS AFTER RECEIVING HIS COMMISSION OR NOTICE OF APPOINTMENT, IS DEEMED TO HAVE REFUSED THE OFFICE, AND THE OFFICE SHALL BE CONSIDERED VACANT, UNLESS THE TIME IS EXTENDED BY THE COURT FOR GOOD CAUSE SHOWN.

(B) FAILURE OF CLERK TO GIVE BOND.

A CLERK OF A CIRCUIT COURT FOR A COUNTY OR A COURT OF THE SUPREME BENCH OF BALTIMORE CITY WHO FAILS TO EXECUTE THE REQUIRED BOND MAY NOT RECEIVE FEES OR COMPENSATION. A CLERK WHO VIOLATES THIS SUBSECTION IS SUBJECT TO A PENALTY OF \$1,000.

REVISOR'S NOTE: This section contains the provisions relevant to the failure of an officer to qualify for office by failing to give a required bond or take the oath of office.

Subsection (a) applies to all officers, and is new language derived from Art. 87, §4 which is proposed for repeal and Art. 70, §11 which is not proposed for repeal at this time. A similar provision dealing with non-court officers will appear in the State and Local Government Article.

Insofar as it deals with oaths, subsection (a) is substantially the same as Art. I, §7 of the Constitution.

Presently, except in the case of sheriffs, there is no provision for declaring vacant the office of an officer who takes the oath but fails to give a required bond. See Art. 87, §4. Under present law, such an officer would be prohibited from performing any duties, but as his office is not vacant, no successor could be appointed.