

§ 161F.

In subsection (b) of this section, the term "records" is substituted for "documents". The Commission to Revise the Annotated Code considers the legislative intent was to include "books, papers, and documents" within the Board's subpoena power. Cf. Maryland Rules 115 and 405, which refer to a summons to produce "books, papers, documents or other tangible things".

In subsection (b) (1) (i) of this section, note that the Division Director has the power to issue a subpoena for a hearing of the Board of Commissioners. The present reference in Art. 23, § 161F(a) that provides a subpoena "shall extend to all parts of the State" is deleted as included in subsection (b) (1) of this section.

In subsection (c) (2) of this section, the word "shall" is substituted for "may" in light of the stricter recordkeeping requirements of the Board of Commissioners under § 8-205 of this title and in light of the current practice of the Board of Commissioners. As to records in contested matters before administrative agencies, see Art. 41, § 252 of the Administrative Procedure Act.

In subsection (d) (1) of this section, the term "records" is substituted for "books or papers or documents". The present reference in Art. 23, § 161F(c) to a refusal to comply on the ground that testimony, et cetera, may "subject him to a penalty or forfeiture" is deleted as included to the extent such a right exists within the ground of a constitutional right or privilege against self-incrimination. The present term "forfeiture" is deleted as included in the term "penalty".

In subsection (e) of this section, an ambiguity exists as to whether the present phrase of Art. 23, § 161F(b) "pursuant to subpoena" applies only to a refusal to "produce a book or paper when ordered to do so" or applies also to a failure to "be sworn or examined, or answer a question". The revision reflects the latter, more restrictive interpretation, so that the authority of the Board of Commissioners to petition for a contempt finding applies only to persons subpoenaed and not to a party at the hearing who was not subpoenaed.

In subsection (e) (3) of this section, the present reference to "legal excuse" is deleted as included in "reasonable cause". The terms "appear" and "be sworn" are substituted for "be
