

Furthermore, the provisions of former Art. 41, § 8-102(c) through (e) did not apply uniformly to all units since many of the provisions that set qualifications for consumer members were inapplicable to members of advisory units, which neither regulate anyone nor administer examinations.

Finally, the intended application of former Art. 41, § 8-102(c) through (e) to regulatory or advisory units that the General Assembly itself created after 1974 was unclear. All of the units that the General Assembly has created since 1974 have included a specific number of consumer members. It seems unlikely that the General Assembly intended for these numbers to fluctuate with additions of consumer members by the Governor or Secretary. On the other hand, it seemed clear that former Art. 41, § 8-102(c) through (e) should be continued with respect to a unit created by anyone other than the General Assembly; i.e., under subsection (a) of this section.

Of the 37 units currently in the Department, 3 are divisions, 2 are commissioners, and 2 are funds. Since these are not "boards, commissions, or councils", the provisions of former Art. 41, § 8-102(c) through (e) did not apply.

There are currently 22 regulatory boards in the Department, each of which has at least 1 consumer member. The provisions for 14 of these regulatory boards were revised in the Business Occupations and Professions Article to incorporate the provisions of former Art. 41, § 8-102 on consumer members. Provisions for 4 additional regulatory boards — the State Athletic Commission, the State Collection Agency Licensing Board, the Maryland Home Improvement Commission, and the State Racing Commission — are revised in this article and incorporate the provisions on consumer members. See §§ 4-202, 7-202, 8-202, and 11-202 of this article. The provisions for the remaining 2 regulatory boards in the Department — the Board of Boiler Rules and the Board of Examining Engineers — are amended by the bill that enacts this article to incorporate the applicable provisions of former Art. 41, § 8-102. See § ____ of Ch. ____, Acts of 1992. The provisions for 2 of these regulatory boards — the State Board of Certified Interior Designers and the State Commission of Real Estate Appraisers — were added to the Business Occupations and Professions Article after its revision.

Under former Art. 41, § 8-102(c), (d), and (e), each consumer member was to be a member of the general public who was not required to meet the qualifications for the professional members of the unit, who was not subject to regulation by the unit, and who had not had any financial interest in or received compensation from a person subject to regulation by the unit. In addition, while on a unit, a consumer member could not have a financial interest in or receive compensation from a person subject to regulation by the unit and could not grade any examination. Since an advisory unit does not license or regulate anything, few of those requirements seemed applicable to consumer members of "advisory" units.