

## **Part H**

### **Business and Economic Issues**

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#### **Business Occupations**

##### **Sales Agents for Home Builders**

##### **Real Estate License Required for Sale of a New Home by a Sales Agent**

Individuals who provide real estate brokerage services are required to be licensed by the State Real Estate Commission. *House Bill 1288 (passed)* expands the definition of “real estate brokerage services” to include selling real estate as a sales agent for a home builder. A home builder who rents or sells a home that he or she has constructed remains exempt from licensing requirements.

To qualify for licensure by the State Real Estate Commission, these sales agents have to complete a commission-approved course in real estate, including ethics, and pass an examination. Applicants are also required to pay a fee determined by the commission and contribute \$20 to the Real Estate Guaranty Fund – which compensates consumers for theft, embezzlement, false pretenses, or forgery by a licensee or an employee. Applicants for certain classes of licensure must also submit a credit report and meet certain experience requirements. Licensure of these sales agents is in addition to existing registration requirements through the Home Builder Registration Unit in the Consumer Protection Division of the Office of the Attorney General.

##### **Real Estate Appraisers**

##### **Certification Required for Supervision of Trainees**

Real estate appraiser trainees are licensed by the State Commission of Real Estate Appraisers and Home Inspectors to provide appraisal services under the direction of a supervising appraiser. *House Bill 1326 (passed)* requires supervising appraisers to be certified as either a residential or general real estate appraiser. Certified real estate appraisers must meet federal and State requirements that are more comprehensive than those for licensed real estate appraisers. The bill conforms the trainee supervision criteria to those established by the

Appraiser Qualifications Board, which is the organization designated by the U.S. Congress to develop uniform standards for regulation of real estate appraisers. The revised criteria for qualification as a supervising appraiser take effect January 1, 2008, at which time licensed real estate appraisers will no longer be able to supervise trainees.

## **Professional Engineers**

### **Authority to Issue a Limited License for Practice of Engineering Repealed**

An individual has to be licensed by the State Board for Professional Engineers before practicing engineering in the State. *House Bill 413 (passed)* repeals the authority of the board to issue a limited license. A limited license, issued to a nonresident applicant licensed to practice engineering in another state, authorizes the licensee to practice engineering only for the specific job for which the license is issued. Demand for limited licensure has decreased as licensing requirements have been standardized among states, making it easier for professional engineers to qualify for reciprocal licensing. A professional engineer licensed in another state or foreign country with requirements equivalent to those of the State board remains eligible for reciprocal licensure.

## **Cosmetologists, Estheticians, and Nail Technicians**

### **Practice Allowed in Specified Regulated Facilities**

An individual licensed as a cosmetologist may practice cosmetology in a beauty salon or barbershop that holds a permit. A licensed cosmetologist may also practice cosmetology in an assisted living facility, hospice facility, nursing home, hospital, or residence of an individual confined to the residence because of infirmity. However, when practicing outside of a salon or barbershop, a licensed cosmetologist must provide services to an established customer under the sponsorship of a salon. *House Bill 1321 (passed)* extends these exceptions to licensed estheticians and nail technicians, thereby allowing them to provide services to patrons who would otherwise be unable to travel due to their medical condition.

The bill also allows licensed cosmetologists, estheticians, or nail technicians to render services at a facility that provides medically based beautification procedures, as long as the establishment is authorized to do so by the Department of Health and Mental Hygiene. However, these licensed professionals have to be sponsored by the permitted beauty salon in which they are authorized to practice. In addition, the bill allows licensed estheticians to provide services in a permitted barbershop, just as licensed cosmetologists and nail technicians may. These changes expand the availability of licensed services without materially increasing the regulatory requirements of the State Board of Cosmetologists.

## **Business Regulation**

### **Cigarette Fire Safety**

#### **Performance Standards Required for Cigarettes Manufactured or Sold in the State**

*House Bill 785 (passed)* requires cigarettes manufactured or sold in Maryland to conform to fire safety standards in force in several other states beginning July 1, 2008. Specifically, the bill prohibits the manufacture or sale of cigarettes if more than 25 percent of cigarettes in test trials exhibit full-length burns, according to performance standards established by the American Society of Testing and Materials' Standard Test Method for Measuring the Ignition Strength of Cigarettes. The Comptroller, in consultation with the State Fire Prevention Commission, is authorized to adopt a comparable standard if the alternate test method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette. In certain circumstances, a test method and performance standard used in another state must be adopted if the other state has enacted a reduced ignition standard and has approved performance and testing standards comparable to those required in Maryland.

Cigarette manufacturers must submit written certification attesting that each cigarette has met the performance standards; a certification may not list more than 50 cigarettes. Certified cigarettes have to be clearly marked. The bill establishes civil penalties for false certification, failure to provide requested testing information, and sale of cigarettes that do not meet State requirements. These penalties accrue to the Senator William H. Amoss Fire, Rescue, and Ambulance Fund. Cigarettes that do not meet certification requirements may be seized and destroyed. However, the bill allows sale of existing cigarette inventories under specified circumstances without penalty.

The bill must be implemented in accordance with the New York Fire Safety Standard for Cigarettes, which became effective in 2004. Maryland is 1 of 6 states that have adopted the New York fire safety standard, with another 13 states considering similar measures.

### **Cemeteries**

#### **Authority of the Office of Cemetery Oversight Extended**

The Office of Cemetery Oversight is subject to periodic review under the Maryland Program Evaluation Act (also known as the sunset law). The office was evaluated in 2005; the "sunset review" made several recommendations, including extending the office's July 1, 2007, termination date. Chapter 348 of 2006 incorporated some recommendations from that review but maintained the termination date of the office. To assist in deliberations during the 2007 session, the sunset review was updated in 2006.

*Senate Bill 741 (passed)* implements several of the updated recommendations related to the office and the Maryland Cemetery Act, including extending the termination date of the Office of Cemetery Oversight by six years to July 1, 2013, with another evaluation prior to

July 1, 2012. The director of the office is required to conduct an inventory of cemeteries and maintain lists of registered individuals and permitted businesses to compare with the inventory to assess compliance with registration and permitting requirements. The director also has to provide periodic status reports to the General Assembly. Certain conveyance and acreage limitations are extended to unregistered individuals and businesses. The bill also requires the Advisory Council on Cemetery Operations to study the issue of abandoned and neglected cemeteries in the State. In addition, the bill incorporates elements of *House Bill 585 (failed)* by requiring the director of the office, in consultation with the advisory council, to study and then develop a legislative proposal on the preconstruction sale of garden and mausoleum crypts.

## **Elevator Safety**

### **Authorized Inspections by Third-party Qualified Elevator Inspectors**

*House Bill 494 (passed)* authorizes third-party qualified elevator inspectors to perform periodic annual no-load test inspections if the inspector meets qualifications, insurance requirements, and procedures established by the Commissioner of Labor and Industry. State inspectors are required to continue to inspect all elevator installations, modifications, and alterations.

A building owner may contract with a qualified third-party elevator inspector for a no-load test inspection at his or her discretion. If an inspection by a qualified third-party elevator inspector discloses that an elevator is unsafe, the inspector is required to immediately notify the Commissioner of Labor and Industry. Upon notification, the commissioner is required to conduct an inspection of the unsafe condition to determine whether to issue a citation and assess penalties.

## **Collection Agencies**

### **License Required for Collection of Consumer Claims Acquired in Default**

A person is required to be licensed by the State Collection Agency Licensing Board before doing business as a collection agency. *House Bill 1324 (passed)* expands the definition of collection agency to include a person who collects a consumer claim that was in default when it was acquired, thereby subjecting approximately 40 known debt purchasers to State regulation. The bill specifies qualifications for licensure, clarifies the grounds for denial of an application, and establishes the right to a hearing before the board for persons denied a license. Grounds for reprimanding a licensee or suspending or revoking a license are also clarified and extended to include specified fraudulent or unscrupulous activity by an owner, director, officer, member, partner, or agent of the licensee.

## **Pawnbrokers**

### **Regulation of Pawnbrokers and Secondhand Dealers in Carroll County**

All pawnbrokers must be licensed by the State unless otherwise regulated by a county. *Senate Bill 844 (passed)* authorizes the Carroll County Commissioners to license and regulate pawnbrokers and secondhand dealers to identify and return stolen property. Other jurisdictions regulating these dealers include Baltimore City, Montgomery County, and Prince George’s County.

## **Public Service Companies**

### **Gas and Electric Companies**

#### **Renewable Energy Portfolio Standard**

Maryland’s Renewable Energy Portfolio Standard (RPS) was established in 2004 in order to recognize the economic, environmental, fuel diversity, and security benefits of renewable energy resources, establish a market for electricity from those resources in Maryland, and lower consumers’ cost for electricity generated from renewable sources. According to the U.S. Department of Energy, 23 states and the District of Columbia have adopted some form of RPS as of April 2007.

An electricity supplier must meet RPS by accumulating “renewable energy credits” created from various renewable energy sources classified as Tier 1 and Tier 2 renewable sources. A renewable energy credit, or REC, is a tradable commodity representing the renewable energy generation attributes of one megawatt-hour of electricity. Tier 1 renewable sources include solar, wind, qualifying biomass, methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant, and geothermal sources. Tier 2 renewable sources include hydroelectric power other than pump storage generation, incineration of poultry litter, and waste-to-energy sources.

*Senate Bill 595/House Bill 1016 (both passed)* require the Public Service Commission (PSC) to take certain steps to improve the State’s use of solar energy. As shown in **Exhibit H-1**, updated RPS requirements include increased amounts of Tier 1 renewable energy to match a required Tier 1 solar generation component, commonly known as a “solar band.” Beginning in 2012, the bills also require that to be eligible for the Tier 1 solar requirements, the generating facility must be connected with the electric grid serving Maryland. Through 2011, an electricity supplier may purchase solar renewable energy credits from other states only if offers for solar credits from Maryland grid sources are not sufficient to meet Tier 1 solar requirements and only to the extent of the shortfall of Maryland-grid solar credits.

**Exhibit H-1**  
**Renewable Energy Portfolio Standards**

<b>Year</b>	<b>Tier 1 Current RPS</b>	<b>Tier 1 RPS SB 595/HB 1016</b>	<b>Tier 1 Solar Component SB 595/HB 1016</b>
2006	1.0%	1.000%	
2007	1.0%	1.000%	
2008	2.0%	2.005%	0.005%
2009	2.0%	2.010%	0.010%
2010	3.0%	3.025%	0.025%
2011	3.0%	3.040%	0.040%
2012	4.0%	4.060%	0.060%
2013	4.0%	4.100%	0.100%
2014	5.0%	5.150%	0.150%
2015	5.0%	5.250%	0.250%
2016	6.0%	6.350%	0.350%
2017	6.0%	6.550%	0.550%
2018	7.0%	7.900%	0.900%
2019	7.5%	8.700%	1.200%
2020	N/A	9.000%	1.500%
2021	N/A	9.350%	1.850%
2022	N/A	9.500%	2.000%

The compliance fee for a shortfall in meeting the Tier 1 solar requirements starts at \$0.45 per kilowatt-hour in 2008 and decreases by \$0.05 every two years to equal \$0.05 per kilowatt-hour in 2023 and later. Like other RPS compliance fees, the solar compliance fee is paid into the Maryland Renewable Energy Fund, which the Maryland Energy Administration (MEA) administers, but any shortfall charges for the Tier 1 solar requirements must be accounted for separately in the fund and may only be used to make loans and grants to support the creation of new solar energy sources in the State. Other compliance fees support the installation of Tier 1 renewable sources of any type in the State. An electricity supplier may request a one-year delay of a scheduled increase in the Tier 1 solar requirement if the compliance fee that the supplier must pay is greater than or equal to, or is anticipated to be greater than or equal to, 1 percent of the supplier's annual electricity sales revenue in Maryland. MEA must report on all amounts received through compliance fees, all expected receipts, and how the funds were spent by February 1 of each year.

PSC must designate an individual to oversee the fulfillment of Tier 1 solar requirements and develop a program to meet solar energy requirements. The individual will also provide

education and outreach to promote the use of solar energy and make policy recommendations to PSC about improving the State’s use of solar energy. Clear, simple, and straightforward forms, requirements, and procedures must be developed to facilitate the participation by homeowners and small businesses in development of solar generation in the State.

In addition to requiring the use of solar energy in the State, *Senate Bill 595/House Bill 1016* also create additional incentives to encourage the development of renewable energy generating facilities. The bills expand the size of the net-generator program from 34.722 to 1,500 megawatts, increase the allowed generating capacity of an electric generating system used by an eligible customer-generator (or net-generator) from 200 kilowatts to 2 megawatts, and allow PSC to consider the generating capacity of a customer-generator when determining whether to require the customer to install a dual meter. An “eligible customer-generator” is an electric customer that owns and operates a biomass, solar, or wind electrical generating facility that (1) is located on the customer’s premises; (2) is interconnected and operated in parallel with an electric company’s transmission and distribution facilities; and (3) is intended primarily to offset all or part of the customer’s own electricity requirements. The bills also provide that an eligible customer generator owns all renewable energy generation credits. The owner of a nonsolar renewable energy generating facility may choose to sell or transfer those credits in the owner’s sole discretion.

If the owner of a solar generating facility chooses to sell the renewable energy credits the owner must first offer them for sale to an electricity supplier or electric company that shall apply them toward compliance with RPS. If an electricity supplier purchases solar renewable energy credits from a solar generating facility to meet the Tier 1 solar component of RPS, the electricity supplier must agree to buy the credits for a period of at least 15 years. For a solar generating facility of 10 kilowatts or less, the electric supplier must purchase the credits with a single initial payment. PSC is required to develop a method for estimating annual production from a solar generating facility and a method to determine the rate for a payment made to a solar generating facility consistent with the duration of the contract.

PSC must convene a small generator interconnections workgroup to facilitate and encourage a simplified connection of small distributed generators to the grid in a manner that ensures the safe and reliable operation of the grid. By November 1, 2007, PSC must revise the State’s interconnection standards and procedures to be consistent with nationally adopted standards and procedures.

As part of its annual report due February 1, 2014, PSC must report its findings and recommendations for modification, if any, to RPS requirements based on results of RPS requirements through 2013. PSC must also determine the realized and projected availability of solar renewable energy credits in Maryland, whether intended goals of the RPS provisions are being met, consider the impact of RPS on developing renewable energy in the State, and consider the cost implications of continuing the RPS requirements beyond 2014.

PSC must investigate the benefits to residential customers of using a regulatory rate-making mechanism that separates electric company distribution sales from electric company

distribution profits, including a mechanism that allows electric companies to recover fixed distribution costs on a flat rate basis instead of on a consumption basis, a mechanism sometimes referred to as “decoupling.”

### **Electric Utility Deregulation**

The Electric Customer Choice and Competition Act of 1999 provided that as of July 1, 2000, all customers of electric companies had the opportunity to choose electric suppliers. Further, the Act required price caps with statewide rate reductions for four years which could be extended by settlement agreement. Under the final settlement agreements, the price caps required under the Act expired in PEPCO and Delmarva service territories on July 1, 2004, expired in the Baltimore Gas & Electric Company service territory on July 1, 2006, and will expire in the Allegheny service territory on January 1, 2009. Due to short-term and long-term increases in the prices of commodities used to generate electricity since 1999, retail prices of electricity in areas of the State subject to market pricing have increased dramatically as rate caps have expired.

Prompted by increases in the price of electricity and the slow development of a competitive market for residential electricity supply, the General Assembly convened in special session on June 14, 2006, to consider comprehensive legislation to address electric industry restructuring, standard offer service, rate stabilization plans, and the makeup of PSC. Although Governor Ehrlich vetoed the resulting legislation on June 22, the General Assembly overrode the veto on June 23, enacting comprehensive energy legislation as Chapter 5 of the 2006 special session.

Chapter 5 of the 2006 special session mandated PSC to complete several reports to assist the General Assembly in assessing the impact of electric restructuring on the State and in altering it for the benefit of consumers. PSC was required to study actions taken to implement restructuring and study the impact of potential changes such as reregulating electric generation or allowing local aggregation. The majority of the studies required by the bill were not completed by the start of the 2007 legislative session, leaving much uncertainty as to the ideal structure of the electric industry in the State. Since then, a majority of the membership of PSC has been replaced by newly elected Governor O’Malley.

*Senate Bill 400 (passed)* requires the current PSC to initiate new proceedings to review and evaluate certain requirements of Chapter 5 of the 2006 special session, including the review and evaluation of any orders that were issued under the 2006 enactment. The bill also requires PSC to conduct additional studies and complete reports on electric industry reregulation, assess the availability of adequate transmission and generation facilities to serve the electrical load demands of all customers in the State, and consider the implications of establishing an office of retail market development and establishing a long-term goal for energy efficiency and conservation, among many other matters.

In conducting its review and analysis of the availability of transmission and generation facilities serving the State, PSC must convene one or more workgroups that may include members of the General Assembly, State and federal agencies, local governments, and other

interested parties. The workgroup will assist the commission in studying and preparing recommendations for statutory and regulatory changes to increase the availability of generation and transmission assets in the State.

A preliminary report identifying the issues relating to options for reregulation as required by Chapter 5 of the 2006 special session, including discussion of costs and benefits of returning to a regulated electric supply market is due December 1, 2007. A final report containing the complete set of evaluations, findings, and recommendations required under Chapter 5, as amended by *Senate Bill 400*, is due December 1, 2008.

The bill authorizes PSC to impose a special assessment not exceeding \$3 million on electric companies and electricity suppliers for the studies. Of that \$3 million, up to \$1.5 million may be spent on studying reregulation, and this portion of the assessment may only be collected from electric companies. The amounts collected from the special assessment in fiscal 2008 must be spent in accordance with an approved budget amendment or deficiency procurement. Any unexpended funds at the end of fiscal 2008 that are collected through the special assessment will be considered encumbered by PSC and may not be deducted from the agency's appropriation for fiscal 2009. Under current law, any amounts unspent at the end of fiscal 2009 will then be credited against the regular assessments to be paid by the electric companies and electricity suppliers for commission operations in fiscal 2010.

### **Standard Offer Service Supply Contracts**

*House Bill 60 (Ch. 2)* authorizes electric cooperatives that as of July 1, 2006, purchase energy supply for standard offer service through a portfolio of blended wholesale supply contracts of short, medium, and long terms to continue doing so with appropriate review for prudent cost recovery as determined by PSC. PSC may not set or enforce a termination date for the procurement of supply through a managed portfolio previously approved by PSC.

The Act applies to one electric cooperative operating in the State. The Southern Maryland Electric Cooperative (SMECO) has been purchasing electricity supply for standard offer service through a variety of products purchased on markets, through brokers, and via bilateral negotiations. In 2004, PSC approved SMECO's supply procurement plans through May 30, 2010.

### **Residential Tenants and Condominium Owners**

The Electric Universal Service Program (EUSP) was established under the Electric Customer Choice Act of 1999 to assist low-income *electric customers* with their current and past due electric bills and to implement energy efficiency measures to reduce future electric bills. The Act authorizes PSC to establish the program, make it available to low-income electric customers statewide, and provide administrative oversight to Office of Home Energy Programs (OHEP), the agency within the Department of Human Resources responsible for program delivery. Annual funding for EUSP is paid by all electric customers, and was increased to \$37 million under Chapter 5 of the 2006 special session.

A *retail electric customer* is defined as a purchaser of electricity and excludes an occupant of a building in which the owner/operator or lessee/operator manages the internal distribution system serving the building and supplies electricity and electricity supply services solely to occupants of the building for use by the occupants.

**Senate Bill 491 (passed)** requires PSC, OHEP, and the Office of the People's Counsel to meet and discuss options for expanding EUSP to include assistance to low-income residential tenants of apartments and low-income residential condominium owners who are not actual direct customers of an electric company.

The agencies must consider, among others, the impact on the EUSP funding level; how to determine the amount of assistance for tenants and owners who are served by a master meter or by a submeter; how to ensure that the tenants and owners benefit directly from the assistance; what administrative and legislative changes may be needed; and how outreach programs can be put in place to encourage landlords of apartments and condominium associations to shop competitively for electricity supply. Findings and recommendations are due to the Senate Finance Committee and the House Economic Matters Committee by October 1, 2007.

### **Certificate of Public Convenience and Necessity – Exemption**

The licensing of new electric power plants and transmission facilities in the State is a comprehensive two-part process involving PSC and several other State agencies, primarily the Department of Natural Resources and the Department of the Environment. PSC is the lead agency for licensing the siting, construction, and operation of power plants in the State, through a certificate of public convenience and necessity (CPCN). A CPCN is a consolidated permit to construct and operate the power plant or transmission facility, obviating the need for separate environmental permits. Except for certain on-site generation facilities, all applicants wishing to construct a new power plant in the State must apply to PSC for a CPCN. The CPCN process also preempts all local authority, including zoning.

During the CPCN process, the State agencies hold extensive discussions with interested parties such as local governments, environmental organizations, the company proposing to build the power plant, and individual citizens. The agencies assess and incorporate identified concerns in an evaluation. Before a CPCN may be issued for a proposed power plant, the State agencies provide PSC the results of the evaluation and a consolidated set of recommendations as to whether the proposed site is suitable and whether the proposed power plant can be constructed and operated in an acceptable manner.

The agencies also provide detailed recommendations on conditions that should be incorporated in the CPCN. These conditions may relate, for example, to minimizing detrimental impacts on air, surface, and groundwater quality; aquatic and terrestrial resources; cultural and historic resources; noise; and land use.

**Senate Bill 566 (passed)** allows a land-based wind powered energy generating facility to be built without requiring a CPCN so long as certain conditions are met. The capacity of an exempt generating facility may not exceed 70 megawatts and any excess electricity generated

must be sold on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company. PSC must provide an opportunity for public comment at hearings within the county or municipal corporation where the generating station is proposed to be located. PSC must provide adequate notice of the hearing at the expense of the applicant.

On or before February 1 of 2008 through 2010, PSC must report to the Governor, the Senate Finance Committee, and the House Economic Matters Committee on the number and locations of applications under *Senate Bill 566*, the status of the applications and construction, and the status of any regulatory actions undertaken by other State and local agencies concerning the applications. The bill does not limit the regulatory authority of any State or local agency over a wind-powered generating station that is exempt from the CPCN process.

### **Authorization of Stock and Debt Transactions**

Chapter 5 of the 2006 special session newly required a public service company that *operated* in Maryland to obtain prior authorization from PSC before issuing stock, acquiring debt, or obtaining an interest in another public service company. Prior to that Act, only public service companies that were *incorporated* in Maryland needed to obtain prior authorization for the specified transactions. The requirement that a public service company operating in Maryland obtain PSC authorization before lending money to an affiliate at a below-market rate was also enacted in Chapter 5 of the 2006 special session.

*Senate Bill 810 (passed)* provides that certain small gas, electric, and telephone companies operating in Maryland do not need prior authorization of PSC to acquire, take, or hold any part of the capital stock or indebtedness of another public service company or to issue stocks, bonds, securities, or other evidence of indebtedness. The new exemption applies only to a company having a gross annual revenue in the State of less than 3 percent of the total gross annual revenues of all public service companies in the State, and only if the company (1) obtains approval for the transaction from the entity in another state that regulates the company; and (2) provides prior written notice of the transaction to PSC.

### **Telephone Services**

#### **Voice over Internet Protocol Services**

“Voice over Internet Protocol” (VoIP) services convert the voice signal from a telephone into a digital signal that travels over the Internet. If a call is placed to a regular telephone number, the signal is then converted back at the other end. A VoIP call can be placed from a computer, a special VoIP phone, or a traditional phone using an adapter. In addition, new wireless “hot spots” in public locations such as airports, parks, and cafes allow a user to connect to the Internet and may enable a person to use VoIP services wirelessly.

Utility companies, including telephone companies in the State, are required to establish rates for their services that are just and reasonable. PSC must review and approve those rates to ensure that they are indeed just and reasonable. Providers of intrastate long distance services are

also regulated by PSC, but PSC does not have any authority over interstate long distance. The rate setting authority for interstate long distance services rests with the Federal Communications Commission (FCC). PSC does not currently provide regulatory oversight for VoIP services. FCC has made some rulings on VoIP services but has yet to adopt comprehensive regulation.

*Senate Bill 864/House Bill 1379 (both passed)* remove regulatory uncertainty over deployment of VoIP over fiber-optic telephone lines. The bills preclude potential PSC authority, in the absence of FCC directive, to impose regulatory fees and certification requirements or require the filing or approval of tariffs for VoIP service. VoIP service providers are under the authority of the Division of Consumer Protection in the Office of the Attorney General and are subject to generally applicable State and federal laws relating to public safety, consumer protection, and unfair and deceptive trade practices. The bills also prohibit switching customers from tariffed service to VoIP without consent.

PSC and the Department of Business and Economic Development must report to the General Assembly by December 1, 2010, on the status of the deployment of Internet Protocol-enabled services, including VoIP services, in Maryland and the status of any federal legislation or regulatory proceedings before FCC relating to Internet Protocol-enabled services.

In addition, *Senate Bill 864/House Bill 1379* require PSC, with input from the Office of the Attorney General and the Office of the People's Counsel, to monitor the number of consumer complaints received by State agencies regarding the provision of VoIP services in Maryland. If PSC determines that additional consumer safeguards are warranted, it may report its findings and recommendations to the General Assembly.

## **Insurance**

### **Regulation of Insurers and Insurance Professionals**

#### **Use of Trade Names by Insurance Producers**

*House Bill 1425 (Ch. 109)* prohibits a licensed insurance producer from using a name, other than the name in which the insurance producer's license is issued or a trade name filed with the Maryland Insurance Commissioner, to engage in any activity for which a license is required. Under the Act, the term "trade name" is defined to mean a name, symbol, or word, or combination of two or more names, symbols, or words, that a person uses to (1) identify its business, occupation, or self in a business capacity; and (2) be distinguished from another business, occupation, or person. The Act also requires a licensee to file a change in legal name, trade name, or address with the Commissioner within 30 days after the change. Failure to do so may subject the licensee to suspension or, revocation of, or refusal to renew or reinstate a license.

## **Analyses and Examinations of Insurance Entities**

*House Bill 1432 (Ch. 110)* authorizes the Maryland Insurance Commissioner to conduct an analysis of specified insurance entities and adds an entity’s financial condition to the list of items that the Commissioner may examine or analyze. An “analysis” is defined as a process by which the Commissioner collects and analyzes certain information relating to insurance entities in order to (1) develop an understanding of the affairs, transactions, accounts, records, assets, and financial condition of the entities; or (2) identify or investigate patterns and practices of the entities.

Under the Act, a document, material, or information that is obtained during specified examinations or analyses by the Commissioner (1) is confidential and privileged; (2) is not subject to the public records provisions of the Public Information Act; (3) is not subject to subpoena; and (4) is not subject to discovery or admissible in evidence in any private civil action. The Commissioner may use any document, material, or information obtained during an examination or analysis to further any regulatory or legal action brought as part of the Commissioner’s duties.

If the recipient agrees to maintain the confidentiality and privileged status of the document, material, or information, the Commissioner may share a document, material, or information obtained during an examination or analysis with other State, federal, or international regulatory agencies, the National Association of Insurance Commissioners, or State, federal, or international law enforcement authorities. The Commissioner also may receive a document, material, or information from these entities but must maintain as confidential and privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is its source.

## **Notice of Payment to Third-party Claimant’s Attorney**

*Senate Bill 156 (passed)* requires an insurer to provide written notice to a third-party claimant of payment of \$2,000 or more in settlement of a third-party liability claim for bodily injury if the claimant is an individual and the payment is delivered to the claimant’s attorney. The notice must be sent to the claimant’s last known address no more than five working days after payment is delivered to the claimant’s attorney.

## **Property and Casualty Insurance**

### **Medical Malpractice Liability Insurance**

The Rate Stabilization Fund was established during the 2005 session to retain health care providers in the State by allowing insurers to charge lower premium rates for medical professional liability insurance and increasing Medicaid payment rates for health care providers. Money in the fund is held in the Rate Stabilization Account which is used to pay for health care provider rate subsidies, and the Medical Assistance Program Account, which is used to increase Medicaid payments to health care providers.

Garrett County is designated as a Medically Underserved Area and a Health Professional Shortage Area. Due to these designations, the Garrett County Memorial Hospital (GCMH) is allowed to subsidize the premiums for medical professional liability insurance for family practitioners providing obstetrical services at GCMH. The 2007 policy year Rate Stabilization Fund subsidy for family practitioners who also perform obstetrical services at GCMH is 17 percent, the same subsidy as for all other physicians.

*Senate Bill 651/House Bill 372 (both passed)* increase the subsidy provided from the Rate Stabilization Account for medical professional liability insurance policies issued to family practitioners who have staff privileges and provide obstetrical services at GCMH. For these policies, the increase in the subsidy is an amount equal to 75 percent of the difference between the policyholder's premium for calendar 2007, 2008, and 2009 and the premium that otherwise would be payable in those years if the policyholder was not providing obstetrical services. The bills also require that money necessary to pay for the increased subsidies remain in the Rate Stabilization Account.

### **Homeowner's Insurance**

*Notice to Applicants for Homeowner's Insurance:* As a result of issues homeowners faced in seeking payment for loss from their homeowners' insurers in the wake of Tropical Storm Isabel, Chapter 388 was enacted in 2006. Chapter 388 requires homeowner's insurers and their insurance producers to provide applicants for homeowner's insurance with notices that state (1) that the standard homeowner's insurance policy does not cover losses from flood; and (2) any additional optional coverage not included in the standard homeowner's insurance policy available from the insurer to the applicant.

An unintended consequence of Chapter 388, however, is that insurance producers are made subject to administrative penalties for actions outside their control. Insurance producers rely on the insurer to provide them with the required notices, and if an insurer does not do so within the time required by law, both the insurer and the insurance producer are in violation of the law and subject to administrative penalties.

*Senate Bill 790/House Bill 1106 (both passed)* repeal requirements for an insurance producer to provide an applicant for homeowner's insurance with a notice that the standard homeowner's insurance policy does not cover losses from flood and a notice regarding additional optional coverage available. The bills also provide that the statement an insurer must provide to an applicant about additional optional coverage does not create a private cause of action.

*Task Force on the Availability and Affordability of Property Insurance in Coastal Areas:* In light of the large number of claims filed by homeowners for hurricane related damage, a major homeowner's insurer has indicated that it would stop issuing new policies covering property located along coastal areas in Maryland. In response to this situation, *House Bill 1442 (passed)* establishes the Task Force on the Availability and Affordability of Property Insurance in Coastal Areas to examine methods to ensure the continued availability and affordability of homeowner's insurance and other property insurance in coastal areas of the State, including the Eastern Shore and Southern Maryland. The bill specifies the membership of the task force and

the issues that the task force must address in its study. The Maryland Insurance Administration is responsible for staffing the task force. A report of the findings and recommendations of the task force is due to the Governor, the Senate Finance Committee, and the House Economic Matters Committee on or before December 31, 2007.

### **Motor Vehicle Insurance**

**Exclusion of Named Driver:** In *Harleysville Mutual Ins. Co. v. Zelinski*, 393 Md. 83 (2006), the Court of Appeals overturned a decision by the Court of Special Appeals and held that a named driver may be excluded from a commercial motor vehicle insurance policy. **House Bill 1187 (Ch. 88)** codifies this decision. The Act authorizes an insurer under a commercial motor vehicle liability insurance policy that insures more than one individual, to offer to continue or renew the insurance but exclude full coverage for a specifically named driver, if the insurer otherwise would be authorized to cancel, non-renew, or increase the premium on the policy because of the claims experience or driving record of one or more drivers covered under the policy.

**Fraudulent Insurance Acts:** **House Bill 1409 (passed)** makes it a fraudulent insurance act under the State’s insurance fraud laws for a person, with the purpose of submitting a claim under a policy of motor vehicle insurance, to organize, plan, or knowingly participate in an intentional motor vehicle accident or a scheme to create documentation of a motor vehicle accident that did not occur. The bill defines a “motor vehicle accident” as an occurrence involving a motor vehicle that results in damage to property or injury to a person.

**House Bill 1409** also provides that, for 60 days after a law enforcement officer completes and files a report that indicates that a motor vehicle accident has occurred, the report may be accessed only by (1) the individuals involved in the accident or their legal representatives; (2) the insurance producer, insurer, or employee or agent of the insurer of an individual involved in the accident; (3) a State’s Attorney or other prosecutor; (4) a representative of a victim services program; (5) an employee of a radio or television station licensed by the Federal Communications Commission; (6) an employee of a newspaper; or (7) a unit of local, State, or federal government that is otherwise authorized to have access to the report in furtherance of its duties.

With specified exceptions, the bill requires a person that accesses a report within 60 days after its filing to present a valid driver’s license or other identification and proof that the person is authorized to receive the report. The person also is required to present a statement indicating that, until 60 days after the report’s filing date (1) the report will not be used for any commercial solicitation of an individual listed in the report; and (2) the person will not knowingly disclose any information in the report to a third party for commercial solicitation of an individual listed in the report. A person who obtains a copy of a report, or an officer of a law enforcement agency who knowingly discloses a report in violation of the bill is guilty of a felony and on conviction is subject to a fine not exceeding \$10,000 or imprisonment not exceeding 15 years or both.

The bill reflects model acts adopted by the National Association of Insurance Commissioners and the National Conference of Insurance Legislators. The 2005 Automobile

Insurance Task Force to Study Rates in Urban Areas found that insurance fraud is one of the causes for higher insurance premiums.

### **Civil Actions – Liability of Insurer for Failure to Act in Good Faith**

*Senate Bill 389/House Bill 425 (both passed)* authorize the recovery of actual damages, expenses, litigation costs, and interest in first-party claims against property and casualty insurers if the trier of fact finds in favor of the insured and finds that the insurer failed to act in good faith. For a more detailed discussion of these bills, see the subpart “Civil Actions and Procedures” within Part F – Courts and Civil Proceedings of this *90 Day Report*.

*Senate Bill 721/House Bill 904 (both failed)* were emergency bills that would have established requirements with which an insured must comply in order to file a civil action against an insurer for bad faith settlement of – or bad faith failure to settle – a claim under a homeowner’s insurance policy. For a more detailed discussion of these bills, see the subpart “Civil Actions and Procedures” within Part F – Courts and Civil Proceedings of this *90 Day Report*.

## **Life Insurance**

### **Group Life Insurance – Domestic Partners**

*Senate Bill 1022 (passed)* authorizes an insurer to extend insurance coverage under a policy of group life insurance to the domestic partner of an insured employee or member who elects to obtain the coverage. Under the bill, the term “domestic partner” has the meaning stated in the policy. Coverage for a domestic partner is treated in the same manner as coverage for a spouse or dependent child.

### **Investment Accounts**

A life insurer may, in connection with a qualified plan and in accordance with a written agreement, allocate into separate investment accounts money that the life insurer is required to invest and apply to the purchase of guaranteed income benefits under the life insurer’s individual or group policies or annuity contracts or to provide other guaranteed benefits incidental to those policies or annuity contracts. A “qualified plan” is a pension, retirement, or profit-sharing plan or agreement that meets specified criteria under federal law. *Senate Bill 236/House Bill 248 (Chs. 22 and 23)* authorize domestic life insurers to use separate accounts for life or annuity products purchased by any customer, not just by qualified plans.

## Horse Racing and Gaming

### Horse Racing

#### Night Racing

Historically, thoroughbred racing has been conducted during the day and standardbred racing in the evening. This tradition was recognized in law by statute passed in 1984 which provided that thoroughbred racing could not be conducted after 6:15 p.m., with limited exceptions. Legislation passed in 2000 extended the time in which thoroughbred racing could be conducted to 9:00 p.m., under certain conditions. A 15-year revenue sharing agreement between the thoroughbred and standardbred racing industries went into effect in 2006, providing for authorizations for both day and evening racing at Laurel Race Track, Pimlico Race Course, and Rosecroft Raceway.

*Senate Bill 817 (passed)* repeals the prohibition on live thoroughbred racing after 9:00 p.m., but live racing at Pimlico Race Course would be prohibited after 10:00 p.m. In addition, the bill requires the Maryland Jockey Club to hold meetings with the City of Baltimore and representatives of the neighborhoods in proximity to Pimlico Race Course to discuss security and lighting for the Pimlico Race Course property and the surrounding areas when live racing is scheduled after 6:15 p.m., except for Preakness Day. The Maryland Jockey Club is required to submit a report describing the discussions to the Senate Finance Committee and the House Committee on Ways and Means on or before June 15, 2007.

#### Purse and Bred Fund Supplements

*House Bill 348 (failed)* would have mandated that up to \$15 million of fiscal 2007 State lottery revenue overattainment that would otherwise have been paid to the general fund be allocated to purses and to the Maryland-Bred Race Fund and the Standardbred Race Fund under a certain formula.

### Charitable and Commercial Gaming

#### Task Force to Study Charitable and Commercial Gaming Activities in Maryland

For the second year in a row, the lack of uniform procedures among counties in regulating charitable and other organizations that conduct gaming drew interest among legislators. *House Bill 125 (failed)* would have established a Task Force to Study Charitable and Commercial Gaming Activities in Maryland. The task force would have studied such issues as the current statutory and regulatory provisions governing gaming; the prevalence of unregulated gaming in local jurisdictions; the financial impact of gaming activities on organizations that conduct gaming and other organizations that may benefit financially; the impact of gaming on law enforcement agencies and other types of gaming; and how gaming is regulated both on a State and local level.

## Local Gaming Legislation

### Eastern Shore Counties – Slot Machines

Slot machines may be operated for charitable purposes in eight Eastern Shore counties by “eligible organizations” – that is, nonprofit organizations that are fraternal, religious, or war veterans’ organizations and that have been located in one of the counties for at least five years before applying for a slot machine license. *House Bill 1310 (passed)* expands the definition of “eligible organization” to include nonprofit organizations that have been affiliated with a national fraternal organization for less than five years but have been located within an eligible county for at least 50 years before applying for a slot machine license.

### Carroll County – Bingo and Gaming Events

*Senate Bill 868/House Bill 1278 (both passed)* repeal a restriction that allowed only a qualified organization located in Carroll County to conduct bingo or hold a carnival, bazaar, raffle, or other game of entertainment in the county.

### Harford County – Political Fundraising

*Senate Bill 926/House Bill 1391 (both passed)* allow a political committee in Harford County to conduct a fundraiser at which prizes of money or merchandise are awarded in a gaming event (bingo, raffle, or paddle wheel) or a 50/50 drawing.

## Video Lottery Terminals

Legislation to authorize video lottery terminals (VLTs) at horse racing tracks and other locations was again unsuccessful in the 2007 session. *House Bill 17 (failed)* would have authorized up to 12,500 VLTs at five horse racing tracks and would have created a Public School Construction Fund and other special funds. *House Bill 166 (failed)* would have proposed an amendment to the Maryland Constitution to prohibit the General Assembly from allowing more than 13,000 VLTs and six VLT facilities and would have also required that a VLT license could be issued only if a majority of the votes cast in the proposed county approved. *Senate Bill 216 (failed)* would have required that Maryland voters vote, via a straw ballot question on the November 2008 ballot, on whether they supported locating VLTs at up to three race tracks and at up to three nonracetrack destination locations. *Senate Bill 541 (failed)* would have authorized VLT gaming on certain vessels at dock or underway in State waterways under certain conditions. *Senate Bill 950 (failed)* would have required the State Lottery Commission to regulate the operation of up to 15,500 VLTs at seven locations, including four horse racing tracks, and would have created the Education Trust Fund that would have received a share of revenues from VLT facilities to be used to fund the Bridge to Excellence in Public Schools Act of 2002.

## Economic and Community Development

### Economic Development

#### Base Realignment and Closure

Congress enacted the Defense Base Realignment and Closure Act of 1990 to rework the federal process for addressing an excess capacity of military facilities, commonly known as “BRAC.” The 2005 BRAC represented the first major base closure and realignment activity in 10 years. Through the 2005 BRAC, Maryland is expected to gain approximately 16,000 Department of Defense military and civilian jobs, phased in from 2005 to 2011. All 2005 BRAC recommendations must be implemented by 2011. The State’s primary employment gains are at Aberdeen Proving Ground, Fort George G. Meade, and the newly renamed Walter Reed National Military Medical Center and are expected to be highly skilled, well-paid jobs.

In a December 2006 report, the Maryland Department of Planning advised that it anticipates 28,176 new households as a result of the 2005 BRAC. Approximately 53.4 percent of the new households are projected to be high-income (over \$75,000 annually) and an additional 28.4 percent are projected to be middle-income (\$30,001 to \$75,000 annually).

*Senate Bill 110 (Ch. 6)* creates a 10-member BRAC subcabinet in State government chaired by the Lieutenant Governor. The subcabinet is charged with several tasks, including:

- coordinating and overseeing the implementation of all State action to support the mission of military installations affected by BRAC;
- coordinating and overseeing the development of BRAC-related initiatives in various areas, including education, workforce readiness, community infrastructure and growth, health care facilities and services, workforce housing, and transportation; and
- working with local jurisdictions affected by BRAC to facilitate planning, coordination, and cooperation with the State.

Subcommittees of the subcabinet may be established to deal with particular issues and may include other cabinet members and other individuals such as State and local officials and private citizens.

*House Bill 1320 (passed)* establishes the Joint Committee on Base Realignment and Closure consisting of six members of the House of Delegates and six members of the Senate. The committee must provide continuing legislative oversight of the State’s response to BRAC-related opportunities and changes. In cooperation with local and State units it must also oversee and participate in developing systems and processes that fast track the approval of BRAC-related:

- transportation infrastructure;

- water and sewer infrastructure;
- State and local planning processes;
- affordable housing options;
- education facilities, including public school and community college construction; and
- health care facilities and infrastructure.

### **Maryland Small Business Development Financing Authority (MSBDFDA)**

MSBDFDA was established to provide financing incentives to create and expand small businesses, focusing on businesses owned by socially or economically disadvantaged persons. From 1995 to 2004, MSBDFDA is estimated to have created 3,224 direct jobs and 2,044 indirect jobs and \$121.4 million in State tax receipts. According to the Department of Business and Economic Development (DBED), over the past two years MSBDFDA has received 15 applications that wanted higher financing or benefits than were previously available.

*Senate Bill 318/House Bill 989 (both passed)* substantially raise the limits of assistance that MSBDFDA may offer under its contract financing, long-term guaranty fund, surety bond, and equity participation investment programs. For example, under the contract financing program, a loan or guarantee of a loan may not exceed \$2 million, increased from the current \$1 million cap. Under the long-term guaranty program, a guarantee up to 80 percent of a loan may not exceed \$2 million, increased from the \$1 million cap.

The bills also authorize MSBDFDA to issue or guarantee bid, performance, or payment bonds on contracts financed by a private entity and require an enterprise that seeks to acquire an existing business, or the principals of the acquiring enterprise, to have an equity investment of at least 5 percent of the total cost of the acquisition.

### **Tourism, Film, and the Arts**

**Tourism:** According to the fiscal 2008 budget books published by the Department of Budget and Management, in calendar 2005, there were 27.8 million visitors to the State. These visitors had total travel expenditures of \$10.9 billion and generated an estimated \$940 million in State and local tax revenue.

**Maryland Tourism Development Board:** The Maryland Tourism Development Board advertises Maryland and Maryland tourism in print publications, on television, and on the Internet. In addition, it produces the *Destination Maryland* guide and a calendar of events that lists tourism events throughout the State. The board is supported through general fund and special fund revenue generated from advertisements in magazines that the board produces.

*Senate Bill 426 (passed)* adds five members to the board; three appointed by the Governor, one appointed by the President of the Senate, and one appointed by the Speaker of the

House of Delegates. The number of board members who must be senators or delegates increases from one from each chamber to two from each chamber. The three new board members that the Governor appoints are nonvoting members who are directors or chief executive officers from among the 25 destination marketing organizations recognized by the Maryland Office of Tourism Development. These “destination marketing” members must represent the interest of all destination marketing organizations in the State, not merely their own areas.

**Maryland Heritage Areas Program:** The Maryland Heritage Areas Program was created in 1996 to help communities use heritage tourism to build their economies while protecting, developing, and promoting their cultural, historical, and natural resources. The program does so by providing targeted financial and technical assistance to a limited number of areas designated across the State as “certified heritage areas.”

*House Bill 1217 (Ch. 93)*, in codifying existing regulations, requires the Maryland Heritage Areas Authority to provide acquisition and development grants only to projects in “target investment zones” within certified heritage areas, with certain exceptions. A “target investment zone” is a specific area located within a certified heritage area that is identified as a priority area intended to attract significant private investment in order to encourage demonstrable results and return on investment within the area in a relatively short period of time. The Act extends to 10 years the time period during which projects in target investment zones are eligible for grants, up from the former 5 years.

***Film:*** The Maryland Film Office of the Division of Tourism, Films, and the Arts in DBED was established to attract feature film, television, commercial, and video production companies to Maryland. The office’s Film Production Employer Wage Rebate Grant Program, established in 2005, offered a 50 percent rebate of the first \$25,000 of each qualified employee’s wages, up to a total maximum of \$2 million. To qualify for the rebate, a film production activity had to be intended for nationwide distribution and have direct costs in the State of at least \$500,000, which could include wages and benefits, fees for services, and any other necessary expense.

*House Bill 1185 (Ch. 87)* renames the program to be the Film Production Rebate Fund and simplifies grant eligibility requirements. The Act alters the value of the subsidy a company may receive under the program. Formerly, a company could receive a rebate of 50 percent of the direct costs of the film production activity subject to certain limitations. The Act allows the program to grant the company up to 25 percent of the total direct costs of the film production activity. The total amount of the award to each company is no longer capped, specific qualifying employee wage limitations are repealed, and the actual amount disbursed is left to the discretion of DBED.

### **Life Science and Technology**

According to MdBio, Inc., a regional trade association, in 2006 an estimated 360 private bioscience companies were located in Maryland, employing approximately 23,200 people. According to DBED, Maryland has the third or fourth largest State cluster of bioscience

companies in the nation and the second largest per capita in the nation. However, there is fierce competition, globally and nationally, to grow, expand, and attract the bioscience industry.

*Senate Bill 104/House Bill 135 (both passed)* establish a 15-member Life Sciences Advisory Board (LSAB) in DBED. Life sciences include biotechnology, pharmaceuticals, biomedical technologies, life systems technologies, food sciences, environmental sciences, and biomedical devices. LSAB must assist DBED in several tasks, including:

- promoting life science research, development, commercialization, and manufacturing in the State;
- promoting collaboration and coordination among life sciences organizations in the State and among research institutions of higher education in the State;
- developing a strategy to coordinate State and federal resources to attract private-sector investment and job creation; and
- developing a strategy to support federal life sciences facilities in the State, including support for infrastructure and capital investment needs.

### **Other Economic Development**

According to a survey by the University of Maryland (Maryland Sea Grant Extension Program), recreational boaters spent approximately \$970 million during 2000 that directly impacted Maryland recreational boating and related businesses. The study reported that, when the indirect and induced effects of that spending were factored in, the recreational boating impact on the Maryland economy in 2000 was approximately \$1.6 billion.

*Senate Bill 165/House Bill 305 (both passed)* establish a Task Force to Study the Boating Industry in Maryland to evaluate and make recommendations regarding growing the boating industry in the State. The task force is charged with several tasks including:

- evaluating incentives to encourage large boats and yachts to use marinas and boatyards for recreation, repair, and outfitting in the State;
- determining ways to encourage and promote tourism throughout waters of the State;
- researching the economic impact that marine industries and recreational boaters contribute to the State's economy; and
- identifying barriers that limit the State's competitiveness with other states regarding the boating industry and developing methods to overcome those barriers.

*Senate Bill 700/House Bill 599 (both passed)* establish a Baby Boomer Initiative Council staffed by the University of Maryland's College of Health and Human Performance. Individuals born between 1946 and 1964 are generally referred to as the "baby boomer" generation. The

U.S. Census Bureau estimates that there were 78 million baby boomers in the United States as of July 1, 2005. This generation is expected to have a significant impact on how retirement and aging is perceived and treated in the United States.

The charge of the council includes:

- developing recommendations for addressing the needs of the baby boomer population;
- making recommendations to the Maryland Department of Aging on outreach to business, nonprofit organizations, and State agencies; and
- making recommendations for multigenerational civic activities for baby boomers after they leave career-track work.

The two representatives from the University of Maryland and Johns Hopkins University on the council must jointly initiate a study documenting the economic and social impact of older workers' roles in the economy and in the community.

*Senate Bill 613/House Bill 598 (both passed)* extend the Heritage Structure Rehabilitation Tax Credit Program until July 1, 2010. The bills also alter how credits are awarded and other administrative aspects of the credit. A more detailed discussion of this tax credit can be found in Part B – Taxes of this *90 Day Report*.

## **Housing**

### **Affordable Housing**

The generally accepted definition of “affordable” housing is when housing costs do not exceed 30 percent of a household’s annual income. Families who pay more than 30 percent for housing are considered cost burdened and may have difficulty affording necessities such as food, clothing, transportation, and medical care. The U.S. Department of Housing and Urban Development estimates that 12 million households (renter and homeowner) pay more than 50 percent of their annual income for housing. The 2004 final report of the Governor’s Commission on Housing Policy stated that, as of 2000, one-third of Maryland households pay more than 30 percent of their income on rent. The report also stated that over the next 10 years (2005 to 2015) there will be a shortage of 157,000 workforce or affordable rental units in the State.

In Maryland, the median price for owner-occupied real property was \$318,000 in fiscal 2006, up \$52,500, or 19.8 percent, from the previous year. For comparison purposes, the median household income increased by 3.7 percent over the same period. The median sale price ranged from \$87,775 in Allegany County to \$425,000 in Montgomery County. Several bills passed in the 2007 session to address the need to expand affordable housing through efforts at both the State and local levels.

**State Government Programs:** The Workforce Housing Grant Program (WHGP) in the Department of Housing and Community Development (DHCD) was established by Chapter 483 of 2006 to provide flexible capital funds to qualifying local governments (a county or a municipal corporation) for “development costs” of workforce housing located in a priority funding area. If the units developed are rental units, the units must remain as workforce housing for at least 25 years. If DHCD agrees, a unit developed with WHGP funds may house a “household of low or moderate income.” WHGP is not funded in the fiscal 2008 budget.

**House Bill 423 (passed)** establishes the Workforce Housing Grant Fund in DHCD to facilitate funding of WHGP. In addition, WHGP is no longer limited to providing funds for capital costs for the development of workforce housing units. In addition, WHGP may also provide funds to workforce housing programs, including ones that finance development costs.

**House Bill 1418 (passed)** authorizes the Community Development Administration (CDA) of DHCD to make, participate in making, and undertake commitments for residential mortgage loans to limited-income families outside of a community development project or a public purpose project:

- for a family that has a disabled member who will reside in the dwelling;
- for an emergency housing need;
- for settlement and down payment costs; or
- that is made in conjunction with a loan that consists of at least 20 percent of State appropriated funds.

According to DHCD, this change will allow CDA, under its Maryland Mortgage Program, directly to lend to families who may not otherwise qualify for the standard loan.

**Local Government Programs: Senate Bill 710/House Bill 784 (both passed)** authorize a county or municipality to support, foster, or promote an affordable housing program for low- or moderate-income households through various locally implemented methods or programs such as providing land or property to support affordable housing and supporting programs for payments in lieu of taxes.

### **Local Matters**

The Annapolis Housing Authority is an independent city agency that currently operates 10 residential communities, housing approximately 2,400 individuals. The Annapolis Housing Authority is governed by seven commissioners. In response to a resolution passed by the Annapolis City Council in September 2006 requesting the General Assembly to adopt legislation, **Senate Bill 256/House Bill 351 (both passed)** provide that the appointment of an Annapolis Housing Authority Commissioner by the mayor must be approved by the Annapolis City Council.

*Senate Bill 147/House Bill 551 (both passed)* repeal the termination date for the Radium Pilot Grant Program in DHCD and rename it the Radium Grant Program. The Radium Pilot Grant Program was established to provide financial assistance in the form of grants to residential well owners who must pay for adding a water treatment system to remove radium or gross alpha radiation emitters from well water. The program currently operates only in Anne Arundel County. Radium and other gross alpha radiation emitters can easily be reduced from residential wells by installing a deeper well or effective water treatment devices such as water softeners, ion removal, and reverse osmosis systems. The program has made seven grants since implementation. Total State expenditures for the grants since 2005 are \$1,307, which is equally matched by Anne Arundel County.

## **Workers' Compensation**

### **Covered Employees**

#### **Private School Students – Unpaid Work-based Learning Experiences**

Just as employers of public school students who participate in unpaid work-based learning experience must secure workers' compensation coverage for these students, *House Bill 271 (passed)* requires employers to provide coverage to private school students participating in an unpaid work-based learning experience. Students are eligible for medical benefits, but not indemnity, as they work without pay.

Of the 1,050,627 students enrolled in Maryland schools during the 2005-2006 school year, approximately 18 percent of those students, or 190,606 students, attended private schools. An unpaid work-based learning experience is a structured employer-supervised work program that links with classroom instruction. The terms of the placement are based on a written agreement between a county board of education and a participating employer. Under the bill, workers' compensation coverage for unpaid work-based learning experiences is limited to students placed by a county board of education or a private noncollegiate institution.

#### **Domestic Workers**

Employers of domestic workers who earn at least \$750 per quarter must provide workers' compensation coverage to that employee. A domestic worker earning less than \$750 may jointly elect with the employer to become a covered employee, but employers are exempt from the requirement that the domestic worker be covered.

Chapter 207 of 1996 provided the last increase in the minimum earning threshold for workers' compensation coverage for domestic workers, raising the quarterly minimum threshold for coverage from \$250 to \$750. *House Bill 277 (passed)* exempts employers from providing workers' compensation coverage for domestic workers who earn less than \$1,000 per quarter.

## Benefits

### Cost-of-living Adjustment

As part of comprehensive workers' compensation reform, a cost-of-living adjustment (COLA) to workers' compensation payments for permanent total disability injuries was made part of the Maryland statutory benefit provisions beginning in 1988. *House Bill 1006 (passed)* requires the Injured Workers' Insurance Fund (IWIF) to provide a COLA for permanent total disability payments arising from injuries occurring before January 1, 1998. Counties and municipalities, as well as nongovernmental units, are authorized to provide a COLA for pre-1998 events at their discretion. The bill applies retroactively to compensation paid by IWIF on or after October 1, 2006, and will affect approximately 140 claimants, including 43 workers who were injured while working for the State. The fiscal impact to the State is estimated at \$3 million over a 22-year period.

### Benefits for Dependents

*Senate Bill 752/House Bill 1117 (both passed)* restore the practice in place prior to a Court of Appeals decision by allowing dependents of public safety personnel who died from an occupational disease to collect workers' compensation benefits in addition to retirement benefits.

In *Johnson v. Mayor and City Council of Baltimore City* and *Luster v. Mayor and City Council of Baltimore City*, 387 Md. 1 (2005), the Court of Appeals held that the dependents of firefighters who die from occupational disease are subject to a reduction of workers' compensation death benefits under the Workers' Compensation Act to the extent of death benefits under a service pension plan. The court noted that absent statutory language specifically stating that an "individual and his or her dependents" are entitled to dual benefits, the widows of the fallen firefighters would have had a much better claim for entitlement to dual benefits.

The bills entitle dependents of firefighting personnel, police officers, correctional officers, and deputy sheriffs to collect retirement benefits, as well as workers' compensation benefits, when the covered employees' death resulted from heart disease, hypertension, lung disease, or certain cancers. Under the bills, workers' compensation benefits are adjusted so that the weekly total of both sets of benefits do not exceed the weekly salary that was paid to the deceased public safety personnel.

### Governmental Self-insurance Groups

*Senate Bill 625/House Bill 345 (Chs. 41 and 42)* require the Workers' Compensation Commission to adopt regulations to permit the investment of surplus funds in equities, provided that equity investments do not exceed 30 percent of the surplus monies. The guidelines must further:

- state the types of investment in which monies may be invested;

- include guidance for the prudent investment of monies based on claim experience, cash flow projections, income liquidity, investment ratings, and risk;
- authorize investments of up to 30 percent of surplus monies in equities;
- require that monies not invested in equities be invested according to current State law; and
- prohibit borrowing of funds for the express purpose of investing those funds.

The only governmental self-insurance group affected by Chapters 41 and 42 is the Maryland Association of Boards of Education, which suffered negative returns on investments in 2004 and 2006.

### **Howard County Auxiliary Officers**

Howard County auxiliary police officers are private citizens trained to provide uniformed volunteer services. *Senate Bill 745 (Ch. 52)*, also known as the “Officer Pieter Lucas Act,” was introduced in the General Assembly after Howard County unsuccessfully argued before the Workers’ Compensation Commission that an auxiliary police officer struck by a vehicle in the line of duty did not qualify for workers’ compensation coverage. Chapter 52 clarifies that an auxiliary police officer in Howard County, while on duty, is a covered employee for purposes of workers’ compensation coverage.

### **Montgomery County Correctional Officers**

*House Bill 783 (passed)* adds Montgomery County correctional officers to the list of public safety officers eligible for enhanced benefits for a permanent partial disability. Correctional officers awarded claims of fewer than 75 weeks would instead be compensated at the rate for awards of 75 to 250 weeks. Under the bill, Montgomery County must pay a correctional officer two-thirds of the correctional officer’s average weekly wage, not to exceed one-third of the State average weekly wage.

### **Release of Medical Information**

Chapter 503 of 2005 prohibits health care providers from providing medical information without an injured person’s authorization unless the person has been given notice of the request (in a subpoena) and has 30 days to object that the medical information is not relevant to the issues of the workers’ compensation case, the request unduly invades the person’s privacy, or causes the person specific harm. As a result, parties to a workers’ compensation case have not always been able to obtain a record prior to a hearing on the case before the Workers’ Compensation Commission and the hearing may be postponed. Prior to this Act, an injured person was not provided 30 days to object for the release of medical information. *Senate Bill 600 (passed)* requires a health care provider to disclose a medical record on receipt of an authorization for the release of medical information that is included with a claim

application form filed with the Workers' Compensation Commission. The bill is the result of extensive discussions in the 2006 interim among insurers and employee and employer representatives over how to address privacy concerns and the delays caused by the system in place as the result of Chapter 503 of 2005.

Under the bill, a claim application form filed for accidental personal injury or occupational disease must include an authorization by the claimant for the release of medical information, including information on the member of the body that was injured and a description of how the injury occurred. An authorization for the release of medical information includes history, findings, patient charts, files, examination and progress notes, and physical evidence. The authorization is effective for one year after a claim is filed and does not restrict the redisclosure of medical information to a medical manager, health care professional, or certified rehabilitation practitioner. If the medical provider determines that information being requested is not relevant to the injured body part, the requestor will need to obtain a subpoena from the Workers' Compensation Commission in order for the information to be provided by the medical provider.

### **Notice of Insurance Premium Information**

Chapter 580 of 2006 made various changes to State law relating to cancellation and nonrenewal of insurance policies, effective January 1, 2007. Among these changes, the Act repealed provisions requiring insurers to provide notice of renewal premiums 17 days prior to the due date in favor of a 45-day notice period applicable only to renewal of personal insurance and private passenger motor vehicle liability insurance policies. In creating separate notice requirements for commercial and personal insurance policies, Chapter 580 retained the 45-day notification requirements for renewal premium increases of 20 percent or more but only made it applicable to commercial insurance policies. The definition of "commercial insurance" (1) includes property or casualty insurance intended to insure against loss arising from the business pursuits of the insured entity; and (2) does not include workers' compensation insurance.

*Senate Bill 765 (passed)*, an emergency bill, requires insurers to notify workers' compensation insurance policyholders of increases in renewal premiums of 20 percent or more at least 45 days prior to the expiration of a policy. The bill applies to all workers' compensation insurance policies issued, delivered, or renewed on or after the effective date of the Act.

### **Joint Committee on Workers' Compensation Benefit and Insurance Oversight**

The Joint Committee on Workers' Compensation Benefit and Insurance Oversight is charged with examining and evaluating the condition of the workers' compensation benefit and insurance structure in the State. The joint committee is also required to review the adequacy and appropriateness of all workers' compensation benefits and make recommendations for necessary changes. The current joint committee includes representatives from various industries and

professions including the insurance industry, the business community, and the medical profession.

*House Bill 184 (passed)* increases the membership of the joint committee from 14 to 15 to include a certified Maryland rehabilitation service provider registered with the Workers' Compensation Commission and appointed by the President of the Senate and the Speaker of the House.

### **Appeals – Evidence**

Written medical records and bills for health care expenses are admissible (in lieu of live testimony) in certain District Court and circuit court cases that involve personal injury damages or certain insurance benefits. The record may be admitted without the oral testimony of the health care provider to substantiate the condition of the claimant or the necessity of providing health care. These provisions do not apply to an appeal of a decision by the Workers' Compensation Commission in circuit court. Approximately 8 percent of commission decisions were appealed in 2006.

*Senate Bill 550/House Bill 480 (both failed)* would have authorized an appellee responding to an appeal of a commission ruling to introduce certain writings or records of a health care provider or health care facility without supporting testimony. These records would have been authorized for use as evidence of the existence of a health condition, a health care provider's opinion, the health care provided, or the necessity of this care. The bills also established procedures for notification and objections. The bills prompted significant discussion among the workers' compensation community – proponents contended that it cost too much to bring in a doctor to testify and opponents argued that it could increase litigation.

## **Unemployment Insurance**

### **Maximum Weekly Benefit – Increase**

The weekly unemployment insurance benefit amount that a claimant is eligible for is based on the quarterly wages paid to the claimant for covered employment during the calendar quarter of the claimant's base period in which those wages were highest. The maximum benefit amount has increased three times in the last decade (2000, 2002, and 2005) by a total of \$80. The last maximum benefit increase, implemented under Chapter 169 of 2005, replaced 47 percent of the average weekly wage in 2005 but only replaces 41 percent of the average weekly wage in 2007 (\$823). Any amount earned over \$100 in a single week while a claimant is receiving benefits is deducted from the weekly benefit the claimant would be eligible to receive.

*House Bill 1180 (passed)* alters the schedule of weekly unemployment insurance benefits to increase the maximum weekly benefit amount by \$40, from \$340 to \$380. (The bill as introduced would have increased the maximum weekly benefit by a total of \$120 over three years.) Under the bill as amended, a claimant who earns more than \$9,096 during the high

quarter and at least \$13,680 in the remaining quarters is eligible for the increased weekly benefit of \$380. The maximum weekly benefit increase applies to claims filed on or after October 7, 2007, and replaces 46 percent of the average weekly wage in 2007.

Benefit payments are expected to increase by \$21.9 million in fiscal 2008, \$29.5 million in fiscal 2009, and \$29.9 million in fiscal 2010. In fiscal 2006, the State administered unemployment benefits to approximately 94,000 claimants.

### **Joint Committee on Unemployment Insurance Oversight**

In 2005, the General Assembly significantly altered the unemployment insurance system by replacing the experienced tax rates and flat rate surcharge system with a single overall experienced tax rated system and increasing the maximum weekly benefit amount. Chapter 169 of 2005 reflects the recommendations of the Unemployment Insurance Funding Task Force, which subsequently became the Joint Committee on Unemployment Insurance Oversight under Chapter 169. The joint committee was charged with studying the impact of the changes made by the legislation and was required to make final recommendations to the Maryland General Assembly; although terminated on December 31, 2006, the joint committee issued the report with recommendations on January 31, 2007.

*Senate Bill 720/House Bill 1031 (Chs. 50 and 51)* re-establish the Joint Committee on Unemployment Insurance Oversight to continue studying the condition of the unemployment insurance system as a result of the implementation of Chapter 169 of 2005. The joint committee may also continue to examine the need for any additional alterations to the unemployment insurance system. Following the passage of *House Bill 1180*, the joint committee is expected to evaluate the impact of other changes to the system, such as the feasibility of indexing benefits to inflation.

Chapters 50 and 51 expand the membership of the joint committee to include representatives of the labor community and the National Federation of Independent Business, increasing the total membership from 13 to 15 members. The joint committee must report to the General Assembly by December 31 of each year and will terminate on December 31, 2010.

### **Taxable Wage Base Calculation – Clarifications**

*House Bill 1323 (passed)* simply clarifies the calculation of the taxable wage base under existing unemployment insurance law, depending on whether the employer is determined to be a reorganized employer, successor employer, or new employer. When an employer is determined to be a reorganized or successor employer, and the unemployment insurance rate of the predecessor employer is transferred to the reorganized or successor employer, the wages and taxes for employees which have already been paid in that calendar year are also transferred. When an employer is determined to be a new employer, and a new employer is assigned a new unemployment rate, the new employer pays taxes on the first \$8,500 of each employee's wages and does not get credit for prior wages on which taxes were paid.

## Labor and Industry

### Transit Service for Low-income Individuals

Established in 1983, the Governor's Workforce Investment Board is comprised of 12 local boards within Maryland. The local workforce investment boards provide core services such as job search and placement assistance, skills assessments, labor market information, and job retention services. Although income is not an eligibility requirement for participants in these programs, preference is given to public assistance recipients and other low-income clients.

*Senate Bill 461 (passed)* requires the Maryland Department of Transportation to issue weekly transit passes for local bus, light rail, or metro subway service provided by the Maryland Transit Administration to eligible training organizations. Under the bill, those training organizations must provide transit passes to individuals receiving employment and training services through a workforce investment training program. Reimbursements would be made to the department by the training organization for the cost of the training passes; the local workforce investment board must then reimburse training organizations for the costs of the weekly passes.

### Statewide Smoking Ban in Public Places and the Workplace

Maryland follows 11 other states in passing a comprehensive, statewide smoke-free law. *Senate Bill 91/House Bill 359 (both passed)* prohibit smoking in indoor places open to the public and indoor places of employment throughout Maryland beginning February 1, 2008. This includes government buildings, restaurants, bars, residences used as a business or place of employment by a licensed family child care provider, and government-owned or government-operated means of transportation. Exceptions for hotels, motels, and retail tobacco businesses are provided under limited circumstances. There are also exceptions for facilities of a manufacturer, importer, wholesaler, or distributor of tobacco products or a tobacco leaf dealer or processor, and research or educational laboratories conducting scientific research into the health effects of tobacco smoke.

The Department of Labor, Licensing, and Regulation is required to adopt regulations that prohibit environmental tobacco smoke in indoor places of employment not normally open to the general public. The penalty for violating the workplace smoking ban is a written reprimand for a first violation, a civil penalty of \$100 for a second violation, and a civil penalty of not less than \$250 for subsequent violations. Revenue collected from the enforcement of the monetary penalty are to be paid to the Cigarette Restitution Fund established under the bills.

The department must report annually to the General Assembly on their enforcement efforts to eliminate smoke from indoor places of employment. Additional civil penalties apply to employers that discharge or discriminate against employees because the employee has taken certain action against the employer suspected of violating the smoking ban; however, an employee is prohibited from making groundless, malicious, or bad faith action against an employer.

For a more detailed discussion of these bills, see Part J – Health of this *90 Day Report*.

## **Alcoholic Beverages**

### **Statewide Bills**

#### **Alcohol Without Liquid Machines**

An alcohol without liquid (AWOL) machine is a device that mixes spirits with pure oxygen, creating a cloudy alcohol vapor that can be inhaled. Bypassing the stomach and liver, the vapor is absorbed through blood vessels in the nose or lungs, thereby creating a quicker and more intense effect on the brain than drinking. *House Bill 670 (passed)* prohibits (1) the use of AWOL machines to inhale alcohol vapor or otherwise introduce alcohol in any form into the human body; or (2) with the intent to introduce alcohol into the human body, the possession, purchase, transfer, or offer for sale or use an AWOL machine. A person who violates this prohibition is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000.

#### **Unlicensed Establishments – Sexually Provocative Entertainment or Attire**

In the large majority of counties, establishments licensed to serve alcoholic beverages are prohibited from allowing on its premises specified forms of sexually provocative entertainment or attire that are listed in the Maryland Code. *Senate Bill 459/House Bill 68 (both passed)* apply to businesses in certain counties that do not have alcoholic beverages licenses but that do allow patrons to bring, store, or consume their own alcoholic beverages on the premises while at the same time allowing the same type of sexually provocative entertainment or attire banned in licensed establishments. The bills prohibit an unlicensed establishment that features this type of entertainment or attire from serving, dispensing, keeping, or allowing to consume alcoholic beverages. The bills apply only in Caroline, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester counties.

#### **Furnishing Alcoholic Beverages to Underage Individuals**

*House Bill 1395 (failed)* would have made it a misdemeanor crime rather than a civil offense to knowingly and willfully furnish an alcoholic beverage for consumption to a person under the age of 21 years. Under the bill, a person found guilty would have been subject to imprisonment not exceeding 60 days or a fine not exceeding \$1,000 or both.

#### **Wineries – Special Events – Farmers' Markets**

In an unsuccessful attempt to increase the ability of wineries to sell their product at special events and farmers' markets, *Senate Bill 425/House Bill 522 (both failed)* would have increased from 12 to 18 the number of winery special event permits issued to a single licensed winery for use in a calendar year and would have allowed the Comptroller to issue an unlimited

number of winery special event permits to licensed wineries for use at farmers' markets that are officially listed by the Maryland Department of Agriculture.

## Local Bills

### Anne Arundel County

**Immediate License Suspensions:** Under normal circumstances, a board of license commissioners may suspend the license only after the licensee has an opportunity to be heard. Under *Senate Bill 1036 (passed)*, the Board of License Commissioners may suspend a license immediately for up to seven days if an inspector accuses a licensee of repeatedly violating the prohibition against selling or furnishing alcoholic beverages to a person under the age of 21 years. A hearing must follow within seven days after the suspension and notice must be given to the licensee at least two days before the hearing.

**Salaries of Inspectors:** *Senate Bill 889/House Bill 1245 (both passed)* raise the annual salary of the chairman of the Board of License Commissioners from \$15,000 to \$18,000. Also, the bills raise the salaries of the other members of the board from \$8,500 to \$15,000. The bills also raise the annual salary of the part-time chief inspector from \$8,000 to \$10,000 and the salaries of part-time inspectors from \$5,000 to \$6,000. In addition the bills raise the monthly allowance given to part-time inspectors from \$150 to \$300 and allow the board to employ three additional part-time inspectors, bringing the total of part-time inspectors to 19.

### Baltimore City

**District Designations:** One of the effects of the legislative redistricting plan that was ordered by the Maryland Court of Appeals on June 21, 2002, was to make obsolete certain references in Article 2B of the Code to legislative districts. *Senate Bill 571 (passed)* alters those references to conform to the plan. The bill also raises from \$250,000 to \$500,000 the minimum amount of capital investment for restaurant facilities required for the issuance of a Class B beer, wine, and liquor license.

**Criminal Records:** *Senate Bill 806 (failed)* would have required the Baltimore City Board of Liquor License Commissioners to obtain criminal records of applicants for licenses from the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services. The bill also would have mandated that the board require applicants to be fingerprinted. Finally, the bill would have authorized each inspector of the board to examine any identification used as proof of age by a person for the purchase of alcoholic beverages, but the examination would have been required to be made on the premises of the licensed establishment where the purchase is attempted.

**Enforcement Aids:** In an attempt to more effectively enforce the prohibition against underage drinking, *Senate Bill 981 (failed)* would have prohibited the Board of Liquor License Commissioners from hiring more part-time inspectors and instead would have required the board to hire six permanent, part-time field enforcement aides who would have been under the age of 21 years so as to be able to blend in at places where violations commonly occur.

### **Baltimore County**

**Multiple License Holdings:** Granting permission to a licensee to hold more than one license is a common practice intended to encourage the establishment of high-quality restaurants in targeted communities. *Senate Bill 998 (passed)* increases from four to six the number of licenses for hotels and restaurants anywhere in Baltimore County in which a single person may have a direct or indirect interest. In addition, a seventh license may be obtained if one of the restaurants for which a license is issued is located in the Liberty Road Commercial Revitalization District.

**Beer, Wine, and Liquor Tasting:** Consumers of beer and wine have been able to sample those beverages at special tasting events in Baltimore County. Under *Senate Bill 507 (passed)*, consumers may also sample liquor at these special tasting events. The bill establishes a revamped Class BWT beer and light wine (on-premises) tasting license as well as a Class BWLT beer, wine, and liquor (on-premises) tasting license. A license holder may be issued up to 12 daily tasting licenses of either type in a license year, or the holder may be issued an annual license that may be used for 26 or 52 consecutive or nonconsecutive days.

### **Carroll County**

**Sunday Sales:** *House Bill 1228 (passed)* extends the Sunday sales hours for holders of Class B beer, wine, and liquor licenses. Under the bill, the licensed premises may be open between 11 a.m. on Sunday and 1 a.m. the following Monday, instead of between noon on Sunday and 1 a.m. the following Monday.

**Class A Quotas:** The Carroll County Board of License Commissioners are prohibited under *Senate Bill 845 (passed)* from issuing a new Class A (off-sale) license of any category in an election district in which the ratio would exceed one class A license for every 5,000 residents. The bill, however, does not apply to the renewal or transfer of licenses or a winery that applies for a Class A light wine license.

### **Cecil County**

**Hours of Sale:** *Senate Bill 736/House Bill 616 (both passed)* allow holders of a Class B license or a Class BLX beer, wine, and liquor license to open the doors to their establishments at 8 a.m. instead of at 10 a.m. For the New Year holiday, *Senate Bill 684/House Bill 658 (both passed)* allow the holder of any class of license to keep the establishment open, on January 1, between midnight and 4 a.m. or on December 31, when that date falls on a Sunday, between 7 p.m. and 4 a.m. the following day. On January 1, when that date falls on a Sunday, a person may not sell any alcoholic beverages or consume alcoholic beverages on a licensed premises between 4 a.m. and the opening hour of sale appropriate for the premises.

**Caterer's License:** *Senate Bill 681/House Bill 649 (both passed)* establish a caterer's license. The license authorizes the holder of a Class B restaurant or hotel beer, wine and liquor license or a Class B restaurant or hotel beer and light wine license to provide alcoholic beverages at events that are held off the premises. The annual license fee is \$100.

**Summonses and Subpoenas:** Under State law, summonses issued by a board of license commissioners are served by a sheriff unless otherwise stated. *Senate Bill 683/House Bill 651 (both passed)* provide that inspectors employed by the Cecil County Board of License Commissioners may also serve summonses. The bills also authorize the board to subpoena any records or papers pertaining to a licensed business or establishment.

### **Charles County**

#### ***License Renewal:***

**Protest:** *House Bill 373 (passed)* establishes certain requirements that a person who seeks to lodge a protest against the renewal of a license must meet. A protest must specify the basis on which the protest is made, and the protest must be filed under oath. The Charles County Board of License Commissioners may approve the renewal without a hearing if the board makes a finding that the basis of the protest lacks substance.

**Late Penalty:** Under *House Bill 382 (passed)*, a renewal application for a license is due on or before March 31 of each year. A person who files a renewal application after March 31 is subject to a penalty of \$50 for each day that the application is late, but not more than \$500.

**Drinking on Public Property and Other Areas:** By repealing an exemption, *House Bill 379 (passed)* makes a prohibition against drinking alcoholic beverages on public property and in a mall, adjacent parking lot, or other outside areas of retail establishments apply in Charles County, unless the activity is authorized.

**Sales to Underage Persons – Fine:** Under *House Bill 381 (passed)* if an employee of an alcoholic beverages licensee sells alcoholic beverages to a person under the age of 21 years, the employee may receive a maximum fine of \$150 instead of a maximum fine of \$50.

### **Dorchester County**

**Wristbands:** In an effort to ensure that alcoholic beverages are served at a catered event only to individuals who are legally entitled to drink, *Senate Bill 713/House Bill 63 (both passed)* require the caterer (a holder of a special Class C beer license, beer and wine license, or beer, wine, and liquor license) to distribute a wristband at the event to each individual who is at least 21 years old. The caterer may not serve an alcoholic beverage to any individual who does not wear the wristband.

**Additional Class A Licenses:** *Senate Bill 453/House Bill 65 (both passed)* authorize the Board of License Commissioners of Dorchester County to issue additional Class A beer licenses for a premises for which a Class B or Class D license of any category (*i.e.*, beer, beer and wine, or beer, wine, and liquor) is issued. The bills, however, state that the board may limit the number of additional Class A beer licenses that it issues under this provision.

**Class D Licenses:** *Senate Bill 452/House Bill 62 (both passed)* create a Class D (on-sale) beer, wine, and liquor license. The license is a 7-day license with an annual fee of \$1,500.

### **Frederick County**

**Tables and Chairs at Wineries:** Allowing wineries to better accommodate their visitors, *House Bill 320 (passed)* authorize a holder of a limited winery license to provide tables and chairs on the premises of the winery for patrons who purchase, by the glass, wine and pomace brandy while participating in a guided tour of the winery or attending a scheduled promotional event or other organized activity at the winery.

**Holy Family Catholic Community:** To enable the Holy Family Catholic Community to hold wine tastings and other fundraising events to fund building construction or for charitable purposes, *Senate Bill 96/House Bill 195 (both passed)* allow the community to acquire a one-day special Class C beer and light wine license or a one-day special Class C beer, wine, and liquor license. Net proceeds shall be used to fund building construction or for charitable purposes.

### **Garrett County**

**Deluxe Restaurant License:** *House Bill 1266 (passed)* creates a Class BDR (deluxe restaurant) (on-sale) beer, wine, and liquor license for restaurants with a minimum seating capacity for 85 persons and a minimum capital investment of \$250,000 for the restaurant facilities, not including the cost of land or buildings.

### **Harford County**

**Age of Employees of Licensee:** An alcoholic beverages licensee under *Senate Bill 189/House Bill 297 (both passed)* may not employ a person under the age of 21 years to act as a bartender or to serve alcoholic beverages at a permanent full-service bar. The bills, however, allow a person at least 18 years old to act as a bartender or serve alcoholic beverages at a permanent full-service bar if the person is the son or daughter of the owner of the establishment.

**Salaries of Liquor Board Members:** Under *Senate Bill 191/House Bill 296 (both passed)*, the annual salary of the chairman of the Harford County Liquor Control Board is raised from \$4,500 to \$7,000, and the annual salaries of the regular members of the board are raised from \$4,000 to \$6,000.

**Repeal of Obsolete and Unused Provisions:** *Senate Bill 190/House Bill 299 (both passed)* repeal certain alcoholic beverage provisions that are obsolete or no longer used, including provisions regarding a Class B-4 (seafood restaurant) license and licenses for racquet clubs and box lacrosse clubs.

### Howard County

Consumers of beer will have a chance to attend beer tasting events in the county, as *House Bill 1089 (passed)* broadens the scope of the wine tasting license (to be a beer and wine tasting license) to allow beer tasting in a quantity of not more than three ounces from each given brand and not more than eight ounces from all brands to any one person on a single day.

### Montgomery County

#### *Special Licenses:*

**Damascus:** *House Bill 618 (passed)* authorizes the Montgomery County Board of License Commissioners to issue a special 7-day Class C beer, wine, and liquor license to a bona fide fire department in Damascus (12<sup>th</sup> election district).

**Town of Kensington:** With some exceptions, the Montgomery County Board of License Commissioners may not issue an alcoholic beverages license in the Town of Kensington. *House Bill 763 (passed)* adds three commercial locations to the eight existing commercial locations in the Town of Kensington in which the board may issue a Special B-K (on-sale) beer and wine license or a Special B-K (on-sale) beer, wine, and liquor license. The bill also reduces the percentage of daily receipts from 70 to 50 percent that must be from the sale of food for all holders of a Special B-K license in the Town of Kensington.

***Direct Sales by Wineries and Holders of Nonresident Winery Permits:*** Chapter 111 of 2006 created a Class 6 limited wine wholesaler's license and a nonresident winery permit that enables in-state wineries and out-of-state wineries of the same size to avoid having to sell their product to wholesalers and instead sell their product directly to restaurants and other retailers in Maryland. *House Bill 614 (Ch. 80)* clarifies that even in Montgomery County, where the county's Department of Liquor Control conducts the wholesale distribution of all alcoholic beverages, a holder of a Class 6 limited wine wholesaler's license or of a nonresident winery permit may sell its product directly to a county liquor dispensary, restaurant, or other retail dealer. Conversely, the Act states that a county liquor dispensary, restaurant, or other retail dealer may purchase wine directly from a Class 6 limited wine wholesaler's license or of a nonresident winery permit.

### Prince George's County

***Class B-DD Licenses:*** Three bills attempted to create Class B-DD (Development District) 7-day beer, wine, and liquor licenses to encourage chain restaurants that already hold the maximum number of regular Class B restaurant licenses in the county to open additional establishments in specified underserved areas. *Senate Bill 115/House Bill 503 (both passed)* allow the Board of License Commissioners of Prince George's County to issue up to four Class B-DD licenses in the Capital Plaza Commercial Area, which consists of properties bounded by the Baltimore-Washington Parkway on the west and northwest, Maryland Route 450 on the south, and Cooper Lane on the east and northeast. The board is to determine the number of licenses a licensee may hold. The annual license fee is \$2,750. *House Bill 482 (failed)* would

have allowed the board to issue up to five Class B-DD licenses in the Woodmore Towne Centre at Glenarden, a retail center under construction located northeast of the intersection of the Capital Beltway and Route 202.

**Attorney Compensation:** *Senate Bill 247/House Bill 492 (both passed)* require the County Council of Prince George's County to pay to the attorney for the Board of License Commissioners of Prince George's County, in addition to an annual salary and court costs and expenses incurred by the attorney, legal fees that the board approves for representing the board in court, including fees approved by the board but not paid in prior fiscal years. The board shall establish the fee rate for representing the board in court.

**Advisory Commission to Study Luxury Type Restaurants:** In Prince George's County, luxury type restaurants are issued Class BLX licenses. To qualify as a luxury type restaurant, a restaurant must have a seating capacity of at least 100 persons and a capital investment of at least \$800,000 for dining room facilities and kitchen equipment, excluding the cost of land, buildings, or a lease. According to the Board of License Commissioners of Prince George's County, 64 Class BLX licenses have been approved and are in use. Seven additional licenses have been approved but are not in use. *House Bill 483 (passed)* establishes an advisory commission to study the demand in the county for luxury type restaurants, whether more luxury type restaurants are needed, and how an increase in the number of luxury type restaurants would affect existing premises licensed to sell alcoholic beverages in the county. The 12-member commission is required to submit a report of its findings and recommendations to the Office of the County Executive and the Prince George's County Senate and House delegations on or before September 1, 2008.

**Waterfront Entertainment Retail Complex:** The Gaylord National Resort and Convention Center will be part of the National Harbor complex on the Potomac River featuring a luxury hotel, multi-use exhibition space, business center, retail shops, entertainment facilities, and four restaurants. To prepare for the opening of Gaylord National, *House Bill 939 (failed)* would have created three new alcoholic beverages licenses to allow alcoholic beverages to be served at restaurants, entertainment venues, and common areas within the complex.

### **St. Mary's County**

The cost of violating any law pertaining to licensing the sale of alcoholic beverages would have been doubled under *House Bill 217 (failed)*. The bill would have raised the penalty on conviction from \$500 to \$1,000.

### **Somerset County**

**License Fees:** *Senate Bill 201/House Bill 121 (both passed)* raise by 15 percent the annual fees for all retail alcoholic beverages licenses.

### **Washington County**

**Administrative Proceedings:** A licensee of an establishment that sells alcoholic beverages to a person under the age of 21 years commits a misdemeanor, for which the licensee may be granted probation before judgment. *House Bill 356 (passed)* ensures that a grant of probation before judgment does not bar the Washington County Board of License Commissioners from revoking the license or taking other administrative action against the licensee.

### **Wicomico County**

**Salary Raises for Officials:** *Senate Bill 457/House Bill 79 (both passed)* raise the annual salary of the attorney for the Board of License Commissioners of Wicomico County from \$6,000 to \$10,000. *Senate Bill 814/House Bill 112 (both passed)* raise the annual salaries of the members of the Wicomico County Liquor Control Board from \$2,750 to \$5,000 and the annual salary of the chairman from \$3,500 to \$6,000.

**Seating Capacity for Restaurants:** Smaller restaurants may now qualify for a Class B beer, wine, and liquor license, as *Senate Bill 458/House Bill 80 (both passed)* lower the minimum seating capacity requirement for restaurants from 75 to 40.

