Part H
Business and Economic Issues

Business Occupations

Crane Operators – Certificate of Competence

In 2008, there was a much publicized fatality involving a crane accident at a construction site in the State. This accident followed other fatal crane accidents in New York and Florida. In response, the Department of Labor, Licensing, and Regulation (DLLR) formed the Crane Safety Task Force to address the safety issues related to cranes and hoisting equipment. The task force recommended new regulations that attempt to strengthen crane safety standards and require mandatory inspections. The Maryland Occupational Safety and Health program is responsible for enforcing the new regulations, which took effect on April 6, 2009.

Senate Bill 991 ***(passed)*** specifies that a person may not operate a crane or authorize operation of a crane in the State for the purposes of construction or demolition work unless the operator holds a certificate of competence. A certificate of competence is a certification obtained through an accredited organization that states that the holder demonstrates knowledge of and training in safe crane operating procedures. Crane operators must carry the certificate while operating the crane and make the certificate available upon request of the Commissioner of Labor and Industry. The bill applies to persons who operate tower cranes, but not to those who operate many other types of power equipment. If a crane operator does not provide proof of certification, the commissioner must issue a written notice requiring the operation of the crane to cease unless it is operated by a person with a valid certificate. The commissioner may bring an enforcement action against persons who fail to comply with the written notice; violators are guilty of a misdemeanor and are subject to a fine of up to $1,000.

State Board of Public Accountancy

The State Board of Public Accountancy regulates and licenses certified public accountants (CPA) and issues permits to business entities that provide accountancy services. There are 13,290 active licensed CPAs and 5,527 inactive CPAs in the State; 739 firms also have CPA permits.

Reinstatement Fee for Expired Firm Permits

Partnerships, limited liability companies, and corporations offering certified public accountancy services must hold a permit if operating an office in the State that performs attest services or if performing certain attest services for a client with a home office in Maryland. In general, firms must also be permitted if an office in the State uses the title "CPA" or "CPA firm." Permits expire every two years on December 31. Reinstatement fees are required of individuals who seek renewal after the expiration of their license, but this requirement does not apply to firms that hold permits. ***House Bill 1440 (passed)*** authorizes the board to reinstate permits and charge reinstatement fees, set by the board, if firms allow their permits to lapse but are otherwise entitled to be permitted.

Continuing Education

The board establishes continuing education requirements that certified public accountants must fulfill in order to renew their licenses every two years. In general, licensees must complete at least 80 hours in programs approved by the board for each two-year license term. No more than 40 of these hours may be met through participation in a course of home study or service as a teacher, lecturer, or discussion leader in a board-approved course. ***Senate Bill 128/House Bill 69 (Chs. 30 and 31)*** repeals the provision that restricts certified public accountants to meeting no more than 40 hours of the continuing education requirement for renewal through a course of home study or service as a teacher, lecturer, or discussion leader.

Required Peer Reviews

A peer review is a periodic independent review of a firm's quality control system in accounting and auditing. The purpose of this review is to determine whether a firm's auditing practices conform to professional standards. Generally performed once every three years, a peer review examines whether a firm can demonstrate the competencies necessary for performing accounting, auditing, and attestation engagements in accordance with professional, State, and/or federal standards. ***Senate Bill 204 (passed)***, a departmental bill, modifies governing standards and procedures for peer reviews in the State for licensees and firms performing certified public accountancy services. The changes reflect revised standards adopted by the American Institute of Certified Public Accountants (AICPA).

The bill requires a system review of licensees or permit holders that perform engagements governed by the U.S. Government Accountability Office, and for licensees or permit holders who conduct audits of issuers not registered with the U.S. Securities and Exchange Commission performed under the standards of the Public Company Accounting Oversight Board. The services performed by a licensee or permit holder that would require an engagement review are modified to include the following activities conducted in accordance with AICPA standards: (1) reviews of historical financial statements; (2) compilations of historical financial statements with or without disclosures; and (3) engagements for attestation services other than the examination of prospective statements.

The bill removes the requirement that an individual maintain ownership or management of a firm or have comparable responsibility in order to conduct a peer review. However, the bill maintains these criteria for an individual serving as a "team captain" of a system review.

State Board of Cosmetologists – Executive Director

The State Board of Cosmetologists is housed within the Division of Occupational and Professional Licensing of DLLR. Staff for the board consists of an executive director, an assistant executive director, administrative personnel, and 12 authorized inspector positions. The executive director serves in this capacity for both this board and the State Board of Barbers. The executive director is currently responsible for overseeing day-to-day operations of the board, and must be a licensed senior cosmetologist or master barber.

DLLR recently completed a recruitment process for the executive director position and found the licensing requirement to be a major impediment to identifying qualified applicants. Eliminating the requirement may facilitate filling any future vacancy. Further, the existing requirements for the executive director are inconsistent with the provisions governing other licensing boards and commissions that regulate business occupations and professions. ***House Bill 1450 (passed)***, a departmental bill, repeals the requirement that the executive director of the State Board of Cosmetologists be a licensed senior cosmetologist or a master barber.

State Board of Stationary Engineers, State Board of Plumbing, and State Board of Heating, Ventilation, Air Conditioning, and Refrigeration Contractors

House Bill 1452 (passed), a departmental bill, exempts individuals licensed as stationary engineers, plumbers, gas fitters, and heating, ventilation, air conditioning and refrigeration contractors in specified jurisdictions outside the State, including Virginia and New Jersey, from the State's licensing examinations in those trades if these individuals have relocated to the State because of a family member's relocation to the State through the Base Realignment and Closure (BRAC) process. The request for a waiver must be made before July 1, 2012. The boards shall require applicants seeking waiver of the examination requirements to furnish documentation verifying that their relocation is a direct result of a family member's involvement in the BRAC process.

Business Regulation

Maryland Locksmiths Act

From 2005 to 2006 the number of complaints about locksmiths received by the Better Business Bureau (BBB) increased almost 75%. According to BBB, several locksmith companies, all using similar methods, are significantly overcharging consumers – often for unnecessary services – and failing to give refunds or respond to consumer complaints. These companies pose as local locksmiths using local phone numbers and fake street addresses.

Consumers think they are dealing with a local business, but inquiries are forwarded to a national call center. A representative at the call center then coordinates with a local person, often someone without a fixed business address or a marked work vehicle, to provide locksmith services. In many cases the actual price for services is significantly higher than the price quoted over the phone and cash is often the only accepted form of payment.

Senate Bill 507*/*House Bill 370* *(both passed) requires businesses providing locksmith services in Maryland to be licensed by the Secretary of Labor, Licensing, and Regulation by July 1, 2010. The bills require criminal background checks and photo identification of the business owner and each employee in order to be licensed; set forth the authority of the Secretary in administering the provisions, including the establishment of applicable fees for the two-year license, and adopting and enforcing regulations; establish violations and penalties related to the provision of locksmith services for licensed and nonlicensed individuals; establish invoice and record-keeping requirements for locksmiths; and require the Secretary to report to specified committees of the General Assembly assessing the appropriateness of competency-based credentials for licensed locksmiths and the nature and number of complaints regarding locksmiths.

The bills specify that the Secretary may issue licenses only to applicants who have a fixed business address. Licenses may not be granted for an address that is a hotel or motel room, a motor vehicle, or a post office box. The owner of a business must issue a photo identification card to each employee who provides locksmith services on behalf of the business, and employees are required to display the card while providing services on behalf of the business. Licensees must display their license conspicuously at the place of business and any advertisements, business cards, or other public notifications must include the name and license number of the licensed locksmith.

Licensees must include the following information on each receipt or invoice for locksmith services: (1) the address where the services were provided; (2) the type of lock serviced; (3) a vehicle identification number, if applicable; and (4) the quoted and actual costs of the service. Locksmiths are required to keep service records for three years after the date of the service call. Upon request, a licensee must provide to law enforcement or the Department of Labor, Licensing, and Regulation with a copy of service record. Licensed locksmiths also must maintain general liability insurance in the amount of at least $300,000, with appropriate coverage for the practice of the business. Violators of the Act are subject to civil penalties.

The licensing provisions of the bills do not prohibit:

- emergency responders from performing emergency opening services in the line of duty;
- the replacing of the core or cylinder of a lock that was designed by the manufacturer to be changed by an end user;
- the installation or repair of a lock by the manufacturer of the lock;

- the installation or repair of an automatic lock by a repair and service facility or manufacturer;
- sales demonstrations by locksmith suppliers;
- the installation of locks by building trades personnel on projects that require a building permit;
- key duplication;
- the installation of locks by a retailer at the place of business, or off premises if the installation is incidental to the retailer's normal course of business;
- the installation or replacement of locks by a licensed security systems technician; or
- the installation, repair, replacement, rekeying, or adjusting of locks by a property owner or management company.

Gasoline Products

Service Station Dealers

Senate Bill 392/House Bill 377 (Chs. 61 and 62) permanently extend market protections for service station dealers, fuel producers, and jobbers that were subject to expiration. The Acts eliminate the sunset on a conditional prohibition on the Comptroller issuing a certificate of registration to a retail service station dealer that markets fuel through retail service stations that have been structurally modified since July 1, 1977. The conditional prohibition is designed to protect independent service station dealers from larger entities. On the other hand, the Acts also permanently allow motor fuel producers, refiners, and wholesalers who supply retail station dealers to extend voluntary allowance discounts to all dealers in an unequal manner. Company-owned retailers are more likely to receive discounts than independent service stations.

Senate Bill 858/House Bill 1100 (both failed) would have restricted the ability of gasoline refiners to sell, transfer, or assign a fee simple or leasehold interest in a "marketing premises" that is leased to a service station dealer.

Dyed Diesel Fuel

A person may not operate a motor vehicle on a State highway with dyed diesel fuel in the vehicle's propulsion tank, unless allowed to do so under federal law or regulation. Only the operator of the motor vehicle may be charged in such cases; the Comptroller expressed concern that, even though the vehicle owner or agent may be the responsible party in some cases, such individuals cannot be held accountable. ***House Bill 163 (passed)***, a departmental bill**,** specifies who may be charged with a violation of using dyed diesel fuel in a motor vehicle driven on State highways. A person is guilty of a violation if he or she commits, attempts to commit, or conspires to commit a violation; aids or abets another in the commission of a violation; or

intentionally induces, directs, causes, coerces, or permits another to commit a violation. A party may be charged as a principal, an agent, or an accessory.

Biomass and Biofuels

Senate Bill 555/House Bill 1379 ***(both failed)*** would have allowed an electric utility customer engaging in net energy metering, that generates electricity from cellulosic feedstock grown on the customer's premises, to recover accrued generation credit for net electricity supplied to the utility at the end of an existing 12-month generation credit accrual period. The bills also would have required, for fuel sold or offered in the State, specified levels of biodiesel content for diesel, and specified levels of cellulosic biofuel content for gasoline. The requirements would have been conditioned upon a certain amount of in-state production of biodiesel and cellulosic biofuel.

Vehicle Advertising

Senate Bill 859/House Bill 547 ***(both passed)*** prohibit a dealer from advertising a vehicle's purchase price unless the price is the full delivered purchase price, excluding certain taxes, title fees, and any freight or dealer processing charges. The bills require the full price to be printed in the largest price-related font found in the advertisement. The bill also repeals the presumption that an advertisement is not false, deceptive, or misleading if it complies with federal law.

Tobacco Products

The Comptroller requested legislation to further regulate tobacco products. ***Senate Bill 1059*** ***(passed)*** effectively requires every cigarette sold in Maryland to come through a licensed distribution chain. The bill expands the definition of a licensed cigarette manufacturer to include a person who operates a cigarette manufacturing plant outside the United States; those who are considered to be manufacturers under the Master Settlement Agreement; and manufacturers who sell unstamped cigarettes to a licensed cigarette wholesaler located outside of the State. The bill also makes the definition of cigarette "manufacturer" in the fire safety performance law consistent with other statutes enforced by the Comptroller's Office.

House Bill 653 ***(passed)***, a departmental bill, allows cigarettes to be sold or distributed for the purpose of consumer testing in a controlled setting without meeting fire safety certification requirements. Cigarettes used for consumer testing in an uncontrolled setting must continue to meet the fire safety certification requirements. The bill allows manufacturers to submit descriptions of cigarettes to the Comptroller as "confidential under seal" to protect proprietary information. Descriptions must include brand, style, length, circumference, flavor, and package information. The bill remains in effect until a federal reduced cigarette ignition propensity standard is adopted and becomes effective.

Retail Licenses

Bulk Vending Machines

Individuals who sell goods through vending machines must be licensed by the State. The cost for each license is $2.50 per year. ***Senate Bill 174/House Bill 171 (both passed)*** exempt bulk vending machines from State licensing requirements for vending machines. The National Bulk Vending Association reports that bulk vending represents less than 1% of the total vending industry. Unlike full-line vending (*e.g.*, snack and soda vending), bulk vending machines contain unsorted merchandise and dispense a product without selection by the customer. According to the Comptroller's Office, the number of vending machine licenses has declined 4.4% each year between 2004 and 2008.

Soda Fountains

A business must have a soda fountain license if it operates a soda fountain in the State. An applicant for a soda fountain license must pay fees ranging from $10 to $60 for each soda fountain, depending on geographical location. The Comptroller's Office recently clarified that the statutory provisions related to the licensure of soda fountains include establishments that operate soft drink dispensers, but that only one license per location is required. Although thousands of businesses in the State operate soft drink dispensers, there were only 76 soda fountain licenses issued in 2008 throughout the State. ***House Bill 1573 (passed)*** repeals the requirement that businesses in the State be licensed if they operate a soda fountain machine.

Home Builder Guaranty Fund – Fee Collection by Local Governments

Chapters 480 and 481 of 2008 instruct the Consumer Protection Division of the Office of the Attorney General to establish a Home Builder Guaranty Fund to compensate claimants for an actual loss that results from an act or omission by a registered home builder. Home Builder Guaranty Fund fees are collected by the building and permits department of the county in which the construction takes place. No provision exists that allows counties to retain a portion of the fee to cover administrative costs. ***Senate Bill 377/House Bill 662 (Chs. 58 and 59)*** permit local governments to retain up to 2% of the fees collected to cover administrative costs. The Acts also specify that municipalities, in addition to counties, must collect the fee, and that the fee must be on a per-house or, for multi-unit developments, a per-unit basis.

Business Oversight

Athletic Commission

The State Athletic Commission manages, supervises, and regulates the sports of boxing, kickboxing, professional wrestling, and – more recently through Chapters 607 and 608 of 2008 – mixed martial arts. The commission is subject to periodic evaluation and has a termination date. A preliminary evaluation conducted by the Department of Legislative Services (DLS) found that the commission plays an important role in regulating boxing, kickboxing, and wrestling, but

evaluation of the commission's new role in regulating mixed martial arts is not yet possible. DLS recommended waiving further evaluation and enacting legislation to extend the commission's termination date by 10 years to July 1, 2021. To aid in future evaluations, DLS recommended that the commission maintain specified information on mixed martial arts each fiscal year and that, as an interim measure prior to the next scheduled evaluation, the commission report on its implementation of mixed martial arts regulation by October 1, 2013. ***House Bill 61 (Ch. 122)*** implement those recommendations.

Charitable Organization Audits and Reviews

Senate Bill 806/House Bill 452 (Chs. 100 and 101) raise the income levels that determine whether a charitable organization in the State must submit an audit or review. Charitable organizations with gross annual incomes of more than $500,000 from charitable donations must submit an audit performed by an independent certified public accountant (CPA) when registering with the Secretary of State. Charitable organizations with gross incomes between $200,000 and $500,000 must submit a review by a CPA; the Secretary of State may require an audit or review if the amount of gross income is less than $500,000.

Inflatable Amusement Attraction Inspections

Senate Bill 82 (Ch. 21), a departmental bill, exempts "inflatable amusement attractions" from mandatory inspection before beginning operation at a new location. Instead, under the Act, inflatable amusement attractions are subject to annual inspection.

Metal Processors and Dealers

Senate Bill 597 (passed) requires secondhand precious metal object dealers, including pawnbroker dealers, to submit required transaction information to law enforcement units electronically, rather than by paper record. The Governor's Office of Crime Control and Prevention (GOCCP) may authorize the primary law enforcement unit to require paper reporting from dealers in its jurisdiction for one year if the law enforcement unit does not have an electronic reporting system in place. Conversely, GOCCP may authorize a local law enforcement unit to receive records electronically even if the primary law enforcement unit cannot do so. By December 1, 2009, GOCCP, in consultation with the Department of Labor, Licensing, and Regulation and local law enforcement units, must report to specified legislative committees regarding the appropriate scope of licensing and reporting requirements for the sale of secondhand items in Maryland by all participants in the secondhand industry.

Senate Bill 32/House Bill 207 (both failed) as well as ***House Bill 23 (failed)*** would have established reporting requirements and more extensive recordkeeping requirements for junk dealers and scrap metal processors doing business in the State.

Public Service Companies

During the 2009 legislative session, increasing electric rates combined with unusually cold weather during the winter heating season resulted in many State residents receiving uncommonly high electric bills. As a result of these high bills, the legislature explored efforts to prevent customers from having service terminated and considered other measures to lower the cost of electricity in the State.

Electric Restructuring and Generation Supply

History

Effective July 2000, the Maryland Electric Customer Choice and Competition Act of 1999, Chapters 3 and 4 of the Acts of 1999, restructured the electric utility industry in the State to allow electric retail customers to potentially shop for electric power from various electric suppliers. The Act required electric companies to divest themselves of generating facilities or to create a structural separation between the unregulated generation of electricity and the regulated distribution and transmission of electricity. Some electric companies created separate entities to operate unregulated and regulated businesses under a single holding company structure and other companies divested generation facilities. With the elimination of the generation functions from regulation, PSC no longer determines the need for additional supply sources as it did before restructuring.

Electric restructuring was intended to bring increased efficiencies to the electric utility industry, resulting in lower overall costs for industrial, commercial, and eventually residential customers. The result has been quite different. Growth in demand based on increasing population, as well as the proliferation of new devices requiring electricity, has contributed to diminishing any tendency toward lower prices from efficiencies created by restructuring, at least as to the residential sector. This demand, coupled with the lack of any substantial new generating capacity in the State, constrained transmission facilities, and little in the way of substantial increase in transmission capacity has led the State to the brink of threatened brownouts during times of peak demand as soon as 2013.

In response to the concern that deregulation had not served the public interest, the General Assembly, through Chapter 549 of the Acts of 2007 (SB 400), required PSC to conduct studies and complete reports on electric industry reregulation and to assess the availability of adequate transmission and generation facilities to serve the electrical load demands of all customers in the State. In December 2008, PSC, at a cost of approximately $2 million, completed a study of the efforts for new generation and possibilities for reregulation.

In this report PSC outlined various options for “reregulation” considering tradeoffs among direct costs, risks, and benefits. PSC concluded that it would not recommend that the legislature seek to return the existing generation fleet to full cost-of-service regulation under which the ratepayers bear all prudently incurred costs to own and operate a generation plant, plus a rate of return, in light of the costs, risks, and likely disruptions that might result from acquiring

the plants. The study valued only the impact of the cost of purchasing the assets for fair market value of one service territory relative to ratepayer benefits and did not attempt to quantify the complexities and risks that might result in added costs.

Instead, PSC recommended incremental, forward-looking reregulation when appropriate. Other options considered in the report focused on measures to mitigate price volatility for residential consumers that included directing utilities to enter into long-term contracts for new generation, establishing a State power authority to initiate power projects, adopting integrated resource planning to coordinate a variety of efforts, and aggressively intervening in proceedings of the Federal Energy Regulatory Commission to shape PJM wholesale market policies.

Plans to Restructure Electricity Markets

Senate Bill 844 ***(failed)*** would have established an integrated resource planning process similar to the process that was in place prior to electric restructuring in 1999 and would have required PSC to initiate a proceeding to investigate the electricity needs of the State. In this proceeding, PSC would have been required to consider whether to direct the construction of one or more generation facilities, and if so, the appropriate electric capacity and fuel source. The bill would have also required PSC to consider if it should require additional energy efficiency, conservation, and demand response measures. Each electric company would have been required to develop and submit long-range plans regarding electricity needs and the means to meet those needs.

Based on the evaluation of the long-range plans, the bill would have required PSC to order construction of new electric generation facilities if this was deemed to be in the public interest. Any new generation facilities constructed in the State, as directed by PSC, would have been operated under cost-of-service regulation principles. Instead of ordering an electric company to construct an electric generating facility, PSC would have had the option to require an electric company to procure the necessary electricity through (1) a bilateral contract with another person for all or part of the output of a new generation facility; or (2) a competitive bidding process in which the electric company would solicit bids for all or part of the output of a new generation facility. Electricity sold to residential and small commercial customers would have been regulated under cost-of-service regulation principles. PSC would have also been required to complete a plan for transitioning residential and small commercial customers to a regulated market for electricity. PSC would have been required to implement a program to require electric companies to offer to its residential and small commercial customers the option to purchase green electricity supply.

Senate Bill 844 would have excluded on-site generation facilities; waste-to-energy facilities; facilities with a generating capacity of 70 megawatts or less; and eligible customer-generators under the net energy metering program. The bill also exempted generation facilities owned or controlled by local governments and small rural electric cooperatives. The bill specified that a generating facility that had submitted an application for a certificate of public convenience and necessity to PSC before July 1, 2009, would not be affected by the bill and could be constructed and operated as merchant generation. However, these facilities would have

been allowed to "opt in" and operate a planned generating facility under cost-of-service regulation.

Alternative Generation

Senate Bill 14* (passed)** authorizes the Maryland Environmental Service (MES) to engage in additional types of energy projects and services, such as the production, generation or distribution of energy, the undertaking of energy conservation measures, and engaging in research and development studies. As such, MES is authorized to act as a State agency assisting in the deployment of electricity generation facilities in suitable areas. MES is expected to cooperate with private entities to develop generation facilities rather than acting alone to build these plants. The bill also allows counties and municipalities to enter into energy projects and other agreements with MES without regard to certain limitations or other provisions regulating the procurement or awarding of public contracts. For a further discussion of ***Senate Bill 14, see the subpart "Environment" within Part K – Natural Resource, Environment, and Agriculture of this *90 Day Report*.

Environmental Trust Fund

An environmental surcharge per kilowatt hour of electricity distributed in the State by an electric company is collected by the Comptroller and placed in the Environmental Trust Fund for the use by the Power Plant Research Program (PPRP). PPRP conducts assessments and impact studies to evaluate sites for suitability in the use as electric powerplants. The surcharge amount may not exceed 0.15 mills per kilowatt hour (kWh) or $1,000 per month for any residential, commercial, or industrial customer. The surcharge is currently set at 0.15 mills per kilowatt hour. PSC is required to authorize electric companies to add the full amount of the surcharge to retail customers' bills. ***House Bill 1407* (Ch. 167)** extends the termination date of the environmental surcharge from June 30, 2010, to June 30, 2015. For a further discussion of ***House Bill 1407***, see the subpart "Environment" within Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

Other Electricity and Energy Issues

Low-income Customer Protections

Electric Universal Service Program: 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 required PSC to establish the program, make it available to low-income electric customers statewide, and provide oversight over the program which is administered by the Office of Home Energy Programs, the agency within the Department of Human Resources (DHR) responsible for several energy programs.

Recent electricity rate increases and higher energy costs generally, combined with the deterioration in the economy, have led to an increasing demand for energy assistance. Except for the number of households receiving Maryland Energy Assistance Program (MEAP) benefits,

there are significant increases in applications for EUSP in fiscal 2009 compared with a year earlier.

Prior to fiscal 2009, Maryland limited the use of federal Low-Income Home Energy Assistance Program (LIHEAP) funding to MEAP, which provides assistance for home heating from a variety of fuels. EUSP, which provides assistance for electricity costs, was funded entirely from State funds – both special and general. A substantial increase in LIHEAP funding combined with the requirement that states spend at least 90% of the recent annual LIHEAP allocation by the end of federal fiscal 2010, has led DHR to begin using LIHEAP funds for EUSP as well in fiscal 2009. Under Chapters 128 and 129 of the Acts of 2008 (SB 268/HB 368), beginning in fiscal 2009, 17% of proceeds from the Regional Greenhouse Gas Initiative (RGGI) carbon auction were allocated to support the EUSP program. The Governor's Budget Reconciliation and Financing Act of 2009 (***House Bill 101 (passed)***) increased the share of RGGI auction funds going to EUSP to up to 50% in fiscal 2010 and 2011.

Senate Bill 703/***House Bill 736*** ***(both passed)*** are emergency bills which alter the restrictions on how DHR may provide EUSP benefits for low-income energy bill assistance. The requirement that assistance offered through EUSP meet at least 50% of determined need is removed. The bills eliminate the $1.5 million limit on the total amount of assistance that DHR can provide each year to retire arrearages for electric customers. The bills also allow qualifying customers to retire arrearages if they have not had an arrearage retired within the past seven years, rather than the former once-in-a-lifetime limitation on arrearage retirement. ***Senate Bill 703***/***House Bill 736*** also extends from three to six months after the end of the fiscal year the time that unexpended bill assistance and arrearage retirement funds in the EUSP fund that were collected in the fiscal year shall be used to provide additional assistance. The bills specify that low-income weatherization funding, administered through the Department of Housing and Community Development, is available only to assist residential electric customers, rather than being used for more general improvement projects. DHR may establish minimum and maximum benefits available to an electric customer through the bill assistance and arrearage retirement components. DHR may coordinate benefits under EUSP with benefits under MEAP.

Senate Bill 703/***House Bill 736*** also require the PSC's annual report on EUSP to reflect the benefit changes specified in the bills. PSC must also include in its annual report the amount of money DHR receives and is projected to receive for low-income energy assistance from any fund source. These fund sources include the Maryland Strategic Energy Investment Fund; MEAP; and any other federal State, local, or private source.

Termination of Electric and Gas Service: The Code of Maryland Regulations (COMAR 20.31.03.03) prohibits a utility from terminating gas or electric service to residential buildings if the forecasted temperature at 6 a.m. is not expected to exceed 32 degrees Fahrenheit for the next 24 hours. ***Senate Bill 1057***/***House Bill 453*** ***(both passed)*** prohibit a public service company from terminating electric or gas service to a residential customer for nonpayment on a day that the forecasted high temperature is 32 degrees Fahrenheit or below in that customer's designated weather station area, similar to the regulation. In addition, the bills prohibit a public service company from terminating electric service to a customer on a day that the forecasted

temperature is 95 degrees Fahrenheit or higher in that customer's designated weather station area. Each public service company that provides electric or gas service must designate weather station areas within its service area for use in administering weather-related restrictions on service terminations to residential customers. PSC must adopt regulations to implement the bill.

Net Energy Metering

Net energy metering measures the difference between the electricity that is supplied by an electric company and the electricity that is generated by an eligible customer-generator and fed back to the electric company over the eligible customer-generator's billing period, and bills the customer only for the difference. An "eligible customer-generator" is a customer that owns and operates, or leases and operates, a biomass, solar, or wind electric generating facility located on the customer's premises, interconnected and operated in parallel with an electric company's transmission and distribution facilities, and intended primarily to offset all or part of the customer's own electricity requirements.

The net energy metering program provides a meaningful benefit to eligible customer-generators because during times of peak generation, excess electricity is fed into the electric grid and the customer-generator is only charged for the net difference of electricity used each month. The practical effect is that customer-generators are able to use the utility grid as battery storage, so excess energy produced at any given instant can be captured for later use. Legislative proposals passed this session expand the net energy metering program.

Senate Bill 981/House Bill 1057 ***(both passed)*** expanded the definition of an eligible customer generator to include a customer that contracts with a third party that owns and operates eligible generation located on the customer's premises or contiguous property. This expansion may benefit local governments and commercial and residential property owners who may allow a third party to place solar panels or wind turbines on their property by allowing the property owner to benefit from net energy metering. As an example, a commercial business could allow a third party to install solar panels on the roof of a structure that is on or adjacent to the customer's property.

In addition, ***House Bill 1057*** added micro combined heat and power (micro CHP) to the types of generation eligible for net metering. Micro CHP is defined as the simultaneous or sequential production of useful thermal energy and electrical or mechanical power not exceeding 30 kilowatts. Micro CHP can be installed in an individual home. An installation typically consists of a Stirling engine that converts natural gas into both electricity and heat. The electricity that the micro CHP engine generates can be used in the home and through net energy metering, and any excess generation can be fed into the utility grid. Waste heat from the generator can be used for hot water and space heating in the home. Although micro CHP does not typically use a renewable energy source, dispersed generation such as micro CHP provides a meaningful benefit by alleviating congestion in electric transmission lines and lessening overall demand for electricity during periods of peak demand.

EmPOWER Maryland Conservation and Efficiency Programs

The EmPOWER Maryland Energy Efficiency Act of 2008 requires electric companies to procure and provide customers with energy conservation and energy efficiency programs and services that are designed to achieve targeted electricity savings and demand reductions for specified years through 2015. Electric company plans must include program descriptions, anticipated costs, projected electricity savings, and other information PSC requests. Electric companies must consult with the Maryland Energy Administration regarding cost recovery, program design, and adequacy to meet the target reductions. PSC must review the plans for adequacy and cost effectiveness in achieving the electricity savings and demand reduction targets.

Senate Bill 955 ***(passed)*** requires an electric company to include procedures for competitive selection of heating, ventilation, and air conditioning (HVAC) service providers if the company's EmPOWER Maryland energy efficiency plan seeks to provide HVAC or refrigeration services for its customers. PSC may waive this requirement on request by the electric company and for good cause shown. The energy efficiency plan and any update to the plan must include a certification that customers of the electric company's regulated services will not subsidize the operations of the affiliate. An electric company that enters into a contract with an affiliate to provide HVAC or refrigeration services in connection with an energy efficiency program or service must notify PSC within 30 days after entering into the contract; the notification must certify that customers of the electric company's regulated services will not subsidize the operations of the affiliate.

There are two companies that provide HVAC services and are affiliated with an electric company in the State. Constellation Energy, the holding company that owns Baltimore Gas and Electric (BGE) also owns BGE Home, an unregulated subsidiary that provides HVAC services. PEPCO Holdings, Inc., the company that owns PEPCO and Delmarva Power, also owns PEPCO Energy Services, an unregulated subsidiary that provides HVAC services.

Passenger-for-hire Services

A person may not operate a vehicle that provides passenger-for-hire services in the State unless licensed as a passenger-for-hire driver by PSC. A passenger for-hire service includes limousine and sedan services. Limousines are Class Q vehicles which must be registered with the Motor Vehicle Administration (MVA); the annual registration fee is $185 per vehicle (paid biennially) and a special vehicle registration plate is issued. Sedans are Class B vehicles and pay a lower registration fee. However, sedans also pay an annual $40 assessment fee to PSC, which limousines do not pay.

Senate Bill 688/***House Bill 1088*** ***(both passed)*** add to the definition of a "limousine" a vehicle that is driven as part of a service that advertises itself, or has registered with PSC, as a limousine service. Substantively, the bills prohibit an individual from operating a for-hire limousine with capacity to carry up to 15 people, unless the individual has a for-hire driver's license issued by PSC; and prohibits an individual from allowing another to operate the specified

limousine unless the operator possesses the PSC driver's license and the limousine displays a special limousine registration plate issued by MVA. These offenses are misdemeanors that subject the violator to up to one year imprisonment, a fine of up to $1,000, or both, and for the limousine operator only, two points under the Maryland Vehicle Law. In repealing a current exemption, the bills also require limousine services to pay the $40 assessment each year to PSC to support the For-Hire Driving Services Enforcement Fund.

Insurance Other Than Health

Insurance Professionals

Fraudulent Insurance Acts

***House Bill 160* (Ch. 133)**, a departmental bill, expands the scope of fraudulent insurance acts to make it a fraudulent insurance act for a person to act as or represent to the public that the person is an insurance producer or public adjuster in the State if the person has not received the appropriate license or otherwise complied with regulatory provisions for insurance professionals under Title 10 of the Insurance Article. Under the Act, a person may not, without the appropriate license or approval, represent oneself to be an adviser, bail bondsman, public adjuster, vehicle damage adjuster and appraiser, or motor vehicle rental company that provides insurance coverage.

Insurance Producers – Continuing Education

For license renewal periods before October 1, 2009, the Maryland Insurance Commissioner may not require an individual holding an insurance producer's license to complete more than 16 hours of continuing education per renewal period if the producer has held a license for less than 25 years. Under Chapter 331 of 2008, for licenses renewed on or after October 1, 2009, the continuing education requirements may increase as the commissioner may require an insurance producer to complete up to 24 hours of continuing education per renewal period. However, the commissioner may require only up to 16 hours of continuing education per renewal period for title insurance producer licensees, and only up to 8 hours per renewal period if an insurance producer has held a license for 25 or more consecutive years as of October 1, 2008.

***Senate Bill 616*/*House Bill 246* (both passed)** prohibit the commissioner from requiring an insurance producer to receive more than 16 hours of continuing education per renewal period if the insurance producer is also a licensed funeral director or licensed mortician who (1) sells only life insurance policies or annuity contracts that fund a pre-need contract and (2) is not a viatical settlement broker. Without the bills, the commissioner could require funeral directors and morticians to complete up to 24 hours of continuing education per renewal period beginning October 1, 2009.

Title Insurance Producers

The Compliance and Enforcement Unit of the Maryland Insurance Administration (MIA) investigates consumer complaints about title insurance producers, including:

- the failure of a producer to pay the balance of a prior mortgage;
- misappropriation of escrow funds; and
- the falsification or forgery of closing documents.

The number of complaints related to title insurance has increased significantly in recent years. In conjunction with the Department of Labor, Licensing, and Regulation (DLLR), MIA spent much of 2008 investigating problems and irregularities related to real estate transactions. MIA found instances of mismanagement or misappropriation of escrow funds totaling more than $5 million. In identifying specific regulatory gaps, MIA has determined that current bonding amounts required under statute are insufficient to protect consumers when a misappropriation of funds occurs.

Chapters 356 and 357 of 2008 created the Commission to Study the Title Insurance Industry in Maryland. The commission, staffed by DLLR and MIA, is required to report on its findings and make recommendations to the Governor and the General Assembly by December 15, 2009. To develop its recommendations, the commission must, among other things (1) review the mechanisms available to enforce State laws relating to the title insurance industry and the effectiveness of those mechanisms; (2) identify title industry issues affecting Maryland consumers; and (3) identify ways to improve consumer education about title insurance.

The commission met twice during the 2008 interim. In addition to having its organizational meeting, the commission discussed limiting the control of funds received to licensed title insurance producers and increasing the amount of the required fidelity bond and surety bond or letter of credit.

Senate Bill 86 (passed), a departmental bill, provides that only a licensed title insurance producer may exercise control over trust money, with exceptions for trust money entrusted to law firms or title insurers. The bill further increases the amount of the fidelity bond and the amount of the blanket surety bond or letter of credit that title insurers must maintain as a condition of licensure from $100,000 to $150,000. The increased amounts apply to title insurance producer licenses issues or renewed after October 1, 2009. The Commission to Study the Title Insurance Industry in Maryland must review the adequacy of the bonding and letter of credit requirements and include its findings in its report to the Governor and the General Assembly. The bill takes effect June 1, 2009.

Property and Casualty Insurers

Financial Regulation

The National Association of Insurance Commissioners (NAIC) developed risk-based capital (RBC) standards as a measure of the capital surplus an insurer should retain in relation to its size and risk profile. RBC is calculated by applying factors to various assets, premiums, and company reserves. The factors applied in the capital requirements calculation are higher for items with the greatest underlying risk, and lower for safer items.

House Bill 161 ***(passed)***, a departmental bill, subjects property and casualty insurers to additional financial regulation by MIA and defines a company action level event for RBC reporting requirements. Under the bill, a company action level event for a property and casualty insurer occurs when total adjusted capital (1) is greater than or equal to its company action level RBC; (2) is less than the product of its authorized control level RBC and 3.0; and (3) triggers the trend test calculation in the property and casualty RBC instructions.

The bill keeps State law consistent with required NAIC standards. Conformity with national standards will allow the State to maintain its NAIC accreditation and its ability to serve as the primary regulator of domestic insurers.

Midterm Cancellation of Policies

Maryland law clearly prohibited midterm cancellations of policies until 2006. In that year, in a reorganization of law relating to cancellations and nonrenewals, the former prohibition on midterm cancellations was inadvertently rewritten as an authorization to do so. ***House Bill 165*** ***(passed)***, a departmental bill, corrects that error and provides specific guidance on situations that may merit midterm cancellations, while prohibiting all others.

The bill prohibits insurers that write policies of personal insurance, commercial insurance, and private passenger motor vehicle insurance from cancelling policies midterm except under specified circumstances. The bill also applies to insurers that write policies of homeowner's insurance under which a one-time guaranteed fully refundable deposit is required for a stated amount of coverage. Under the bill, an insurer may cancel a policy midterm only when there is (1) a material misrepresentation or fraud in connection with the application, policy, or presentation of a claim; (2) a matter or issue related to the risk that constitutes a threat to public safety; (3) a change in the condition of the risk that results in an increase in the hazard insured against; (4) nonpayment of premium; (5) suspension or revocation of the driver's license or motor vehicle registration of a named insured or covered driver for reasons related to the driving record of the named insured or covered driver; or (6) in the case of homeowner's insurance only, an arson conviction. The limitation on midterm cancellations does not apply to the Maryland Automobile Insurance Fund.

Notices of Cancellation or Nonrenewal

Chapter 88 of 2008 codified the requirement that insurers send notices of policy or binder cancellation by certificate of mail. However, MIA's Property and Casualty Consumer Complaints Division has received complaints of companies mailing notices to the insured at an address other than the last known address (*i.e.*, the address provided on the binder or policy application).

To remedy this problem, ***Senate Bill 85 (Ch. 23),*** a departmental bill, requires insurers that provide personal insurance to send notices of binder or policy cancellation or nonrenewal to the last known address of the named insured. Further, the Act requires insurers that provide commercial property insurance or commercial liability insurance to send notices of binder or policy cancellation during the 45-day underwriting period to the last known address of the named insured.

Notices of Premium Increases

Generally, insurers writing commercial and workers' compensation insurance only have to notify the named insured and insurance producer if a renewal policy premium increases by 20% or more. Notice must be given at least 45 days before the policy's renewal date and include (1) the expiring policy premium; (2) the renewal policy premium; (3) the telephone number for the insurer or insurance producer; and (4) a statement that the insured may call to request additional information.

House Bill 162 (passed), a departmental bill, which takes effect January 1, 2010, requires insurers that write policies of commercial insurance and workers' compensation insurance to provide notice of the renewal policy premium to the named insured and insurance producer, if any, at least 45 days prior to the renewal date, regardless of the amount of the policy premium increase. An insurer can meet the notice requirement by including the new premium in a renewal policy, notice of renewal or continuation of coverage, or renewal offer that includes a reasonable estimate of the renewal policy premium.

The bill exempts a commercial policyholder that pays aggregate property and casualty premiums of at least $25,000 per year and meets certain revenue, net worth, employment, or other relevant criteria. These exempt commercial customers pay significant premiums, frequently across several commercial lines of insurance. Their policies may be staggered, and have constantly changing declarations, coverage, and well negotiated premiums. A 45-day notice requirement would impede the negotiation process for these customers and their insurers.

Transfers of Policyholders Between Insurers

Chapter 117 of 2008 authorized private passenger motor vehicle insurers and homeowners' insurers to transfer policyholders among affiliates within the same insurance group holding company system, with the transfer being classified as a renewal.

Senate Bill 768*/*House Bill 648* *(Chs. 98 and 99) classify the transfer of a policyholder by a commercial insurer or workers' compensation insurer to an affiliate within the same insurance holding company system as a renewal, rather than a cancellation or intention not to renew the policy, if the premium does not increase and there is no reduction in coverage. Similarly, the issuance of a new policy to replace an expiring policy of commercial insurance or workers' compensation insurance issued by an affiliate within the same insurance holding company system is a renewal if the premium does not increase and there is no reduction in coverage. The Acts require the commercial insurer or workers' compensation insurer providing the new policy to notify the policyholder of the transfer. The provisions related to transfer of policyholders apply to all policies of commercial insurance and workers' compensation insurance issued, delivered, or renewed in the State on or after October 1, 2009.

The Acts also incorporate the premium increase notice provisions of ***House Bill 162***. Those provisions require a commercial insurer or a worker's compensation insurer to provide notice of all premium increases, regardless of amount, at least 45 days before the expiration of current coverage to all but exempt commercial policyholders.

Rating, Retiering, and Discounts

Insurers are prohibited from considering claims, traffic accidents, or traffic violations that are more than three years old when underwriting, cancelling, or non-renewing automobile liability or homeowner's insurance policies. However, the Property and Casualty Consumer Complaints Division of MIA often receives complaints from consumers who have been placed in a higher-rated tier for claims or accidents that occurred more than three years prior to the effective date of the policy or renewal.

In order to make the law for homeowner's insurance parallel to the law on automobile liability insurance, ***House Bill 164*** ***(passed)***, a departmental bill, prohibits an insurer under a homeowner's insurance policy from classifying or maintaining an insured for more than three years in a classification that entails a higher premium due to a specific claim. The bill prohibits an insurer under a homeowner's insurance policy from reviewing a period beyond the three years prior to the application date or proposed effective date for a new policy, or the effective date of the renewal for a renewal policy.

The removal of, reduction of, or refusal to apply a discount does not violate the bill's provisions if the action results from a claim filed within the preceding five years. An insurer that grants a claim-free discount to an insured under a homeowner's or automobile liability insurance policy does not violate the bill. The bill further prohibits an insurer under personal injury protection coverage from retiring a policy for a claim made under that coverage, in addition to the prohibition on a surcharge for such a claim.

Portable Electronics Insurance Regulation

Senate Bill 792*/*House Bill 868* *(both passed) create a regulatory framework the sale of for portable electronics insurance, which is defined under the bills as insurance that provides

coverage for the repair or replacement of portable electronics, including coverage against loss by disappearance, theft, mechanical failure, malfunction, damage, and any other applicable peril. The bills require a vendor to hold to a limited lines license to sell a portable electronics insurance policy in connection with a portable electronics transaction. The bills define a vendor as a person in the business of leasing, selling, or providing portable electronics, or selling or providing service related to their use, to customers in the State, and a portable electronics transaction as (1) the sale or lease of portable electronics by a vendor to a customer; or (2) the sale of service related to the use of portable electronics.

A vendor may use supervised employees or authorized representatives to sell or offer coverage if they are trained in accordance with the requirements stated in the bills. The acts of an employee or authorized representative are deemed the acts of the vendor.

A limited lines license issued under the bills authorizes the vendor or the vendor's employees or authorized representative to sell a portable electronics insurance policy if (1) the policies have been filed with and approved by the commissioner; (2) the vendor holds an appointment with each authorized insurer that the vendor intends to represent; (3) the vendor provides disclosures approved by the commissioner at each sale location that:

- summarize the material terms of the coverage;
- state that the portable electronics insurance may duplicate existing coverage;
- state that the portable electronics insurance would become primary to other coverage;
- state that purchase of coverage is not required to enter into the portable electronics transaction;
- describe claim filing procedures and requirements;
- state that the customer may cancel coverage at any time, with a return of unearned premium; and
- provide the toll-free MIA hotline number; and
- the vendor provides an approved training program for its employees and authorized representatives.

Coverage under a policy of portable electronics insurance sold in connection with a portable electronics transaction is primary to other valid and collectible coverage, such as homeowner's, renter's, and private passenger automobile insurance policies.

The bills authorize the commissioner to suspend, revoke, or refuse to renew a limited lines license issued to a vendor after notice and hearing if the vendor or an employee or authorized representative of the vendor has committed any of a list of violations or prohibited omissions. Instead of or in addition to taking action against the licensee, the commissioner may

impose fines of up to $2,500 per violation and require restitution to any person who has suffered financial injury because of the violation.

Portable electronics insurance may be offered on a month-to-month or other periodic basis as a group or master commercial inland marine policy issued to a vendor under which individual customers may elect to purchase coverage. Except as otherwise specified, an insurer may not terminate or change the terms and conditions of a portable electronics insurance policy without providing the policyholder and covered customers with at least 60 days' notice. Coverage may be terminated after 45 days' notice if the vendor discovers fraud or a material misrepresentation in obtaining coverage or in the presentation of a claim, and after 10 days' notice for nonpayment of premium. An insurer may automatically terminate coverage under a portable electronics insurance policy if the covered customer ceases to have active service related to the use of portable electronics with the vendor or if the covered customer exhausts the aggregate limit of liability under the policy and the insurer sends notice of termination within 15 business days after exhaustion of the limit.

If a covered customer requests a reinstatement of portable electronics insurance coverage, the customer is eligible for reinstatement up to 12 months after the date of exhaustion of the coverage limit. If a vendor terminates a policy, the vendor must give a covered customer written notice by certificate of mail at least 45 days before the termination date. A vendor does not have to provide such notice if the vendor is informed that the covered customer has obtained substantially similar alternative coverage from another insurer without lapse of coverage.

Exemption from Insurance Laws

Except as otherwise specified, the insurance laws of the State do not apply to certain nonprofit lodges, societies, orders, or associations that provide certain types of life insurance, disability insurance, or survivor benefits to members. An order, society, or association that limits its membership to individuals engaged in one or more hazardous occupations in the same or similar lines of business is also exempted from the insurance laws of the State.

The Navy Mutual Aid Association (Navy Mutual) is a not-for-profit association and Congressionally chartered veterans service organization that provides approximately 95,920 members of the Sea Services (Navy, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and the U.S. Public Health Service) with life insurance and survivor benefits. Navy Mutual was formed in 1879 and provides life insurance and annuities only to active duty, reserve, and retired members of the Sea Services and their families.

***Senate Bill 645*/*House Bill 537* (both passed)** provide that the statutory exemption granted to fraternal benefit societies from regulation under the insurance laws of the State also applies to an association, whether or not a fraternal benefit society, that was organized before 1880 and the members of which are officers or enlisted, regular or reserve, active, retired, or honorably discharged members of the Armed Forces or Sea Services of the United States.

Slavery Era Insurance Policy Reporting

In 2000, California became the first state to enact legislation requiring insurers to investigate and report any information that could be found in their records pertaining to slaveholder insurance policies. This legislation gave the California insurance commissioner the power to request slave insurance information from insurers doing business in the state. According to the California reports, a number of insurers found records of such policies issued during the slavery era, including ACE USA, Aetna Life Insurance Company, AIG, Manhattan Life, New York Life, Penn Mutual, Providence Washington Insurance Company, and Royal & Sun Alliance. The findings were ultimately made available to the public by the state. Illinois and Iowa have enacted similar legislation.

***Senate Bill 751* (Ch. 97)** requires an insurer authorized to do business in the State to submit a report on slavery era insurance policies to the commissioner by October 1, 2011. A "slaveholder insurance policy" is defined as a policy issued to or for the benefit of a slaveholder that insured against a slave's injury or death. The required report must include information in the records of the insurer about each slaveholder insurance policy issued in the State by the insurer, or the insurer's predecessor, during the slavery era (years prior to 1865). The insurer also must provide a copy of each document in the insurer's records that relates to the information. The commissioner is required to issue a report on the information and submit a report to the Governor and the General Assembly by April 1, 2012. Copies of the report must be made available to the public, published on MIA's web site, and maintained at the law library of the University of Maryland School of Law.

Unfair and Deceptive Practices

A person may not directly or indirectly give inducements to a life insurance contract, health insurance contract, or annuity contract, including:

- a rebate of insurance premiums;
- a favor or advantage relating to dividends or benefits;
- paid employment or a contract for services; or
- any valuable consideration or other inducement not specified in the contract.

Educational materials, promotional items, or merchandise that cost less than $10, regardless of whether an insurance policy or annuity is purchased, are excluded. Similar provisions limit offers of consideration for other types of insurance policies.

***Senate Bill 8* (Ch. 9)** increases from $10 to $25 the limit on the value of educational materials, promotional items, or merchandise that an insurer may give to a person not specified in an annuity contract or an insurance contract or policy.

Horse Racing and Gaming

Horse Racing

State Purchase or Condemnation of Thoroughbred Racetracks and the Preakness Stakes

In May of each year, the Preakness Stakes, the second leg of the Triple Crown series for thoroughbreds, is run at Pimlico Race Course in Baltimore City. Pimlico and the Preakness Stakes are currently owned by the Magna Entertainment Corporation, which filed for Chapter 11 bankruptcy protection in March. As part of its bankruptcy filing, Magna Entertainment stated its intent to auction a group of its horse racing assets, including Pimlico and Laurel Park in Anne Arundel County. The bankruptcy filing also raised the possibility that the Preakness Stakes could be sold and transferred out of Maryland.

In response, ***Senate Bill 1072* (Ch. 3)**, as an emergency measure, authorizes the State to acquire, by purchase or condemnation for public use with just compensation, some or all of the following real, tangible, and intangible private property, including any associated property or property rights:

(1) Pimlico Race Course;

(2) Laurel Park;

(3) Bowie Race Course Training Center in Prince George's County;

(4) the Preakness Stakes trophy known as the Woodlawn Vase;

(5) the name, common law and statutory copyrights, service marks, trademarks, trade names, contracts, and horse racing events associated with the Preakness Stakes and the Woodlawn Vase;

(6) all property of the Maryland Jockey Club of Baltimore City, Inc., or its successors and assigns, including stock and equity interests associated with it; and

(7) all property of the Laurel Racing Assoc., Inc., the Laurel Racing Association Limited Partnership, or their successors and assigns, including stock and equity interests associated with them.

The Act states that, in accordance with the Maryland Constitution, the private property may be taken immediately on payment for the property, consistent with procedures for quick-take condemnation. All condemnation proceedings must be conducted in accordance with Title 12 of the Real Property Article and Title 12, Chapter 200 of the Maryland Rules.

Under the Act, the Maryland Economic Development Corporation (MEDCO) is authorized to borrow money and issue bonds to finance the cost of acquiring by purchase or completing the condemnation process for public use of the properties. If MEDCO acquires property, it must consult with specified State elected officials before disposing of the property. MEDCO must also report monthly to certain legislative committees on the status of the State's business plan for the management and disposition of any assets acquired under the Act.

Purse Dedication Account

Under the statute authorizing video lottery terminals (VLTs) in the State, 7% of VLT proceeds, not to exceed $100 million annually, are to be paid into a Purse Dedication Account. The money in the account is to be used for the Maryland-Bred Race Fund, the Standardbred Race Fund, and thoroughbred and standardbred purses.

House Bill 1212 ***(passed)*** reduces the amount of funds to be distributed from the Purse Dedication Account to the Maryland-Bred Race Fund and the Standardbred Race Fund while increasing the amount to be allocated to thoroughbred and standardbred purses. The bill decreases the revenue allocation to the respective bred funds from 15% to 11% and increases the revenue allocation to purses from 85% to 89%.

Maryland Horse Racing Act – Sunset Extension and Program Evaluation

Senate Bill 119 ***(passed)*** extends the termination date of the Maryland Racing Commission, the Maryland-Bred Race Fund Advisory Committee, and the Standardbred Race Fund Advisory Committee from July 1, 2011, to July 1, 2014. In addition, the bill requires full evaluations of these entities to be conducted by the Department of Legislative Services no later than July 1, 2013.

Maryland Million

Senate Joint 2 ***(passed)*** urges the Maryland Million, LTD to rename the day of racing known as the Maryland Million in memory of Jim McKay. The Maryland Million is among the premier sire stakes events in the nation and was founded by Jim McKay.

Gaming – Bingo

House Bill 193 ***(passed)*** increases the State admissions and amusement tax rate imposed on the net proceeds from electronic bingo and electronic tip jars from 20% to 30% and sets certain limits on the total State and local admissions and amusement tax rates that may be imposed. Additional revenues derived from the tax rate increase would be distributed to the newly created Special Fund for Preservation of Cultural Arts in Maryland. The special fund is to be used to prevent the closure or termination of cultural arts organizations, including museums, in the State. The bill also extends the termination date for the operation of certain electronic bingo machines until July 1, 2012.

Local Gaming Legislation

Allegany County

Senate Bill 343 ***(passed)*** provides that Allegany County may use local impact grants received from video lottery terminal revenues for improvements throughout the county and to pay down the debt incurred by the county in the construction and related costs for the golf course, lodge, and other improvements in Rocky Gap State Park.

Frederick County

Senate Bill 868/***House Bill 719*** ***(both passed***) ease a requirement to be met by a licensed distributor from whom certain establishments or proprietors may purchase a tip jar or punchboard for gaming purposes. Under the bills, a licensed distributor does not need to have an office in Frederick County but may have an office anywhere in the State.

Harford County

House Bill 146 ***(passed)*** requires the Sheriff of Harford County to charge $10 for a 50/50 gaming license and also requires specified organizations to have a 50/50 license in order to conduct a 50/50 game, except for a game held at a meeting of the organization. The bill also increases from $50 to $500 the maximum money prize for a 50/50 game, a bingo game, and a members-only instant bingo game.

Worcester County

House Bill 773 ***(passed)*** increases the temporary license fee for specified bingo events from "$3 for each day bingo is conducted" to "$25, in addition to $5 for each day bingo is conducted." The bill increases the maximum admission fee for a bingo event from $1 to $5, increases the maximum prize value for one bingo game from $50 to $200, and increases the maximum jackpot from $1,000 to $5,000. Lastly, the bill also allows "Winner Take All" games without a prize limit. The bill repeals a prohibition against conducting bingo outside the election district in which the main office, headquarters, or usual meeting place of the applicant for a license is located and repeals prohibitions on Sunday bingo and specified forms of bingo advertising.

House Bill 1553 ***(passed)*** provides that if a video lottery facility is at a racetrack location at the Ocean Downs Race Course, the county commissioners shall appoint the local development council that is to be established for the area. However, the senator from the district where the facility is located or the senator's designee would serve as a member of the council, as well as the delegates from the district or the delegates' designees. The bill also requires that the percentage of local impact grants from video lottery terminal proceeds provided to Worcester County be reduced from 70% to 60% and that 10% of the proceeds be distributed to the Ocean Pines Association, to be used for a specified public infrastructure purpose.

Economic and Community Development

Transit-oriented Development

Transit-oriented development (TOD) is an approach to development that leverages transit stations as the foundation for vibrant communities with a dense mix of commercial, residential, and retail development. By clustering development around transit sites, TOD seeks to maximize the State's investment in transit by promoting increased ridership and enhanced opportunities for pedestrian and bicycle mobility.

The Maryland Department of Transportation (MDOT) is partnering with local agencies to identify and implement land use regulations that support transit and pedestrian-friendly development in proximity to major transit facilities. MDOT has also conducted analysis and planning to identify station area needs and opportunities. Furthur, MDOT undertakes mixed-use, transit focused, and pedestrian-friendly developments with private partners, and leverages available federal funds to facilitate TOD development.

Chapter 123 of 2008 established the definition for transit-oriented development. "Transit oriented development" means a mix of private or public parking facilities; commercial and residential structures; and uses, improvements, and facilities customarily appurtenant to such facilities and uses, that (1) is part of a deliberate development plan or strategy involving property that is located within one-half mile of the passenger boarding and alighting location of a planned or existing transit station; (2) is planned to maximize the use of transit, walking, and bicycling by residents and employees; and (3) is designated as TOD by the Secretary of Transportation in consultation with other specified State agencies and the local government or multicounty agency with land use and planning responsibility for the relevant area.

Maryland Economic Development Corporation

The Maryland Economic Development Corporation (MEDCO) is a publicly chartered corporation created in 1984 to attract new business and expanding existing businesses in Maryland through the development, expansion, and modernization of facilities. To do so, MEDCO owns and leases certain properties and makes loans to organizations that require financing to acquire or develop properties. MEDCO also serves as a consultant or development manager on certain projects.

MEDCO purchases or develops property that is leased to others under favorable terms. MEDCO also makes direct loans to companies throughout the State to maintain or develop facilities, and it often serves as the conduit for loans administered by the Department of Business and Economic Development (DBED). MEDCO issues bonds to raise funds for its loans, primarily revenue bonds and notes payable to government agencies such as DBED. The debt represents nonrecourse obligations because MEDCO is not liable to bondholders and lenders should a project or borrower default. Each project must have self-supporting revenues, and no projects are cross-collateralized. As a result, MEDCO debt is not debt of the State, and there is no implied State guaranty or State obligation to protect bondholders from losses.

Tax Increment Financing

Tax increment financing (TIF) is a method of funding public projects under which the increase in the property tax revenue generated by new commercial development in a specific area, the TIF district, repays bonds issued to finance site improvements, infrastructure, and other project costs located on public property.

Cross-filed Administration bills, ***Senate Bill 274*/*House Bill 300* *(both passed)***, authorize certain local governments to finance the costs of infrastructure improvements located in or supporting a TOD, including the cost for operation and maintenance of infrastructure improvements. MEDCO may enter into agreements with the local governments to use proceeds from a special taxing district, including tax incremental financing, to repay debt service on bonds MEDCO issues on behalf of TOD projects. TIF-supported bonds may cover the expense of construction, operation, or maintenance of infrastructure improvements and local tax revenues attributed to the development may be pledged for repayment of MEDCO bonds. Once the interest and principal on the bonds are repaid, the special taxing district is dissolved and any excess funds remaining may be used for additional TOD or may revert to the local government's general fund.

Property Related to the Preakness Stakes

Senate Bill 1072* *(Ch. 3) authorizes the State to acquire by purchase or condemnation, for public use and with just compensation, private property relating to Pimlico Race Course, Laurel Park racetrack, the Bowie Race Course Training Center, and other tangible and intangible property related to the Preakness Stakes. MEDCO is authorized to borrow money and issue bonds to finance the cost of the acquisition by the State of the properties listed in the bill, in accordance with applicable legal standards. If MEDCO acquires property under the bill, the corporation must consult with specified State elected and appointed officials before disposing of the property. MEDCO must report monthly to specified legislative committees on the status of the State's business plan for the management and disposition of any assets acquired under the bill.

For a more detailed discussion of the revenue distribution provisions of this Act, see the subpart "Horse Racing and Gaming" within Part H – Business and Economic Issues of this *90 Day Report*.

BRAC Revitalization and Incentive Zones

In order to address an excess capacity of military facilities, the U.S. Congress created a process in 1990 known as Base Realignment and Closure (BRAC). The most recent round of plans regarding military installations nationwide became effective in November 2005.

Chapter 338 of 2008 authorized the Secretary of Business and Economic Development (DBED) to designate BRAC Revitalization and Incentive Zones in the State. Local governments may apply to have a BRAC Zone located within their jurisdiction. Up to six BRAC Zones may

be designated annually at two times during a calendar year. Qualified property is commercial or residential property that DBED determines enhances economic development in a BRAC Zone.

BRAC Zone designation benefits are primarily tax-related financial incentives, including State support of up to 100% of the increase in the State property tax of any qualifying property and 50% of the local property tax for any increase in the local tax revenues collected on the increased value of qualifying property. These financial incentives may begin in fiscal 2010 and continue for 10 consecutive years and are limited to the amount appropriated in the State budget, up to $5 million per year. If the total amount of incentive payments for BRAC Zones exceeds $5 million in any year, the payments are allocated on a *pro rata* basis. Local jurisdictions and businesses in the BRAC Zone may also receive priority consideration for financial assistance projects in the BRAC Zone from DBED, the Maryland Department of Planning, the Department of Housing and Community Development, or any other appropriate State program.

House Bill 1429 ***(passed)*** a departmental bill, changes the effective date of a 10-year BRAC Zone from the date the Secretary of DBED designates a zone to the date the first property in a zone becomes a qualified property. The bill also changes the annual date by which local jurisdictions must notify the State Department of Assessments and Taxation (SDAT) regarding qualified properties from November 1 to February 1, and the annual date that SDAT calculates payments to local jurisdictions from December 1 to March 1. In addition, the Secretary of DBED must notify the General Assembly delegation when a county submits an application for designation of a BRAC Zone.

Military Personnel Service-disabled Veterans No-interest Loan Program

Chapter 389 of 2006 established the Military Service-Related Loan Program to assist military reservists and National Guard personnel called to active duty, service-disabled veterans, and businesses that employ or are owned by such persons. The program is administered by DBED in consultation with the Maryland Department of Veterans Affairs. ***House Bill 1451*** ***(passed)*** a departmental bill, renames the Military Service-Related Loan Program to be the Military Personnel and Service-Disabled Veterans No-Interest Loan Program. It also adds two new eligible classes of recipients of loans (businesses owned by service-disabled veterans and businesses employing a service-disabled veteran) and states a preference for funding service-disabled veterans if funds are scarce.

Maryland Not-For-Profit Development Center Program

Chapter 313 of 2008 created the Maryland Not-For-Profit Development Center Program to provide training and technical assistance to nonprofit organizations throughout the State. Revenue from a $50 nonrefundable processing fee on articles of incorporation filed by a nonstock corporation are dedicated to a special fund to support the program. ***Senate Bill 860***/ ***House Bill 1193*** ***(Chs. 105 and 106)*** clarify the requirements that a not-for-profit entity must meet to qualify to receive assistance from the Maryland Not-For-Profit Development Center Program by defining the terms “not-for-profit entity” and “qualified not-for-profit entity.”

Maryland Public Arts Initiative Program

Chapter 393 of the Acts of 2005 established the Commission on Public Art to promote the installation of artwork in public facilities in the State, provide for the acquisition of public art to be owned by the State, provide for the preservation of public art assets, and establish a grant fund for local governments. ***House Bill 1406 (passed)***, a departmental bill, repeals the termination date of the program.

State Technology Support

Jane E. Lawton Conservation Fund

The Jane E. Lawton Conservation Loan Program, administered by the Maryland Energy Administration (MEA), was established under Chapters 466 and 467 of 2008 to provide financial assistance in the form of low interest loans to nonprofit organizations, local jurisdictions, and eligible businesses, for improvements or modifications that enhance the energy efficiency and reduce the operating expenses of a structure. The Acts also established the Jane E. Lawton Conservation Fund to consist of money appropriated in the State budget to the program, money received from any public or private source, interest and investment earnings, and loan repayments and prepayments. The fund is used to pay the expenses of the program and provide loans to eligible borrowers and projects.

Loans from the fund may be used for the costs of implementing projects; the costs of procuring necessary technology, equipment, licenses, or materials; and the costs of construction, rehabilitation, or modification, including the purchase and installation of any necessary machinery, equipment, or furnishings.

House Bill 1442 (Ch. 169) expands the purposes of the Jane E. Lawton Conservation Loan Program and eligible projects under the program to include the development and use of renewable energy resources, including installation of infrastructure for renewable energy generation by local jurisdictions and nonprofit organizations. The Act also specifies additional local government entities eligible to receive loans under the program; allows a loan to be deposited in a revolving loan fund of a county's economic development commission to provide capital for renewable energy infrastructure projects; and authorizes local jurisdictions to offer excess electricity generated from a project financed under the program for trade on the wholesale market.

Assistive Technology Loan Program

Chapter 9 of 2008 established the Department of Information Technology as a principal department of State government and transferred all duties, responsibilities, budgeted funds, and employees from the Office of Information Technology within the Department of Budget and Management to the new department. ***House Bill 1479 (passed)***, a departmental bill, adds the Secretary of Information Technology or designee to the membership of the Board of Directors of the Assistive Technology Loan Program and removes the Secretary of Budget and Management or designee.

CENTR Maryland Program and Fund

Chapter 446 of 2008 established the Coordinating Emerging Nanobiotechnology Research in Maryland (CENTR Maryland) Program and Fund. The Maryland Technology Development Corporation (TEDCO) administers the program to provide operating and capital grants for nanobiotechnology research projects. Specifically, the purpose of the CENTR Maryland Program is to support advanced nanobiotechnology research at higher education institutions and promote Maryland as a key location for private-sector firms in the industry. ***House Bill 1124*** ***(Ch. 160)*** requires TEDCO to foster public-private partnerships as feasible to carry out the purpose of the program.

Joint Technology Oversight Committee

The General Assembly established the Joint Technology Oversight Committee General Assembly in 2000 to review and report on the implementation of the Maryland Uniform Computer Information Transactions Act, but the committee's activities have broadened since then. ***House Bill 438*** ***(Ch. 140)*** repeals the Joint Technology Oversight Committee and establishes and codifies the Joint Information Technology and Biotechnology Committee. The bill increases committee membership from 10 to 12 by adding one senator and one delegate. The duties of the reconstituted committee are to broaden the support, knowledge, and awareness of information technology and biotechnology.

Tipton Airport Authority

Chapter 539 of 1997 authorized Anne Arundel County to establish the Tipton Airport Authority as a public corporation to acquire, equip, maintain, and operate Tipton Airport at Fort George G. Meade. Under current law, the Tipton Airport Authority may not extend any runway beyond 4,000 feet. ***House Bill 262*** ***(passed)*** extends, from 4,000 to 4,200, the maximum allowable runway length for Tipton Airport.

Housing

Local Government Infrastructure Program

The Local Government Infrastructure Program (LGIF program) is one of the 18 units established in the Division of Development Finance at the Department of Housing and Community Development (DHCD). Another unit, the Community Development Administration (CDA), is authorized to purchase local government debt obligations for the financing of infrastructure projects. CDA is the bond issuing entity of the DHCD. Local government infrastructure financing projects are often initiatives that cannot be funded through limited State resources, including municipal public works facilities and trucks, town halls, fire stations, police cars, and communication, water, and sewer infrastructure systems.

The LGIF program provides an efficient and economical means for local governments to access affordable capital in order to finance essential infrastructure projects. The LGIF program is particularly suitable for local governments that do not issue bonds routinely, for those with

limited access to the capital marketplace, or for those for which managing the complexities of public financing on their own is inconvenient or expensive. The LGIF program allows local governments to access CDA's bonding authority and expertise to make these investments affordable and efficient.

The LGIF program previously used private municipal bond insurers to provide credit enhancements to achieve affordable interest rates for local government sponsors. However, recently many bond insurers either went out of business, do not insure small issues, or now have rates that are not affordable to local governments.

To overcome the loss of bond insurers, ***Senate Bill 931***/***House Bill 1331*** ***(both passed)***, authorize the creation of a capital debt reserve fund to back bonds issued by the LGIF program. The reserve fund would be used to pay the principal and interest on the bonds, notes, and other obligations of CDA. The capital debt reserve fund would be replenished through the use of operating reserves as well as existing authority to intercept local government payments from the State should a payment fail. As a final contingency, these bills authorize the use of State bond funds to recapitalize the debt reserve fund. ***Senate Bill 932***/***House Bill 1330*** ***(both passed)*** authorize up to $2 million to replenish the debt reserve fund. The authority to issue the bonds is enabling only, and the proceeds would serve as a loan to the CDA that would be repaid within five years.

Community Development Administration – Mortgage Loans

DHCD has traditionally financed mortgages through the issuance of mortgage revenue bonds that are then used to purchase qualifying mortgage loans from lender partners. These loans are held in the CDA's portfolio and mortgage loan repayments are used to repay bondholders. This method of financing mortgages has allowed CDA to offer safe competitive mortgage products for many years. However DHCD, like many other housing agencies, has recently encountered challenges with declining investor confidence. ***Senate Bill 1045***/***House Bill 1546*** ***(both passed)*** first authorize the CDA to purchase mortgage-backed securities from a government-sponsored enterprise (GSE). The bills define a GSE as the Federal National Mortgage Association ("Fannie Mae"); the Federal Home Loan Mortgage Corporation ("Freddie Mac"); the Federal Home Loan Bank; or another agency chartered by the federal government with similar powers. CDA would still issue tax-exempt mortgage revenue bonds and would purchase loans from its lender partners, but the offering statement for the bonds would indicate that the loans would immediately be packaged and sold to a GSE in exchange for mortgage-backed securities (MBS). Payments on the MBS are guaranteed by the GSE; therefore, investors would be willing to offer a better price on the bonds since the investors are not relying on mortgage repayments that could default. This would allow CDA to be more competitive in the marketplace and increase its volume of loans.

Secondly, ***Senate Bill 1045***/***House Bill 1546*** grant CDA the authority to exchange bond-funded mortgage loans currently in its portfolio for AAA-rated MBS supported by GSEs. In essence, the legislation allows DHCD to take an asset of lower quality, as determined by the

rating agencies, and exchange it for AAA-backed securities. The intent of the bills is to strengthen and improve the financial position of DHCD's single-family bond indenture.

Community Legacy Program

Chapter 657 of 2001 established the Community Legacy Program to create a process and funding source for several types of revitalization projects. Community legacy projects include those that help create or preserve housing opportunities, support demolition of buildings or improvements to enhance land use, and develop public infrastructure (*e.g.*, parking, landscaping) related to a community legacy project. Chapter 314 of 2003 required no less than 10% of the Community Legacy Financial Assistance Fund to be used for neighborhood intervention projects. ***House Bill 1414 (passed)***, a departmental bill, makes three changes to the neighborhood intervention project component of the Community Legacy Program. The bill:

- reorganizes the application process for three similar neighborhood intervention projects into one;

- alters, from a minimum of 10% to a maximum of 15%, the total amount of funding from the Community Legacy Financial Assistance Fund that may be directed to the neighborhood projects; and

- in case of an emergency or when urgent approval is required, authorizes the Secretary of DHCD to approve a project without the approval of the Community Legacy Board; and caps at 10% the money in the fund that may be reserved for emergency or urgent approval projects.

Linked Deposit Program

Chapter 396 of 2006 established a Linked Deposit Program in DHCD to provide low-interest loans to State-certified minority business enterprises (MBEs). Banks that participate in the program make loans to certified MBEs as long as the loan period does not exceed 10 years, and the criteria used for making the loans are the same used for other loans. The loans made to MBEs must carry interest rates 2% below market rates for similar loans. ***House Bill 1554 (passed)***, a departmental bill, allows borrowers under the program to apply for loans directly from participating lenders rather than through DHCD. The bill also exempts decertified MBEs from having their loans reduced if their decertification is due to revenue or employment growth. The bill terminates September 30, 2021.

Workers' Compensation

Death Benefits for Partially Dependent Individuals

Surviving spouses who were partially dependent at the time of the covered employee's death are entitled to a death benefit for the period of partial dependency or until $60,000 has been paid. ***Senate Bill 863*/*House Bill 899 (both passed)*** increase the maximum workers'

compensation payment to partially dependent or partially self-supporting individuals to $75,000. The bills also require the Workers' Compensation Commission (WCC) to conduct a study on statutory provisions related to death benefit payments to individuals dependent on a covered employee. The study must determine legislative changes that would provide fair and equitable benefits to wholly dependent individuals and partially dependent individuals and provide for coordination among all of the death benefit provisions. WCC must report its findings and recommendations to the Senate Finance Committee and the House Economic Matters Committee by December 1, 2009. The bills apply to any claims filed for death benefits on or after September 1, 2007.

Injured Workers' Insurance Fund

Regulation and Status

The Injured Workers' Insurance Fund (IWIF) administers workers' compensation benefits for the State and provides workers' compensation insurance to firms on a competitive basis and serves as the workers' compensation insurer of last resort. IWIF only writes workers' compensation policies in Maryland, cannot decline businesses that seek coverage, and adjusts rates in response to changing market conditions based on approval of its board. In Maryland, IWIF is a major insurer with an approximate one-third market share.

***Senate Bill 959* (passed)** specifies that, with certain exceptions, IWIF is subject to the same insurance law requirements as any authorized domestic workers' compensation insurer in the State. Since IWIF operates as a third-party administrator, IWIF must register with the Maryland Insurance Commissioner and is subject to State insurance law provisions related to such entities. IWIF must serve as a competitive insurer in the marketplace for workers' compensation insurance, guarantee the availability of such insurance in the State, serve as the insurer of last resort, and engage only in the business of workers' compensation insurance. However, IWIF is not required to pay the premium tax charged to other insurers in the State or join the National Council on Compensation Insurance. Also, although IWIF's rates are not subject to regulation by the Insurance Commissioner, the Insurance Commissioner is required to examine IWIF at least once every five years to determine whether IWIF's rate making practices produce actuarially sound rates and are not excessive, inadequate, or unfairly discriminatory.

Board – Term Limits

The IWIF board consists of nine members appointed by the Governor with the advice and consent of the Senate. Terms are five years in length and are staggered to prevent simultaneous appointments. Board members are permitted to serve two five-year terms, but a partial term of a year or more counts as a full term. As a result, board members appointed to a partial term of, for example, 13 months may only serve a total of 6 years. ***Senate Bill 161* (passed)** alters the term limits and specifies that a member of the board may not serve for more than either two full terms or a total of 10 years.

Misclassification of Employees as Independent Contractors

Senate Bill 909 ***(passed)*** establishes, for the purpose of enforcement only, a presumption that work performed by an individual paid by an employer creates an employer-employee relationship, subject to specified exemptions. To overcome the presumption of covered employment under workers' compensation, an employer must establish that the individual performing the services is an independent contractor in accordance with common law or is specifically exempted under the workers' compensation law. WCC must pay, through an assessment on insurers, the costs of administering the workplace fraud program by the Commissioner of Labor and Industry. If an employer has failed to properly classify an individual as an employee, WCC must order the employer to secure workers' compensation coverage for the employee. If an employer knowingly failed to classify an employee, the employer is subject to a civil penalty of up to $5,000 per employee. For a more detailed discussion of the Workplace Fraud Act of 2009, see the subpart "Labor and Industry" within Part H – Business and Economic Issues of this *90 Day Report*.

Maryland-National Capital Park and Planning Commission Employees – Lyme Disease Presumption

Lyme disease is a bacterial disease that is transmitted by the bite of an infected tick. Symptoms include fever, headache, fatigue, and skin rash. Left untreated, Lyme disease may spread to the joints, heart, and nervous system. Most cases, particularly those cases diagnosed soon after transmission of the disease, can be effectively treated with antibiotics. Lyme disease is most common in the New England and mid-Atlantic regions. There were more than 2,576 reported cases of Lyme disease in Maryland in 2007. The State's rate of infection is the sixth highest in the nation and more than three times the national average.

Workers' compensation law establishes a presumption of compensable occupational disease to certain public employees who are exposed to unusual hazards in the course of their employment. Under specified circumstances, covered employees are entitled to workers' compensation benefits in addition to any benefits that the individual is entitled to receive under the retirement system. The weekly total of workers' compensation and retirement benefits may not exceed the weekly salary paid to the individual.

Chapter 98 of 2008 specifies that Maryland-National Capital Park and Planning Commission (M-NCPPC) park police officers who suffer from Lyme disease are presumed to have a compensable occupational disease if the condition was not preexisting. The presumption applies only while the officer is assigned to a position that regularly places him or her in an outdoor wooded environment, or for three years following such an assignment. ***House Bill 1135*** ***(passed)*** extends that presumption to other employees of M-NCPPC who suffer from Lyme disease if they did not have the disease before being assigned to work regularly in an outdoor wooded environment and meet other specified criteria.

Charles County – Auxiliary Volunteer of Sheriff's Office

A volunteer worker for a unit of a political subdivision in Allegany, Carroll, Cecil, Charles, Frederick, Garrett, Queen Anne's, St. Mary's, Somerset, Washington, or Worcester counties is not a covered employee under workers' compensation. However, volunteer deputy sheriffs in Cecil County are considered covered employees while performing duties assigned by the sheriff. ***Senate Bill 376/House Bill 380*** ***(both passed)*** establish that auxiliary volunteers of the Charles County Sheriff's Office are covered employees while performing work assigned by the sheriff. The bills also specify how the average weekly wage is computed for auxiliary volunteers if they are entitled to workers' compensation.

Workers' Compensation Commission – Authority – Employer Compliance

Senate Bill 987/House Bill 1436 (***both failed)*** would have enhanced the authority of WCC to proactively investigate and enforce the statutory requirement that employers maintain workers' compensation insurance for their covered employees. Under current law, WCC determines that an employer has failed to obtain workers' compensation insurance when an employee of the employer files a claim for an accidental injury or occupational disease. The bills would have increased penalties for noncompliant employers.

Unemployment Insurance

Unemployment insurance provides temporary, partial wage replacement benefits to persons who are unemployed through no fault of their own and who are willing to work, able to work, and actively seeking employment. Both the federal and state governments have responsibilities for the unemployment insurance program. Funding for the program is provided by employers though unemployment insurance taxes paid to both the federal government for administrative and other expenses and to the states for deposit in their unemployment insurance trust funds. Using federal tax revenues, the program is administered pursuant to state law by state employees. Each state law prescribes the tax structure, qualifying requirements, benefit levels, and disqualification provisions. These laws must, however, conform to broad federal guidelines.

Benefits paid from the unemployment insurance trust fund are based on the amount of money that the employee earned during the base period (the first four of the last five completed calendar quarters prior to the date the employee filed a claim). The weekly benefit amount provided by the Maryland Unemployment Insurance Law ranges from $25 to a maximum of $380. The maximum duration that weekly benefits may be paid is 26 weeks. Through federal tax revenues, a 20-week extension of unemployment insurance benefits is currently in effect for eligible claimants who have exhausted their first 26 weeks of benefits; as of April 12, 2009, the federal extension increases by 13 weeks (for a total of 33 weeks of emergency unemployment insurance benefits) as a result of the unemployment rate exceeding 6%. Additionally, any

benefits paid for the week ending February 28, 2009, or later are increased by $25 per week through federal initiative.

The Joint Committee on Unemployment Insurance Oversight, established in 2005, has monitored laws and policies that affect the State unemployment system, including administrative and federal funding issues and has studied other potential legislative changes to the unemployment insurance benefits. A number of proposals passed during the 2009 session, which include providing benefits to part-time workers, increasing the maximum weekly benefit amount, and postponing benefits to claimants receiving severance payments, were expressly supported by the joint committee during the 2008 interim.

Maximum Benefit Payments

The weekly unemployment insurance benefit amount for which a claimant is eligible is based on the quarterly wages paid to the claimant for covered employment during the quarter of the claimant's base period in which those wages were highest. The maximum benefit amount has increased four times in the last decade (2000, 2002, 2005, and 2007) by a total of $120 per week.

***Senate Bill 576*/*House Bill 740* (both passed)** increase the maximum allowed weekly benefit amount from $380 to $410 for claims establishing a new benefit year on or after October 4, 2009. For claims establishing a new benefit year on or after October 3, 2010, the maximum weekly benefit is increased from $410 to $430.

Benefit payments paid from the Unemployment Insurance Trust Fund are expected to increase by $14.9 million in fiscal 2010, $28.3 million in fiscal 2011, $30.6 million in fiscal 2012, $30.5 million in fiscal 2013, and $31.3 million in fiscal 2014. Revenues received by the trust fund also increase from chargebacks to and reimbursement paid by employers, partially offsetting the impact of increased benefit payments. In 2008, the State administered unemployment benefits to 139,541 new claimants.

Part-time Eligibility

To be eligible for unemployment benefits, an individual must be able to work, available for work, and actively seeking work. A claimant may not impose conditions and limitations on his or her willingness to work and still be available. Although not explicitly stated in statute, eligibility applies only to full-time work. Approximately 30 other states allow UI benefits for part-time workers, including Delaware, New Jersey, and North Carolina as well as the District of Columbia. None of the states specifically requires a certain number of weekly work hours.

***Senate Bill 270*/*House Bill 310* (Chs. 5 and 6)** make an individual whose availability to work is restricted to part-time work eligible for unemployment benefits, if the individual works predominantly throughout the year on a part-time basis for at least 20 hours per week. A part-time worker is eligible for benefits based on wages predominantly earned from part-time work; must be actively seeking part-time work; must be available for part-time work for at least the number of hours worked at the part-time worker's previous employment; cannot impose any

other restrictions on the part-time worker's ability or availability to work; and must be in a labor market in which a reasonable demand exists for part-time work. A qualified part-time worker with a disability may not have the disability used as a disqualifying factor. A part-time worker is not considered to be unemployed if working all hours for which the part-time worker is available.

Expanding unemployment insurance benefits to include individuals with a history of part-time work is estimated to affect approximately 422,095 workers in the State, as part-time workers comprise 14% of the total Maryland labor force. As a result, unemployment insurance benefit payments paid from the Unemployment Insurance Trust Fund are expected to increase by $5.6 million in fiscal 2009, $22.4 million in fiscal 2010, $20.3 million in fiscal 2011 and 2012, and $20.5 million in fiscal 2013. Revenues received by the trust fund also increase from chargebacks to and reimbursement paid by employers, partially offsetting the impact of increased benefit payments.

Misclassification of Employees as Independent Contractors

***Senate Bill 909* (passed)** establishes for the purpose of enforcement only, a presumption that work performed by an individual paid by an employer creates an employer-employee relationship, subject to specified exemptions. To overcome the presumption of covered employment under the unemployment insurance law, an employer must establish that the individual performing services is an independent contractor in accordance with a test (the ABC test) specified under unemployment insurance law or specifically exempted under the unemployment insurance law.

If an employer has failed to properly classify an individual as an employee, any unpaid contribution payments accrue interest at a rate of 2% per month after a 45-day grace period. If any employer has knowingly failed to classify an employee, the employer is subject to a civil penalty of up to $5,000 per employee. The Secretary of Labor, Licensing, and Regulation must consider as strong evidence that the employer did not knowingly fail to properly classify an individual where the employer received a determination from the IRS that the worker or similarly situated worker is an independent contractor. An employer that has knowingly failed to classify an employee must pay the unemployment insurance contribution rate that is 2 percentage points above what the employer would have had to pay if the employer had not knowingly failed to classify an employee. For a more detailed discussion of the Workplace Fraud Act of 2009, see the subpart "Labor and Industry" under Part H – of this *90 Day Report*.

Determination of Benefits Based on Severance or Dismissal Payments

If an individual's job has been abolished, any severance or dismissal payments received are not deductible from unemployment insurance benefits. If an individual's job has *not* been abolished, he or she cannot receive unemployment benefits until any severance or dismissal pay has been exhausted. ***House Bill 242* (passed)** specifies that *all* severance and dismissal payments are deductible from unemployment insurance benefits, regardless of whether the unemployment is a result of job abolition.

Making all severance payments deductible from unemployment insurance benefits reduces the overall number of weeks of benefits that claimants receiving severance receive unemployment insurance benefits. As a result, expenditures from the Unemployment Insurance Trust Fund are anticipated to decrease by $6.5 million in fiscal 2010, $6.2 million in fiscal 2011, and $6.1 million in fiscal 2014. The reduction in benefits paid also reduces unemployment insurance taxes and reimbursement paid by certain employers.

Exemptions from Coverage

An individual performing services for a business in return for compensation in the form of wages is likely covered for unemployment insurance purposes. The employer reports the wages to the Division of Unemployment Insurance and pays unemployment insurance taxes on those wages. If a person is not a covered employee, the person's wages are not reported, and the employer does not pay unemployment insurance taxes for those services.

Most exemptions from covered employment under Maryland law mirror Federal Unemployment Tax Act exemptions. However, Maryland has enacted State-only exemptions not included in the federal act (*e.g.*, yacht salespersons, Class E and F truck drivers, and messenger service drivers). In the 2009 legislative session, two additional categories of employment were added to the list of professions exempt from unemployment insurance coverage.

Senate Bill 470 ***(passed)*** exempts officiating services performed by recreational sports officials from unemployment insurance coverage. Recreational sports officials include individuals who contract to perform officiating services at sporting events sponsored by a county government, municipal government, or government-affiliated entity. A recreational sports official does not include any individual who performs officiating services directly for a nonprofit or governmental organization and is considered covered for purposes of unemployment insurance.

House Bill 1453 ***(passed)*** exempts work performed by a home worker from unemployment insurance coverage as long as certain conditions are met. The Secretary of Labor, Licensing, and Regulation must be satisfied that the work is (1) performed according to specifications furnished by the person for whom the services are performed; (2) the work is performed on textiles furnished by the person for whom the services are provided; and (3) the textiles must be returned to the person for whom the services are performed or that person's designee. A similar exemption is provided in federal law.

Labor and Industry

Misclassification of Employees as Independent Contractors

When a company hires an employee, the company is responsible for paying half of that employee's Social Security and Medicare taxes, as well as premiums for workers' compensation

and unemployment insurance coverage. Employers also withhold federal, State, and local income taxes. By contrast, an independent contractor pays all of his or her Social Security and Medicare taxes and is still responsible for paying income taxes in full. Independent contractors are not covered by workers' compensation or unemployment insurance, nor do they receive overtime compensation or benefits such as health insurance. Further, employees are provided with labor protections, such as the wage laws. These laws do not apply to independent contractors. Employers save money by classifying workers as independent contractors instead of employees.

Senate Bill 909 ***(passed)*** provides that, in the construction services and landscaping services industries, an employer may not fail to properly classify an individual who performs work for remuneration paid by the employer. For purposes of enforcement of the labor law, which includes wage protections for minimum wage, living wage, and overtime work, work performed by an individual is presumed to create an employer-employee relationship unless the individual is specifically exempt under the bill or is an independent contractor as determined by a test (the ABC test) specified in the bill.

The Commissioner of Labor and Industry is authorized to enter a place of business or work site to observe work, interview individuals, and copy records and has general authority to investigate as necessary to determine compliance with the labor laws. An employer in violation of failing to properly classify an individual as an employee shall be issued a citation and have an opportunity for a hearing.

The commissioner has the burden of proof to show that the employer has knowingly failed to properly classify an individual as an employee. The commissioner shall consider, as strong evidence, that the employer did not knowingly fail to properly classify an individual where the employer (1) sought and obtained evidence that the individual is an exempt person or, as an independent contractor, withholds reports, and remits payroll taxes on behalf of all individuals working for the independent contractor, pays unemployment insurance, and maintains workers' compensation insurance; or (2) classifies all workers who perform the same or substantially the same tasks for the employer as independent contractors and has received a determination from the Internal Revenue Service that the individual or a worker who performs the same or substantially the same tasks is the individual as an independent contractor.

If the employer requests a hearing, the commissioner is required to delegate to the Office of Administrative Hearings the authority to hold the hearing; a decision of the office is a final order of the commissioner. An aggrieved party may appeal. An employer found in violation is required to, within 45 days of the final order, to pay restitution to any individual not properly classified and to otherwise come into compliance with all applicable labor laws, including those related to income tax withholder, unemployment insurance, workers' compensation, and wage laws. An employer who did not knowingly fail to classify an individual as an employee may not be assessed a civil penalty, unless the employer fails to timely comply with a final order. An employer who knowingly fails to classify an individual as an employee is subject to a civil penalty of up to $5,000 for each employee. Harsher penalties may be assessed on the employer

with a previous violation. If a final order has been issued, the individual may not bring a civil action against the employer.

For a further discussion of the unemployment insurance and workers' compensation aspects of ***Senate Bill 909***, see subparts "Unemployment Insurance" and "Workers' Compensation" under this part of this *90 Day Report*.

State Apprenticeship Training Fund

Contractors working on eligible public works projects must pay their employees the prevailing wage rate. Eligible public works projects are those valued at more than $500,000 and carried out by the State, or a political subdivision, agency, person, or entity for which at least 50% of the project cost is paid for by State funds. Public works projects include bridges, buildings, ditches, roads, allies, waterworks, or sewage disposal plants constructed for public use or benefit, or paid for entirely or in part by public money.

House Bill 644 ***(passed)*** creates the State Apprenticeship Training Fund, which is a special nonlapsing fund within the Department of Labor, Licensing, and Regulation (DLLR), and requires contractors on projects subject to the prevailing wage law and subcontractors on projects worth $100,000 or more, to either participate in an apprenticeship training program; make payments to a registered apprenticeship program or to an organization that operates a registered program; or contribute to the fund. A contractor or subcontractor that elects to make payments to the fund must make payments, as determined by the Secretary of Labor, Licensing, and Regulation not to exceed 25 cents per hour for each employee in each covered craft.

The purpose of the fund is to promote pre-apprenticeship programs and other workforce development programs in the State's public secondary schools and community colleges, and to cover the cost of implementing the bill's provisions. Payments to the fund are considered to satisfy any required apprenticeship program contributions under the prevailing wage determination, and may be deducted from the required prevailing wage rate that must be paid to an employee. An employer that has made willfully a false or fraudulent representation or omission regarding a material fact in connection with prevailing wage records is liable for a civil penalty of up to $1,000 for each employee.

Maryland Workforce Corporation

Employers seeking to train their workforce may avail themselves of several State and federal programs, through the Department of Business and Economic Development or DLLR, to assist in increasing workers' skills for new technologies and production processes. ***House Bill 1526*** ***(passed)*** establishes the Maryland Workforce Corporation as an instrumentality of the State to work with State agencies to:

- develop a plan and framework for workforce development and training programs;
- secure public and private funds for the programs;

- provide grants and other assistance to support its programs;
- contract with training providers to conduct education and skills training programs; and
- act as a research and development resource in finding solutions for new and emerging workforce issues.

The Maryland Workforce Corporation may not offer or provide educational or skills training unless no other training providers are available. As an instrumentality of the State, the corporation's employees are subject to the State's ethics laws, the Public Information Act, and the Open Meetings Act. However, the corporation is exempt from the State procurement law, and other laws generally governing State employees and the activities of State agencies. The Secretary of Labor, Licensing, and Regulation may allocate funds to the corporation for its expenses, as provided in the State budget.

Clarification of the Flexible Leave Act

A private-sector employer that employs 15 or more individuals and provides paid leave to an employee under either a collective bargaining agreement or an employment policy is required to also allow an employee to use earned paid leave to care for a child, spouse, or parent with an illness. The employee may only use the paid leave that the employee has earned. If an employer offers more than one type of paid leave to an employee, the employee may elect the type and amount of leave with pay to use for caring for the sick family member. Employers are prohibited from discriminating against or threatening an employee who exercises rights under the law or files a complaint against the employer for a violation of the provisions of the law.

Senate Bill 562 ***(passed)*** amends and clarifies provisions of last session's Flexible Leave Act (Chapter 644 of 2008). The bill specifies that the flexible leave law applies to employers with 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. The definition of "leave with pay" is clarified to mean paid time that is earned and available to an employee based on hours worked, or as an annual grant of a fixed number of days of leave for performance of service. Leave with pay does not include a benefit provided under an employee welfare benefit plan subject to the federal Employee Retirement Income Security Act of 1974; an insurance benefit, including benefits from an employer's self-insured plan; workers' compensation; unemployment compensation; a disability benefit; or a similar benefit. The definition of immediate family is clarified to mean only a child, spouse, or parent – with "child" and "parent" further defined.

The bill specifies the purpose of the flexible leave law is to allow an employee to use leave with pay to care for an immediate family member who is under the same conditions and policy rules that would apply if the employee took leave for the employee's own illness. Also, an employee may only use leave with pay that has been earned and narrows the provision prohibiting an employer from discharging, demoting, suspending, disciplining, or threatening to take such actions against an employee. Lastly, the bill forbids an employer from taking disciplinary action against an employee, or threatening to do so, because the employee has taken

authorized leave; opposed a practice made unlawful by the bill; or made a charge, testified, assisted, or participated in an investigation, proceeding, or hearing related to the 2008 Flexible Leave Act.

Certification of Crane Operators

Employers who hire employees to operate power equipment, including cranes, must develop and carry out an employee safety training program designed to inform employees of, and train employees in, standards for the safe operation of power equipment. ***Senate Bill 991 (passed)*** prohibits a person from operating a crane or authorizing the operation of a crane in the State for the purposes of construction or demolition work unless the operator holds a certificate of competence. For a further discussion, see the subpart "Business Occupations" under Part H – Business and Economic Issues of this *90 Day Report.*

Alcoholic Beverages

Statewide Laws

Winery Special Event Permits

Winery special permits enable wineries in the State to sell their product at retail at special events, such as fairs and farmers' markets. Normally, a winery may use a winery special permit for up to three consecutive days. ***House Bill 833 (Ch. 156)*** allows a winery to use a winery special permit throughout the nine-day Montgomery County Agricultural Fair. ***House Bill 970 (failed)*** as introduced would have allowed the Comptroller to issue to a winery 24 extra winery special permits for use in farmers' markets in Prince George's County.

Maximum Alcohol Content

Senate Bill 295 (failed) would have prohibited a person from selling at retail "grain alcohol" – that is, an alcoholic beverage with an alcohol content by volume of 95% (190 proof) or more. The bill would have provided that a violator would be guilty of a misdemeanor and on conviction subject to a fine not exceeding $1,000.

Resident Dealer's Permit

Senate Bill 162 (passed) establishes a resident dealer's permit for alcoholic beverages. The bill authorizes the Comptroller to issue the permit to an alcoholic beverages importer who has been a resident of the State for at least two years immediately before filing an application, who does not own a warehouse or hold or have an interest in a wholesaler or retailer license, and who sells directly through a licensed Maryland wholesaler. Resident dealers are subject to a $200 annual permit fee. The bill also increases the annual fee, from $100 to $200, for public storage and transportation, nonresident dealer, and bulk transfer permits issued by the Comptroller.

Enhanced Beer ("Alcopops")

The definition of "beer" includes beverages that are derived in part from added sweeteners rather than from malt and other material used in fermentation. Accordingly, persons need to possess only a beer license, as opposed to a beer, wine, and liquor license, to sell these beverages. In addition, they are taxed at the 9 cents per gallon rate for beer and not at the $1.50 per gallon rate for distilled spirits. ***Senate Bill 786*/*House Bill 1180* *(both failed)*** would have kept treating these "enhanced beer" beverages, also known as "alcopops," as beer for taxation purposes but would have categorized them as liquor for purposes of retail sales.

Direct Wine Shipment from Outside the State

Senate Bill 338*/*House Bill 1262* *(both failed) would have established a licensing procedure by which out-of-state wineries and other persons would have been able to ship wine directly to residents in the State.

Local Laws

Class W Winery Licenses

A number of local bills were introduced to establish a new Class W winery license simultaneously in 11 jurisdictions. Each of the bills failed. These bills would have allowed wineries holding the Class W license in part to sell wine at retail on or off the premises; sell and serve food incidental to the sampling of wine; and maintain tables, chairs, and other appropriate indoor and outdoor furnishings to enable patrons to consume wine and food.

Allegany County

Volunteer Company License: ***House Bill 624* *(Ch. 147)*** establishes a Class C volunteer company (on-sale and off-sale) beer, wine, and liquor license for a volunteer fire company, a volunteer ambulance company, or a combined volunteer fire and ambulance company. The annual license fee is $500. Patrons of an establishment licensed under the Act are not limited to the members and guests of the fire or ambulance companies that hold the license.

City of Annapolis

Administrative Action: ***Senate Bill 25* *(Ch. 14)*** adds the City of Annapolis to the list of jurisdictions in which the granting of probation before judgment for an alcoholic beverages violation does not bar the board of license commissioners from taking administrative action against the violator. The bill also raises, from $1,000 to $2,000, the maximum fine that the board may impose instead of suspending a license.

Anne Arundel County

Omnibus Bill: ***House Bill 1304* *(passed)*** makes a variety of changes to the alcoholic beverages laws in the county. Most notably, the bill establishes a beer, wine, and liquor hotel-

limited service (on-sale) license that allows large hotels to sell alcoholic beverages daily at one or more locations within the hotel. The bill alters the current beer and wine hotel-limited service (on sale) license. The annual fee is $2,400 for a beer and wine license and $2,800 for a beer, wine, and liquor license. The bill also creates a similar license for beer and wine sales only.

Further, the bill increases the salary of the Board of License Commissioners' attorney from $12,000 to $20,000, requires the board to obtain State and national criminal history records checks for license applicants, and allows the board to issue a special outdoor license to certain license holders that allows them to provide outdoor entertainment. The annual fee for a special outdoor license is $100. The bill increases the maximum fine, from $1,000 to $2,500, that the board may impose on violators of the alcoholic beverages laws.

Yacht Club License: Under ***Senate Bill 434 (Ch. 65)*** a Class C (yacht club) license may be issued to a yacht club that maintains slips, boat parking spaces, or berths for at least 50 boats on at least one acre. Currently, a license may only be issued to yacht clubs with at least 75 boats on at least five acres.

Baltimore City

BWLT License: Beer, wine, and liquor tasting or sampling events may take place in certain locations in the city, under ***Senate Bill 983/House Bill 1454 (both passed)***. The bills allow a Class BWLT beer, wine, and liquor tasting license to be issued to a holder of a Class A beer, wine, and liquor license for ward 27, precinct 41 of the 43rd legislative district, ward 27, precinct 42 of the 41st legislative district, and ward 11, precinct 5 of the 44th legislative district. An applicant for a BWLT license may obtain a daily tasting license that may be used for up to 12 times in any annual license year ($20 for a daily license), a 26-day license ($200 for an annual license), or a 52-day license ($300 for an annual license).

Drinking Games: ***Senate Bill 233 (failed)*** would have prohibited the holder of a retail alcoholic beverages license or the owner or operator of a bottle club from allowing drinking games or contests on the premises.

Baltimore County

Towson Commercial Revitalization District: ***Senate Bill 543/House Bill 1439 (both passed)*** increases, from 2 to 10, the number of beer, wine, and liquor (on-sale) licenses that may be transferred into the Towson Commercial Revitalization District, provided the licenses are from election district 15 in the county, were issued on or before December 31, 2008, and are in existence on June 1, 2009.

Citizenship Status: ***House Bill 731 (Ch. 152)*** requires that an application for an alcoholic beverages license include a statement whether the applicant is a natural-born citizen or a naturalized citizen and, if the applicant is not a natural-born citizen or a naturalized citizen, information or documentation required by the board of liquor license commissioners to show proof of alien status. The board may obtain information from the Social Security Administration

and the Department of Homeland Security – Immigration and Customs Enforcement to verify the applicant's citizenship or alien status.

Calvert County

BWST License and Winery Permits: ***Senate Bill 518/House Bill 217*** ***(both passed)*** establish a special beer, wine, and spirits tasting (BWST) license to enable a holder of a Class A beer and wine license or a Class A beer, wine, and liquor license to hold tastings 365 days a year. Another feature of the bills is that they allow a winery special event permit to be issued to a winery in the State for unlimited use for one night each week, from June through November, at the North Beach Friday Night Farmers' Market. The bills impose certain fines relating to the sale of alcoholic beverages to underage individuals and to individuals who are visibly under the influence of any alcoholic beverage. The bills also increase the salaries of the chairman and members of the board of license commissioners. The salary raises will take effect at the beginning of the next following term of office.

Caroline County

Special Multiple Event Licenses: Instead of a license holder having to purchase several individual event licenses for a particular class of license, ***Senate Bill 37/House Bill 46*** ***(both passed)*** establish a special multiple event license so that a license holder conveniently may purchase one license to cover multiple events.

Charles County

License Suspensions: ***House Bill 1364*** ***(passed)*** repeals the provision preventing a license suspension for four days or less from taking effect on a Friday, Saturday, or Sunday.

Administrative Proceedings: ***House Bill 442*** ***(passed)*** adds Charles County to the list of counties in which the granting of a probation before judgment to a license holder for selling or furnishing alcoholic beverages to an underage individual does not bar the board of license commissioners from proceeding administratively against the license holder for the violation.

Proximity to Church: The prohibition against issuing a license to sell alcoholic beverages in a building within 500 feet of a church or other place of worship is repealed by ***House Bill 1463*** ***(passed)***.

Increased Penalties: ***House Bill 372*** ***(passed)*** increases the fine from $1,000 to $2,500 for any violation of the alcoholic beverages laws that affect the county. The bill also raises the specific fine for selling alcoholic beverages to underage individuals from $500 to $750 for a first offense by a license holder, with the amount of the fine for each subsequent offense to be determined by the board of license commissioners, and from $150 to $500 for an offense by an employee of the license holder.

Dorchester County

Omnibus Bill: ***Senate Bill 333/House Bill 425 (Chs. 50 and 51)*** authorize the board of license commissioners to issue Class B caterer's licenses and beer and wine sampling or tasting licenses, establish license fees, specify eligibility and maintenance criteria for the licenses, modify statutory language pertaining to geographic areas in the county in which premises may not be issued an alcoholic beverage licenses, create additional exemptions from the geographic restrictions for certain premises, and authorize the alcoholic beverages inspector to issue summonses for witnesses to appear at inquiries and hearings conducted by the board. The bill also increases the compensation for the board's chairman and regular members by $500 to $3,000 and $2,500, respectively; the increase will take effect at the beginning of the next following term of office.

New Board of License Commissioners: ***Senate Bill 1010/House Bill 1508 (both failed)*** would have repealed statutory provisions designating the Dorchester County Council as the Dorchester County Board of License Commissioners and specified nomination and appointment procedures for a new board of license commissioners.

Frederick County

Multivenue Wine License: Nonprofit organizations may hold simultaneous fundraising wine events at up to five venues within walking distance of each other, under ***House Bill 1512 (passed)***. The venues must be located in districts in the county that allow the consumption of wine. Holders of the one-day multivenue wine license may sell wine by the glass for on-premises consumption or by the bottle for off-premises consumption or may allow a holder of a Class 4 limited winery license to conduct a wine tasting. Under regulations to be adopted by the board of license commissioners, guests are to be prohibited from transporting wine from one venue to another.

Fundraisers for Nonprofits in the 10th Election District: Under ***House Bill 905 (failed)*** a nonprofit organization in the 10th election district would have been able to obtain a one-day special beer and wine license for use at a fundraising event for the organization.

Part-time Inspectors: ***Senate Bill 608 (Ch. 83)*** authorizes the board of license commissioners to appoint not more than two part-time alcoholic beverages inspectors to add to the one full-time inspector that the board has on staff.

Garrett County

Off-site Retail Deliveries: ***House Bill 334 (Ch. 137)*** authorizes an alcoholic beverages license holder or a holder's employee to make an off-site retail delivery of alcoholic beverages if the deliverer is at least 21 years old and certified by an approved alcohol awareness program and the deliverer and purchaser endorse a delivery form that the board of license commissioners approves. The annual license fee for the delivery option is $150 plus an issuing fee of $150. The bill also requires the board to charge an issuing fee of $100 for a wine and beer tasting

license, a $10 fee for the issuance of any duplicate alcoholic beverages license fee, and a $200 fee for the assignment of transfer of an alcoholic beverages fee.

Howard County

Citizenship Status: ***House Bill 731*** ***(Ch. 152)*** requires that an application for an alcoholic beverages license include a statement whether the applicant is a natural-born citizen or a naturalized citizen and, if the applicant is not a natural-born citizen or a naturalized citizen, information or documentation required by the board of liquor license commissioners to show proof of alien status. The board may obtain information from the Social Security Administration and the Department of Homeland Security – Immigration and Customs Enforcement to verify the applicant's citizenship or alien status.

Hearing Board and Liquor Board Personnel: Under ***House Bill 616*** ***(Ch. 146),*** personnel needed to carry out the duties of the Appointed Alcoholic Beverage Hearing Board and the board of license commissioners are to be included in the staff of the county council and supervised by the county council administrator.

Montgomery County

Licenses in Kensington: ***House Bill 835*** ***(Ch. 157)*** expands the commercial area in the Town of Kensington in which the board of license commissioners may issue special B-K beer and wine or special B-K beer, wine, and liquor licenses for restaurants. The expanded area includes Kensington Parkway and Frederick Avenue, from Montgomery Avenue to Silver Creek.

Corporate Training Center License: ***House Bill 821*** ***(Ch. 155)*** establishes a Special Class B-Corporate Training Center beer, wine, and liquor license for use in a corporate headquarters support facility that services only the workforce training and education needs of employees, customers, and visitors to the corporate headquarters of a corporation that employs at least 500 employees in the county. The bill allows only on-premises consumption of alcoholic beverages. The annual license fee is $2,500.

Supermarkets: ***House Bill 1365*** ***(failed)*** would have authorized a Class A beer and light wine license to be issued to a supermarket in the Rockville Town Center.

Prince George's County

Laurel Commons: ***Senate Bill 886*** ***(passed)*** adds Laurel Commons to the list of areas designated as underserved in the county in which a license holder may hold or have an interest in an additional Class B beer, wine, and liquor license for a restaurant. Under the bill, a license holder may hold not more than four Class B beer, wine, and liquor licenses in underserved areas, if Laurel Commons is one of those areas.

Successor Corporations: If two corporations with alcoholic beverages licenses for restaurants merge, consolidate, or undergo a share exchange that results in a single successor corporation during the time period beginning on September 1, 2007, and ending on June 1, 2008,

House Bill 1037 ***(passed)*** specifies that the number of licenses the successor corporation may hold is the sum of the licenses held by the two corporations after the successor corporation was formed if the number of licenses held is eight or less.

Salaries of Inspectors: ***House Bill 1019*** ***(failed)*** would have provided that the salaries of each alcoholic beverages inspector be $10,900. The board of license commissioners employs 32 inspectors.

Specialty Stores: ***House Bill 1499*** ***(failed)*** would have authorized the issuance of a Class A (off-sale) beer and light wine license to certain specialty food stores.

Bottle Clubs: A bottle club is an establishment that is not licensed by the board of license commissioners but that allows patrons to bring their own alcoholic beverages to the establishment. ***House Bill 969*** ***(passed)***, in effect, prohibits a "bottle club" from operating in the county. The bill prohibits a bottle club selling, giving, serving, dispensing, keeping, or allowing to be consumed in the bottle club any alcoholic beverage, setups, or other component parts of mixed alcoholic drinks. The bill also prohibits a bottle club from evading the alcoholic beverages laws in the county. Further, the bill extends its prohibition to a bottle club that allows a paying patron to consume alcoholic beverages from supplies that are purchased or otherwise brought to the premises or establishment by an owner or operator of the establishment or an agent of the owner or operator.

Beer, Wine, and Liquor License at National Harbor: ***House Bill 1021*** ***(passed)*** establishes a special three-day Class C beer, wine, and liquor license for a nonprofit organization for use at the National Harbor complex. The license allows beer, wine, and liquor to be sold for consumption on or off the premises. The fee for the license is $150 per day. The bill also allows a wholesaler licensed in Maryland to donate alcoholic beverages to the holder of the license.

Proof of Applicant's Legal Status: An applicant for an alcoholic beverages license in the county who is not a United States citizen will have to provide a statement with accompanying proof that the applicant is in legal status in accordance with federal law, under ***House Bill 964*** ***(passed)***.

Open Containers: It is illegal in the county for a person to drink an alcoholic beverage or possess an alcoholic beverage in an open container in certain areas in the county, such as in a shopping center or adjacent parking area or other outside areas to which the general public is invited for business purposes, unless authorized by the owner of the establishment. ***House Bill 963*** ***(passed***) requires a person who is charged with a misdemeanor for a violation to comply with the command in the charging document to appear in court by appearing in court in person.

Wine Festival License: ***House Bill 962*** ***(passed)*** establishes a wine festival license entitling a license holder to display and sell wine at the Prince George's County Wine Festival for consumption on or off the premises. The bill requires that the weekend chosen for the wine festival not conflict with the Anne Arundel County Beer and Wine Festival, the Calvert County Wine Festival, the Charles County Beer and Wine Festival, or the Howard County Wine

Festival, and that it not occur within 14 days before or after the Maryland Wine Festival in Carroll County.

St. Mary's County

Maximum Fine for Sales Violations: ***House Bill 1271*** ***(passed)*** increases the maximum fine for a violation of the laws regulating the sale of alcoholic beverages in the county from $500 to $1,000.

Somerset County

Liquor Board Borrowing Limit: The amount that the county liquor control board may borrow is raised from $50,000 to $150,000, under ***House Bill 227*** ***(passed)***.

Talbot County

Limited Wineries: A Class 4 manufacturer's (limited winery) license entitles the license holder to produce wine and pomace brandy at the licensed plant. ***Senate Bill 334***/***House Bill 105*** ***(both passed)*** allow a license holder in the county to produce wine and pomace brandy also at each warehouse for which the holder has been issued an individual storage permit. The bills, however, prohibit the holder from serving or selling wine and pomace brandy at a warehouse to the public.

Worcester County

Liquor Board Borrowing Limit: The amount that the county liquor control board may borrow is raised, from $5 million to $6 million, under ***House Bill 1522*** ***(passed)***.