# Part H
# Business and Economic Issues

## Business Occupations

### State Board of Public Accountancy – Disciplinary Authority

The State Board of Public Accountancy regulates and licenses certified public accountants (CPA) and issues permits to business entities that provide accountancy services. As of November 2009, there were about 19,900 licensed CPAs in the State and about 730 firms with CPA permits.

***House Bill 407* (Ch. 152)** specifies that the board may deny licensure or a permit to an applicant or discipline a licensee or firm permit holder if the applicant, licensee, or permit holder has been sanctioned by a regulatory entity established by law for an act or omission that directly relates to the practice of public accountancy. The bill also establishes that a holder of a permit issued by the board may be fined up to $5,000 for violations of the Maryland Public Accountancy Act.

### State Real Estate Commission

The State Real Estate Commission protects the health, safety, and welfare of the public through its regulatory activities in regard to real estate transactions. The commission licenses all real estate brokers, associate brokers, and salespersons; processes complaints against licensees; and administers the Real Estate Guaranty Fund. Approximately 48,000 individuals are licensed by the commission.

#### Services Provided through Teams

The commission advises that there is confusion among consumers, and even some real estate professionals, regarding the practice of real estate services through teams. Maryland laws and regulations do not recognize or regulate teams, but industry trends throughout the State and

country increasingly include the performance of services through teams. ***House Bill 406 (passed)*** establishes requirements for the provision of real estate services through teams of licensed real estate agents. Two or more associate real estate brokers or licensed real estate salespersons operate as a team when they (1) work together on a regular basis to provide real estate brokerage services; (2) represent themselves to the public as being party of one entity; and (3) designate themselves by a collective name such as a team or a group. The team leader is responsible for the supervision of other team members; the team must adhere to all office rules, practices, and procedures established by the real estate broker and/or the branch office manager. The bill also establishes guidelines for team advertisements.

**Continuing Education for Commission Licensees**

***House Bill 83 (passed)*** changes the commission's continuing education requirements by requiring licensees to complete a three-clock-hour course on the principles of agency and agency disclosure once every four years. Real estate team leaders, brokers, and branch office managers must complete a three-clock-hour course on the requirements of broker supervision once every four years. The bill also establishes that continuing education course providers must pay the commission a $25 course application fee before their courses may be offered to licensees to fulfill renewal requirements.

## State Commission of Real Estate Appraisers and Home Inspectors – Administrative Sanctions and Civil Penalties

The State Commission of Real Estate Appraisers and Home Inspectors regulates real estate appraisers pursuant to the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989. As of June 1, 2009, there were about 3,100 licensed or certified appraisers and 1,200 appraiser trainees in the State, as well as about 900 licensed home inspectors.

***House Bill 408 (Ch. 153)*** authorizes the commission to impose a civil penalty of up to $5,000 against a licensed home inspector in lieu of or in addition to administrative sanctions. The bill also specifies that the commission must consider certain factors when determining whether to grant or renew a license or take disciplinary action against a licensed home inspector due to the criminal history of the applicant or licensee. DLLR advises that most of the statutes governing occupational and professional licensing boards require the board or commission to consider these factors before granting or denying licensure or imposing administrative sanctions. Such provisions exist in the corresponding section of statute applicable to real estate appraisers.

## State Board of Individual Tax Preparers – Examination Requirements

The State Board of Individual Tax Preparers was established by Chapter 623 of 2008 (Maryland Individual Tax Preparers Act). According to DLLR, Chapter 623 has not been implemented because the necessary staff and corresponding funds have not yet been authorized to create the board. However, the fiscal 2011 budget includes a $201,611 special fund appropriation to implement the Act. Individuals are required to register with the board before

providing individual tax preparation services in the State. Registration is valid for two years; a continuing education requirement must be fulfilled for renewal. To qualify, an individual must be a high school graduate and pay a registration fee. ***Senate Bill 555*/*House Bill 873* *(Chs. 85 and 86)*** repeal the requirement that the examination administered by the board may not be less stringent than the Individuals section of the Special Enrollment Examination for enrolled agents.

## State Board for Professional Engineers – Continuing Professional Competency Requirements

The State Board for Professional Engineers regulates the practice of professional engineering in the State and has authority over a variety of disciplines collectively known as engineering. The board regulates over 17,000 professional engineers. ***House Bill 80* *(Ch. 124)*** requires board licensees to demonstrate continuing professional competency as a condition of license renewal. The continuing professional competency requirements do not apply to the first renewal of a license and are phased in beginning on October 1, 2012. Professional engineers with significant experience in the field may be issued a retired status license if they choose not to fulfill the continuing professional competency requirements and may later reactivate their original licenses upon completion of the new requirements. Similar to emeritus status, holders of retired licenses may use the designation "professional engineer, retired" but may not engage in the practice of professional engineering.

## State Board of Pilots – Limited Licenses

Maryland law provides for three categories of limited licenses, conditioned by the maximum draft of the vessel that the holder may pilot, and for an unlimited license. Limited license holders must have trained as apprentice pilots for two years and are granted a limited license based on their ability, skill, and experience determined by the State Board of Pilots through observation of their performance. ***House Bill 82* *(Ch. 125)*** changes the categories of limited licenses issued by the board. Limited licenses based on vessel drafts of 32 feet, 36 feet, and 40 feet replace the current categories of 28 feet, 34 feet, and 37 feet, respectively.

## Plumbing

### Greywater Recycling

The National Standard Plumbing Code (NSPC) defines greywater as water that has been used for washing dishes, laundering clothes, or bathing. Under that definition, essentially any water, other than toilet wastes, draining from a household is greywater. Although greywater may contain grease, food particles, hair, and any number of other impurities, it may still be suitable for reuse as nonpotable water. Reusing greywater serves two purposes: it reduces the amount of freshwater needed to supply a household, and it reduces the amount of wastewater entering sewer or septic systems. NSPC specifies how systems must be designed, installed, and maintained to prevent contamination of the potable water supply.

***House Bill 224*** ***(Ch. 137)*** specifies that a county may not adopt or enforce a provision of a local plumbing code that prohibits a greywater recycling system, as authorized under the State plumbing code. The bill defines "greywater" as used, untreated water generated by washing machines, showers, and bathtubs. The bill specifies that greywater does not include water from toilets, kitchen sinks, or dishwashers.

### Lead-free Materials

***House Bill 372*** ***(passed)*** requires that pipes and materials used in the installation or repair of plumbing intended to dispense water for human consumption be lead-free. The bill defines "lead-free" as containing not more than a weighted average lead content of 0.25% for the wetted surfaces of a pipe, pipe-fitting, plumbing fitting, or fixture; 0.2% lead for solder and flux; 8.0% lead by dry weight for pipes and pipe-fittings; and containing a percentage of lead for plumbing fittings and fixtures that is in compliance with standards established in the federal Safe Drinking Water Act. The bill prohibits the sale of pipes and other plumbing supplies if they are not lead-free and are intended for use with water for human consumption. Sale of solder or flux that is not lead-free is permitted if it carries a label indicating that it is not to be used to install or repair plumbing to be used to dispense water intended for human consumption.

### State Board of Plumbing

***Senate Bill 149*** ***(passed)***/***House Bill 136*** ***(Ch. 134)*** implement the recommendations of the 2009 preliminary sunset evaluation conducted by DLS and extend the termination date for the State Board of Plumbing by 10 years to July 1, 2023. These recommendations were adopted at the December 15, 2009 LPC meeting. The bills require an evaluation of the board by July 1, 2022.

The bills also include a related reporting requirement that addresses, among other things, the board's disposition of consumer complaints going back at least to 2006, including its effectiveness in resolving complaints in a timely manner; the imposition of fines on licensees or individuals who engage in malpractice, in particular the frequency and average amount of such fines and whether or not industry regulation and consumer protection would benefit from increasing fine amounts; and the size of the board's fiscal 2010 surplus or funding gap following the restructuring of the division, and any changes to the board's staffing or fees necessary to address its fiscal status.

## Other Regulated Occupations

### Display of Licenses and License Numbers

DLLR oversees licensing boards for electricians, plumbers and gas fitters, and HVACR contractors in the State. Each board establishes standards for the industry, but the degree of local licensing varies in each area. Most counties require local licensure of electricians, whereas a State license for plumbers, gas fitters, or HVACR contractors authorizes work throughout the State, with some exceptions. State license numbers must be displayed on work vehicles of plumbers, gas fitters, and HVACR contractors.

***House Bill 956*** ***(passed)*** specifies that a county or municipal corporation may not require a person licensed as a plumber or gas fitter to display a county or municipal corporation certificate number on each vehicle used to provide plumbing or gas fitting services. This provision does not apply to Baltimore County or areas of the State under the jurisdiction of the Washington Suburban Sanitation Commission. Likewise, a county, other than Anne Arundel County, or a municipal corporation may not require a person licensed to provide HVACR services to display a county of municipal corporation certificate number on a work vehicle. The bill requires licensed master electricians to display either a State or a county license number on vehicles used to provide electrical services; however, counties or municipal corporations may not require electricians who already display a license number to display additional license numbers on company vehicles.

### State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors

The State board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors, within DLLR's Division of Occupational and Professional Licensing, comprises three licensed master HVACR contractors, a master electrician, a master plumber, and two consumers. According to DLLR, the increasingly technical inquiries posed to the board, number of applications for licensure, and consumer complaints that the board must review at each meeting require the input of at least two additional HVACR contractors. Thus, ***House Bill 84*** ***(Ch. 126)*** increases the membership of the board by adding two additional HVACR contractors to the board. The Act also repeals language that currently prohibits two members of the board from being residents of the same city, county, or other political subdivision.

### State Board of Barbers and State Board of Cosmetologists

***Senate Bill 327/House Bill 197*** ***(both passed)*** extend the termination dates for the State Board of Barbers and State Board of Cosmetologists by 10 years to July 1, 2021, and require evaluation of the boards by July 1, 2020. The bills change various statutory provisions related to the regulation of barbers and cosmetologists in the State. In particular, the bills (1) make inspection procedures for beauty salons consistent with those of barbershops; (2) authorize the cosmetology board to increase license fees to up to $50 for cosmetologists, senior cosmetologists, estheticians, and nail technicians; (3) change license renewal provisions for apprentice cosmetologists; and (4) require the boards to adopt regulations that detail curriculum standards for use by the State Board of Education or the Maryland Higher Education Commission in approving applications for instruction in the practice of barbering or cosmetology at public schools or private career schools. The bills also include a requirement that the boards submit reports to specified committees of the General Assembly on their implementation of specified recommendations made in the evaluation.

### State Board for Professional Land Surveyors

***Senate Bill 147*** ***(Ch. 41)/House Bill 130*** ***(passed)*** implement the recommendations of the 2009 preliminary sunset evaluation conducted by DLS and extend the termination date for the State Board for Professional Land Surveyors by 11 years to July 1, 2024. These

recommendations were adopted at the December 15, 2009 LPC meeting. The bills require an evaluation of the board by July 1, 2023. The bills also include a related reporting requirement regarding the implementation of a board member training program.

**State Board of Examiners of Landscape Architects**

***Senate Bill 103* (passed)/*House Bill 134* (Ch. 132)** implement the recommendations of the 2009 preliminary sunset evaluation conducted by DLS and extend the termination date for the State Board of Examiners of Landscape Architects by 11 years to July 1, 2024. These recommendations were adopted at the December 15, 2009 LPC meeting. The bills require an evaluation of the board by July 1, 2023. The bills also include a related reporting requirement regarding instituting a continuing education program and allowing individuals who have a college degree in a field related to landscape architecture to sit for the licensing exam.

**State Board of Pilots**

***Senate Bill 148* (passed)/*House Bill 133* (Ch. 131)** implement the recommendations of the 2009 preliminary sunset evaluation conducted by DLS and extend the termination date for the State Board of Pilots by nine years to July 1, 2022. These recommendations were adopted at the December 15, 2009 LPC meeting. The bills require an evaluation of the board by July 1, 2021.

The bills also include a related reporting requirement that details the steps that have been taken to, among other things, determine whether additional requirements, such as a federal pilot license, should be a requirement for State pilot licensing; increase the pilot-in-training application and licensing fees to reflect inflation and help offset board expenses; develop statutory, regulatory, or other provisions to ensure adequate review and evaluation of the Association of Maryland Pilots' annual audits; and (6) improve the tracking of, and ensure compliance with, pilot continuing education requirements.

## Business Regulation

### Motor Fuel Suppliers – Games of Chance

Prior to 1968, motor fuel suppliers, refiners, or retail service stations commonly promoted their businesses using games of chance. Chapter 465 of 1968, however, prohibited motor fuel suppliers from engaging in, sponsoring, promoting, advertising, or otherwise performing or participating in games of chance that are offered to the public at retail service stations. Even so, a supplier of motor fuel authorized to operate a retail service station could still participate in games of chance as long as the games were promoted or sponsored by entities other than a refiner or supplier of motor fuel. ***House Bill 1032* (passed)** allows, through September 30, 2013, motor fuel suppliers that supply products to retail service stations to sponsor, advertise, or perform games of chance if the service station dealer agrees to participate in the promotional games.

The promotional games in use prior to 1968 typically involved small-scale prizes such as free merchandise or discounted products or services. The types of games envisioned today might also include sweepstakes similar to those conducted by soft drink companies and fast food restaurants. A general prohibition on conditioning participation in a game of chance on a purchase remains in the Commercial Law Article.

## Tobacco Products – Licensure for "Other Tobacco Products"

"Other tobacco products" (OTPs) are cigars or any rolled tobacco (other than a cigarette), that is intended for consumption either by smoking, chewing, or as snuff. Every state other than Pennsylvania and the District of Columbia requires some type of licensure, registration, or permit for OTPs.

The Comptroller advises that a common scheme of OTP tax evasion is for a wholesaler to purchase untaxed OTPs from an outside source in another state for sale to in-state retailers at a discounted rate. These wholesalers underreport taxes owed to the State. Retailers also purchase untaxed OTPs directly from out-of-state wholesalers. ***House Bill 88 (passed)*** attempts to address this problem by requiring licensure of OTP retailers, wholesalers, storage warehouses, and tobacconists that operate in the State as well as any manufacturers that produce OTPs in Maryland.

The bill also specifies that OTP wholesalers are generally responsible for paying the OTP tobacco tax, institutes a bond requirement for wholesalers to secure their tax payments, prohibits certain types of OTP sales such as Internet sales, and requires the Comptroller to adopt regulations to carry out the bill's provisions. The bill is contingent on successfully securing funding for implementation; the Comptroller and the Administrative Office of the Courts have to certify to specified legislative committees when they have entered into a memorandum of understanding providing for funding to implement the bill.

## Franchisees

Federal Trade Commission regulations require that a franchisor furnish a prospective franchisee with a copy of the franchisor's disclosure statement at least 14 calendar days before the prospective franchisee signs an agreement or makes a payment to the franchisor. ***House Bill 1202 (Ch. 168)*** alters the disclosure requirements under the Maryland Franchise Registration and Disclosure Law to make the disclosure requirements consistent with federal law. The Act modifies the timeframe by which a franchisor must give a prospective franchisee a copy of the offering prospectus and each proposed agreement relating to the franchise.

A franchisor may not sell a franchise without providing the specified documents by the earlier of (1) 14 calendar days before the franchisee executes any binding agreement with the franchisor; (2) 14 calendar days before the payment of any consideration relating to the franchise; or (3) a reasonable request by a prospective franchisee to receive a copy of the offering prospectus. A person who violates the timeframes in the bill is subject to existing civil and criminal penalty provisions.

## Business Oversight

### International Marriage Brokers

The total number of foreign fiancées entering the United States each year more than doubled between 1998 and 2002, and studies suggest that approximately 500 companies deliver "international marriage broker" services in the United States. After several publicized accounts of domestic abuse of women who met their husbands through international marriage brokers, lawmakers in Washington passed laws to regulate international marriage brokers operating in that state. Hawaii, Missouri, and Texas have enacted similar legislation. These statutes, as well as the federal International Marriage Broker Regulation Act of 2005, generally work to provide foreign nationals with information about their potential spouses and the resources available to them in the United States.

***Senate Bill 129*/*House Bill 65* (both passed)** require an international marriage broker to provide basic human rights information to an individual who is not a citizen or resident of the United States and who uses the services of or is recruited by an international marriage broker for dating, matrimonial, or social referral services. A client has to provide the broker with marital history information and notify the broker about any previously sponsored international spouse. The broker has to conduct a State and national criminal history records check of the client, including a search of the sex offender registry. The broker must then provide the criminal and marital history information of the client to the recruit before providing personal contact information about the recruit to the client. Additionally, before any personal contact information about the recruit is disclosed to the client, the marriage broker must obtain written consent from the recruit, in the recruit's native language. The bill does not apply to traditional marriage brokers that operate on a nonprofit basis and comply with applicable laws or to entities that charge comparable rates and services regardless of gender or citizenship and do not principally provide international dating services.

### Lodging Establishments – Human Trafficking

The U.S. State Department has estimated that approximately 600,000 to 800,000 people are trafficked annually across international borders worldwide. Approximately half of these victims are minors. But according to the Maryland Sentencing Guidelines Database, just four people were convicted of human trafficking from fiscal 2001 through 2009. In an attempt to respond that problem, ***Senate Bill 542*/*House Bill 1322* (both passed)** authorize law enforcement to issue a civil citation to require the posting of signs in lodging establishments where arrests leading to convictions for prostitution, solicitation of a minor, or human trafficking have occurred. In determining whether to issue a citation, law enforcement has to consider any assistance it receives from a lodging establishment in an investigation leading to a conviction for a predicate violation.

The required sign must be developed by the Department of Labor, Licensing, and Regulation (DLLR) and posted on the department's web site. The sign must include specified information about human trafficking and the contact number for a national resource center

hotline. Additionally, the sign has to be at least 3x5 inches in size and in multiple languages, at least English, Spanish, and any other language required for a jurisdiction under the federal Voting Rights Act. Violators are subject to a civil penalty of up to $1,000. Each guest room that does not have a sign is not a separate violation.

**Dealers and Processors**

***Junk Dealers and Scrap Metal Processors:*** High demand for metals such as copper and aluminum tend to encourage metal theft in the United States. As a result, in 2009, 25 states introduced legislation to address the increase of theft of junk or scrap metal. Recent attempts to more comprehensively regulate junk or scrap metal have succeeded in local jurisdictions like Baltimore City and Baltimore County but have not been successful at a statewide level. ***Senate Bill 99*/*House Bill 1174* *(both passed)*** modify the definition of junk and scrap metal to include articles made wholly or substantially of enumerated metals and alloys. For example, the bills define certain used articles, such as catalytic converters, metal bleachers, hard-drawn copper, metal beer kegs, cemetery urns, grave markers, and propane tanks, as junk or scrap metal. Other used materials owned by public utilities are likewise defined as junk or scrap metal by the bills.

The bills also alter recordkeeping requirements for all junk dealers and scrap metal processors that operate in the State. For each purchase, a junk dealer or scrap metal processor has to keep specified transactional information. In turn, dealers and processors must then report certain information to law enforcement by the end of the business day after each transaction. The recordkeeping and reporting requirements do not apply to an item acquired from a licensed dealer or processor; a unit of government; or a commercial enterprise with a valid business license with which the dealer or processor has entered into a written contract. The bills also exempt automotive dismantlers, recyclers, and scrap processors licensed under the Transportation Article if they only acquire whole vehicles for certain purposes.

The bills preempt the right of a county or municipality to regulate the resale of junk or scrap metal; however, local licensing schemes are not preempted. State or local law enforcement agencies with reasonable cause to believe junk or scrap metal is stolen may issue a written hold notice for up to 15 days.

An initial violation of the bill is a misdemeanor subject to a fine of up to $500. A fine of up to $5,000, imprisonment for up to one year, or both, applies to subsequent offenses.

***Secondhand Precious Metal Object Dealers:*** DLLR regulates dealers who acquire and trade secondhand precious metal objects, including gold, iridium, palladium, platinum, silver, precious and semiprecious stones, and pearls. Dealers of these objects, including individuals, retail jewelers, and pawnbrokers not otherwise regulated by a county, must be licensed before doing business in the State. Licensees are required to record specified information for each transaction, and records must be kept for at least three years after the date of the transaction. ***House Bill 318* *(passed)*** modifies recordkeeping and reporting requirements for secondhand precious metal object dealers and repeals a provision that allows them to conduct business for up to seven days at an event that takes place at a location other than the dealer's fixed business address.

**Returnable Containers – Plastic Secondary Packaging**

***Senate Bill 11*/*House Bill 1267* *(Chs. 7 and 8)*** prohibit anyone other than a manufacturer of plastic secondary packaging from purchasing four or more units of these items for the purpose of recycling, shredding, or destroying them. The Acts also require purchasers of plastic secondary packaging to make a written record of each transaction involving four or more of these items. Persons who violate these provisions are guilty of a misdemeanor and subject to a fine of $100.

Units of plastic secondary packaging are typically constructed of high-density polyethylene, which yields approximately 8¢ per pound from recyclers. According to the International Dairy Foods Association (IDFA), distributors pay about $4 for each new milk crate they purchase. IDFA estimates that about 20 million milk crates are stolen annually in the United States; replacing the stolen milk crates costs dairy producers roughly $80 million to $100 million per year.

**Maryland Locksmiths Act – Revisions – Definitions and Records Inspection**

***Senate Bill 512*/*House Bill 291* *(Chs. 81 and 82)*** allow licensed locksmiths to maintain their fixed business address outside the State and require them to make required records available for inspection by DLLR after receiving reasonable notice. Chapters 551 and 552 of 2009 (Maryland Locksmiths Act) specify that the State may issue licenses only to applicants who have a fixed business address in Maryland. Licenses cannot be granted for an address that is a hotel or motel room, a motor vehicle, or a post office box. According to the Attorney General, the definition of fixed business address in Chapters 551 and 552, in that the location must be in Maryland, violates the Commerce Clause of the U.S. Constitution. Chapters 551 and 552 establish that persons or businesses that provide locksmith services in the State must be licensed by July 1, 2010. However, DLLR advises that a necessary appropriation for the locksmith licensing program has not yet been made; therefore, licensure of locksmiths will not begin by that date.

**Collection Agency Licensing Fees**

Collection Agencies that operate in Maryland must be licensed by the State Collection Agency Licensing Board within Office of the Commissioner of Financial Regulation. The current license fee for a two-year license, $400, has not been increased since it was established in 1996, and does not recoup the costs the board incurs in regulating licensees. Nationwide, the average collection agency licensing fee exceeds $450 per year. ***House Bill 402* *(Ch. 149)*** repeals the existing $400 statutory fees for new and renewal collection agency licensees and requires the board to establish fees by regulation. A new fee for the investigation of prospective collection agency licensees is also authorized. Fees for new licensees and renewal licensees may not exceed $900 for every two-year licensing term. Any fees established by the board have to be reasonable, cover the actual direct and indirect costs of regulating collection agencies, and be published by the board.

### Office of Cemetery Oversight – Preneed Trust Accounts

The Office of Cemetery Oversight, which is housed within DLLR, regulates cemeteries and associated burial goods sales under the Maryland Cemetery Act. The sale of preneed goods and services is a common practice in the death care industry. Preneed contracts allow individuals to pre-purchase these items and services before their death or the death of a loved one.

Under State law, once a buyer has paid half of the preneed contract price, the seller must put in trust the buyer's remaining payments (the second 50% of the total preneed contract price) as the seller receives the payments. Within 30 days of receiving the buyer's last payment, the seller must ensure that the trust is funded at 55% of the total contract price. Currently, if a seller fails to make the appropriate deposits, the director has no direct statutory authority to compel the seller to correct any underfunding, including interest, in the preneed trust account. Thus, ***House Bill 403 (Ch. 150)*** gives the Director of the Office of Cemetery Oversight the statutory authority to require sellers of preneed goods and services to correct any underfunding, including interest, due to a preneed trust fund.

### Home Improvement Commission – Guaranty Fund Jurisdiction

The Maryland Home Improvement Commission (MHIC) administers the Home Improvement Guaranty Fund for the purpose of providing limited restitution, a maximum of $20,000 per claim and $100,000 total per contractor, to consumers who file valid claims against home improvement contractors licensed with the commission. Generally, the guaranty fund is maintained through fees charged to licensed home improvement contractors at the time of their original licensure and when they renew their licenses. Losses due to actions of unlicensed contractors are not eligible for restitution from the guaranty fund. ***House Bill 409 (passed)*** prohibits MHIC from making an award in excess of the amount of the claim. DLLR advises that, by limiting awards from the guaranty fund to the amount a homeowner paid a licensed contractor, the bill simplifies the process of determining the amount of actual loss suffered by a homeowner as MHIC does not have the resources necessary to hire experts to evaluate and estimate the cost of repairing or completing an unworkman-like or abandoned home improvement project.

### State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors

The State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors (HVARC), within DLLR's Division of Occupational and Professional Licensing, comprises three licensed master HVACR contractors, a master electrician, a master plumber, and two consumers. According to DLLR, the increasingly technical inquiries posed to the board, the number of applications for licensure, and consumer complaints that the board must review at each meeting, require the input of at least two additional HVACR contractors. Thus, ***House Bill 84 (Ch. 126)*** increases the membership of the board by adding two additional HVACR contractors to the board. The Act also repeals language that currently prohibits two members of the board from being residents of the same city, county, or other political subdivision.

### Motorcycle Dealers in Anne Arundel County

***House Bill 393*** ***(passed)*** allows motorcycle dealers in Anne Arundel County to conduct business on Sundays. Except in Howard, Montgomery, Prince George's, and Wicomico counties, a new or used automobile dealer may not sell, barter, deliver, give away, show, or offer for sale a motor vehicle or certificate of title for a motor vehicle on a Sunday. In Anne Arundel County, a dealer may sell or show trailers or mobile homes but not other motor vehicles. Chapter 425 of 2009 authorized motorcycle dealers in Worcester County to conduct business on Sundays.

## Public Service Companies

### Electricity – Renewable Energy

Maryland's Renewable Energy Portfolio Standard (RPS) was established in 2004 in order to recognize the economic, environmental, fuel diversity, and security benefits of renewable energy resources; establish a market for electricity from those resources in Maryland; and lower consumers' cost for electricity generated from renewable sources. RPS is a policy that requires suppliers of electricity to meet a portion of their energy supply needs with eligible forms of renewable energy. An electricity supplier must meet RPS by accumulating "renewable energy credits" (RECs) created from various renewable energy sources classified as Tier 1 and Tier 2 renewable sources. An electricity supplier must pay an alternative compliance payment (ACP) for any shortfall in meeting RPS. For most renewable sources, the percentages of RPS gradually increase while ACP remains constant.

Owners of renewable generating facilities sell RECs associated with their facilities and the payment received for those RECs helps to offset a portion of the installation costs. RECs can be purchased and traded in an open exchange, allowing electricity suppliers to purchase RECs directly from generators or through a third-party reseller.

Chapter 120 of 2007 revised Maryland's RPS to include a solar carve-out within Tier 1, requiring that at least 0.005% of electricity in 2008 be from solar generation increasing to at least 2.0% in 2022. The Act also increased total Tier 1 requirements by the amount of the added solar component. Chapters 125 and 126 of 2008 amended Maryland's RPS by increasing the percentage requirements of the Tier 1 RPS to equal 20% in 2022 and beyond.

The solar band of RPS differs from nonsolar RPS by starting with a high initial ACP, 45 cents per solar REC (SREC) in 2008, gradually decreasing to 5 cents per SREC in 2023 and beyond. As the solar percentages of RPS increase, the solar ACP decreases – offsetting the financial impact of increased compliance requirements in later years. Solar ACP payments are deposited in the Maryland Strategic Energy Investment Fund which is administered by MEA and used to provide financial assistance for the deployment of solar generation in the State.

***Senate Bill 277*** ***(passed)*** increases the percentage requirements of RPS that must be obtained from Tier 1 solar energy sources each year between 2011 and 2016; increases ACP

through 2016; and establishes additional reporting requirements for the Public Service Commission (PSC). The amount of electricity in the State that must be supplied from Tier 1 solar sources is shown in **Exhibit 1**. **Exhibit 2** shows the increased solar requirements under the bill as megawatt-hours of electricity.

**Exhibit 1**

**Renewable Energy Portfolio Standards and Alternative Compliance Payments Under Current Law and Under Senate Bill 277**

| Year | Tier 1 Solar Current Law | Tier 1 Solar Senate Bill 277 | Solar ACP Current Law | Solar ACP Senate Bill 277 |
|---|---|---|---|---|
| 2011 | 0.04% | 0.05% | $0.35 | $0.40 |
| 2012 | 0.06% | 0.10% | 0.35 | 0.40 |
| 2013 | 0.10% | 0.20% | 0.30 | 0.40 |
| 2014 | 0.15% | 0.30% | 0.30 | 0.40 |
| 2015 | 0.25% | 0.40% | 0.25 | 0.35 |
| 2016 | 0.35% | 0.50% | 0.25 | 0.35 |

Source: Department of Legislative Services

**Exhibit 2**

**Solar RPS Needs and ACP Under Current Law and Under Senate Bill 277**

| Compliance Year | Maryland Electricity Sales Forecast in MWh | Solar RPS in MWh Current Law | Solar RPS in MWh Senate Bill 277 | ACP $ per MWh Current Law | ACP $ per MWh Senate Bill 277 |
|---|---|---|---|---|---|
| 2011 | 64,808,000 | 25,923 | 32,404 | $350 | $400 |
| 2012 | 65,760,000 | 39,456 | 65,760 | 350 | 400 |
| 2013 | 66,406,000 | 66,406 | 132,812 | 300 | 400 |
| 2014 | 66,981,000 | 100,472 | 200,943 | 300 | 400 |
| 2015 | 67,457,000 | 168,643 | 269,828 | 250 | 350 |
| 2016 | 68,352,000 | 239,232 | 341,760 | 250 | 350 |

Source: Public Services Commission, Department of Legislative Services

The cost of complying with increased solar RPS and ACP will be incurred by all electricity suppliers in the State and passed on, directly or indirectly, to all electric customers, including the State and local governments. As introduced by the Governor, the bill would have increased solar RPS and slowed the scheduled decrease in ACP through 2026 and cost electricity customers more than $1.2 billion over that period. The General Assembly amended the bill to slightly reduce the increase in the solar RPS percentage requirement and return the solar RPS and ACP curves to current law beginning in 2017. **Exhibit 3** illustrates the cost of complying with the increased solar RPS under ***Senate Bill 277*** in its final posture. The exhibit assumes that 50% of the increased solar RPS is met through SRECs and 50% is met through ACP, with the value of an SREC equaling 75% of ACP.

**Exhibit 3**
**Solar RPS Cost Increase**
**Under Senate Bill 277**
**($ in Millions)**

| Compliance Year | Increase in ACP Payments | Increase in SREC Cost | Total Increase in Compliance Costs |
|---|---|---|---|
| 2011 | $1.9 | $1.5 | $3.4 |
| 2012 | 6.2 | 4.7 | 10.9 |
| 2013 | 16.6 | 12.5 | 29.1 |
| 2014 | 25.1 | 18.8 | 44.0 |
| 2015 | 26.1 | 19.6 | 45.7 |
| 2016 | 29.9 | 22.4 | 52.3 |
| **Total** | **$106.0** | **$79.5** | **$185.4** |

Note: ACP from a given compliance year assumed to be paid in the following fiscal year.
Note: Totals may not add up due to rounding.
Source: Department of Legislative Services

## 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, wind, or micro-combined heat and power electric generating facility that is (1) located on the customer's premises or contiguous property; (2) interconnected and operated in parallel with an electric company's transmission and distribution facilities; and (3) 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 this session alter the way in which customers receive credits from excess generation and expand the net energy metering program.

**Credits from Excess Generation**

Under current law, an eligible customer-generator may carry forward credits from excess generation, in the form of a negative kilowatt-hour reading, for up to 12 months or until the customer-generator's consumption of electricity from the grid eliminates that credit. At the expiration of the 12-month accrual period, any credits from excess generation revert to the electric company and may not be recovered by the eligible customer-generator.

***Senate Bill 355*/*House Bill 801* *(both passed)*** alter the net energy metering program by changing the way an eligible customer-generator may accrue credits from excess generation from a kilowatt-hour (kWh) basis to a dollar basis. The bill repeals the requirement that an accrued generation credit expires at the end of a 12-month period and requires that the value of generation credits be based on the prevailing market price of electricity in the PJM Interconnection energy market. The bill also specifies the conditions under which an electric company must provide payment to an eligible customer-generator for excess generation credits. In adopting implementing regulations, PSC must consider a number of factors, including the technology available at each electric company and the appropriate value of generation credits.

The bill also requires PSC to convene a technical working group to address issues relating to the pricing mechanisms for different hours and seasons, meter aggregation, and the transfer of generation credits or aggregation of generation among separate accounts. PSC is required to report by January 11, 2011 to the Senate Finance Committee and the House Economic Matters Committee on the technical work group's recommendations.

**Qualifying Generating Facilities for Purposes of Net Energy Metering**

***Senate Bill 529*/*House Bill 821* *(both passed)*** adds a fuel cell power system to the types of generation eligible for net metering. A fuel cell is defined as an integrated power plant system containing a stack, tubular array, or other functionally similar configuration used to electrochemically convert fuel to electric energy. This may include an inverter and fuel processing system and other plant equipment to support the plant's operation or its energy conversion, including heat recovery. Although a fuel cell power system does not typically use a renewable energy source, distributed generation such as a fuel cell power system provides a meaningful benefit by alleviating congestion in electric transmission lines and lessening overall demand for electricity during periods of peak demand.

## Energy Conservation

The U.S. Department of Energy indicates that solar hot water is one of the most cost-effective ways to incorporate renewable technologies into a building and that a typical residential solar hot water system reduces the need for conventional water heating by about two-thirds.

***Senate Bill 1067*** ***(passed)*** establishes a Task Force on Solar Hot Water Systems in Prince George's County. The task force must develop a business plan to achieve substantial use of solar hot water systems over a relatively short period of time in a way that saves money for Prince George's County residents and businesses and that reduces carbon emissions. In addition to developing the business plan, the task force must study and report to specified legislative committees and units of county government on several matters relating to the practical deployment of solar hot water systems, incentives, and market structures.

## Electricity Rates, Regulation, and Customer Choice

Effective July 2000, the Maryland Electric Customer Choice and Competition Act of 1999, Chapters 3 and 4 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. Electric generation was separated from regulated transmission and delivery services, and was allowed to develop in a form of free market. Due to many factors, the robust competitive retail electricity market that some anticipated in 1999 has failed to develop in the State.

During the 2010 legislative session, proposed legislation placed more emphasis on advancing the competitive market for electricity in the State than on reregulating the market for electricity. ***House Bill 1340*** ***(failed)*** would have required each distribution utility to provide competitive suppliers with specified customer account information for its residential and small commercial customers under specified conditions.

***House Bill 1372*** ***(failed)*** would have required PSC to provide specified user-friendly information on electric customer choice on its web site. The bill also would have required PSC to develop and air public service announcements publicizing customer choice and to convene a workgroup to advise it on implementation of the bill. The workgroup would have made recommendations on additional customer education mechanisms on customer choice and established an appropriate schedule for developing, funding, and deploying customer education materials on customer choice.

With the separation of generation from regulated utility services and the elimination of price regulation of generation, PSC no longer actively determines the need for additional supply sources as it did before restructuring. A number of bills during the 2010 legislative session sought to address long-term energy planning in the State. Notably, ***House Bill 522*** ***(failed)*** sought to require PSC to provide estimates of the State's long-term energy needs and identify all reasonable options for meeting these needs. The bill would have required PSC to rank options with regard to long-term cost stability, reliability of supply, consistency with the State's

environmental laws and goals, and minimization of adverse environmental impacts in that order and make recommendations based on those rankings. Under the bill, PSC would also have been required to consider environmental goals before taking final action on an application for a certificate of public convenience and necessity.

## Telephone Bills – Third-party Vendor Billing

Billing aggregators and clearinghouses provide billing and collection services to long distance carriers, independent telephone companies, information service providers, and many other service providers. These aggregators and clearinghouses accumulate service charges for a telephone customer from different service providers and transmit them to the local telephone company for inclusion in the customer's local telephone bill. While usually legitimate, third-party vendor billing has also been widely used for fraudulent charges for services that were never ordered, authorized, received, or used.

Over more than a decade, PSC proceedings and legislation have dealt with abusive practices involving telephone services such as "slamming," unauthorized changes in a telephone service or billing provider without a customer's consent, and "cramming," the practice of including charges for services that the customer has not authorized in the customer's local telephone service bill. Chapters 543 and 544 of 1999 addressed the "slamming," but the "cramming" has not previously been addressed by legislation or a final order of PSC.

***Senate Bill 643/House Bill 880*** ***(Chs. 89 and 90)*** address the latter practice. Under "cramming," charges that appear on a customer's bill may be listed as one-time charges or may occur as recurring monthly charges for services to which the customer may not have subscribed or may have inadvertently subscribed. Cramming may occur through sweepstakes entry forms, responses to telemarketing questionnaires, or a collect call acceptance, among many other methods.

The bills prohibit a third-party vendor or its billing agent from submitting charges to a telephone company or reseller unless the third-party vendor or billing agent first obtains an ordering customer's express authorization. This authorization must be separate from any solicitation material or entry forms for sweepstakes or contests and must include information about the ordering customer, the date of the authorization, an explanation of the services and charges, and an affirmation by the ordering customer that the ordering customer is at least 18 years old and authorized to order the services. A third-party vendor or billing agent must retain a copy of the authorization for two years.

A customer is not liable for third-party vendor billing charges unless the customer (1) has received notice that free blocking of third-party vendor billing may be available to the customer; and (2) is provided access to itemized third-party vendor charges and the name and telephone number of the third-party vendor or its billing agent. A customer who has made the dispute in a timely manner is not liable for the charge unless the third-party vendor or billing agent provides a copy of the required authorization.

For a further discussion of this and other issues focusing on consumer protection, see the subpart "Commercial Law – Consumer Protection" within Part I – Financial Institutions, Commercial Law, and Corporations in this *90 Day Report*.

## Underground Facilities

There is a one-call system known as "Miss Utility" in the State that protects underground facilities from inadvertent damage caused by demolition and excavation. The program requires owners of underground facilities, such as water and sewer mains, telephone, cable, and electric lines, and steam heating pipes, to register as members of the one-call system. The system provides contractors with a single point of contact, so that one notification suffices to mark the location of all known underground facilities in the vicinity of proposed demolition or excavation. Generally, public utilities, local governments, and other owners of underground public facilities must belong to a one-call system. ***Senate Bill 911*** ***(passed)*** alters provisions of State law regulating the protection of underground facilities.

***Underground Facilities Safety and Marking Procedures:*** The bill requires owners of underground facilities, which includes units of the State under the bill, to become members of the one-call system. On notice of a planned excavation or demolition, the owners must provide for the marking of their underground facilities. The Maryland Department of Transportation (MDOT), its administrations, and the Maryland Transportation Authority (MDTA) must become members of the one-call system through a separate agreement.

A person that intends to perform an excavation or demolition in the State must initiate a ticket request by notifying the one-call system via telephone or through initiating an interactive Internet ticket. A ticket is valid for 12 business days after the day the ticket is transmitted to an owner-member. The bill establishes procedures for situations where an owner-member is unable to mark an underground facility within the required time period of two business days and allows an owner-member and a person seeking to excavate to determine a mutually agreeable arrangement for having the facilities marked in those cases.

An individual that submits a ticket to the one-call system must indicate if the planned excavation is within rights-of-way of MDOT, its administrations, or MDTA and provide a permit or authorization number granted from that entity. Under current law which is not changed under the bill, the entity may charge up to $35 for an initial marking and $15 for a remarking as reimbursement for expenses incurred.

The bill alters the specific practices and procedures used in marking underground facility locations, specifying that colors used in marking must adhere to certain national standards. The owner of a private residence must notify the one-call system if the excavation or demolition requires the use of machinery. Further, a person performing an emergency excavation or demolition must notify the one-call system so that owner-members will in turn be informed of the emergency excavation. A person that abuses the emergency excavation and demolition procedures is subject to civil penalties specified in the bill.

A designer, such as an architect, professional engineer, professional land surveyor, or licensed landscape architect who prepares a drawing for a project may also initiate a single ticket request to the one-call system. A designer ticket request may not be used for excavation or demolition.

***Maryland Underground Facilities Damage Prevention Authority:*** ***Senate Bill 911*** also establishes a Maryland Underground Facilities Damage Prevention Authority to hear complaints stemming from violations of laws protecting underground facilities. The authority may administer a hearing, compel attendance of a witness, and may assess a civil penalty or reach a settlement. A person aggrieved by a decision of the authority may request judicial review by the circuit court. The bill establishes various provisions relating to hearings and judicial review.

It is the intent of the General Assembly that the authority not be funded by appropriations from the State budget. However, the authority may obtain funding for its operational expenses from a federal or State grant, any filing and administrative fees for complaints heard by the authority, and any other source. The authority may exempt an individual from paying any complaint filing fee or administrative fee if the individual cannot afford to pay a fee. The authority may not impose a charge or assessment against any person other than for complaints filed, directly or indirectly, to obtain funding for its operational expenses. Beginning January 1, 2012, the authority must report each year to the Governor and the General Assembly on its activities and recommendations.

The bill also establishes a Maryland Underground Facilities Damage Prevention Education and Outreach Fund to cover the costs of public education and outreach programs and the development of safety procedures to prevent damage to underground facilities. The special fund is administered by the authority and consists of civil penalties, investment earnings, and any other monies paid into the fund. The fund may be used to make grants to local governments or private entities consistent with the purposes of the fund.

***Civil Penalties:*** ***Senate Bill 911*** increases the amount of a civil penalty that may be imposed for violating the requirement to provide notice before excavation or demolition from $1,000 to $2,000 for a first offense and from $1,000 to $4,000 for each subsequent offense. For other violations, a civil penalty may not exceed $2,000. The authority assesses these civil penalties, subject to certain limitations and requirements. Instead of or in addition to civil penalties, the authority may take other actions to limit damage to underground facilities.

## Master Electric and Gas Meters

When a developer constructs a new apartment building, the developer must select either individual electric and gas meters for each occupancy unit, or a master meter arrangement under which the owner bills tenants for electricity charges. A building owner who selects a master meter arrangement must determine electric and gas charges for tenants by installing submeters which measure actual energy use and are approved by PSC. In apartment buildings, centralized heating, ventilation, and air conditioning (HVAC) systems may offer greater efficiencies than having individual systems for each building occupant. As a result, PSC may authorize an

electric or gas company to provide service for central heating or cooling systems to an occupancy unit without individual metering or submetering if PSC is satisfied that the service will result in a substantial net savings of energy. A building owner may use an energy allocation system, as approved by PSC, to bill each occupant for the cost of electricity or gas consumed for heating and cooling purposes. If an energy allocation system is used, it must be based on a measuring device.

***Senate Bill 538*/*House Bill 1138*** ***(both passed)*** authorize PSC to allow the use of a master electric or gas meter for HVAC services without requiring individual metering or submetering in a residential multiple-occupancy building as long as the utility bill for HVAC services is included in the rent for that unit. PSC must be satisfied that the use of a master meter will result in a net savings of energy over the energy savings that would result from individual metering or submetering. Each individually leased or owned occupancy unit must have individual metered service for other energy services and must directly receive the utility bill for those other services. Before authorizing the use of a master meter for HVAC services, PSC may review the proposed allocation of HVAC system expenses among individual units and common areas served by the master meter. An electric company may inspect and test a master meter authorized under the bill. The bills terminate after three years, on June 30, 2013.

## Insurance Other Than Health

### Insurers and Insurance Producers

#### Audits, Investments, and Operations of Insurers

To better protect policyholders, allow Maryland to maintain its accreditation from the National Association of Insurance Commissioners (NAIC), and provide consistency in the filing of financial reports and financial information, ***House Bill 69*** ***(Ch. 120)*** increases the oversight tools available to the Maryland Insurance Administration (MIA). The Act specifically addresses NAIC requirements in the areas of:

- specifying criteria that nonlife insurers must consider with respect to investments in securities lending transactions;

- limiting to five years the length of time during which a partner in an accounting firm responsible for preparing an audited financial report for an insurer may act in the same or similar capacity for the insurer and the insurer's subsidies or affiliates;

- authorizing the Maryland Insurance Commissioner to require an insurer, nonprofit health service plan, dental plan organization (DPO), managed care organization (MCO), or health maintenance organization (HMO) to file an audited financial report earlier than the statutory deadline, with 90 days' advance notice; and

- specifying criteria against which an insurer's financial condition and results of operations can be compared to determine if the insurer is operating in a hazardous financial manner.

The Act also (1) modifies the nonprofit health service plan audited financial reporting requirement; (2) moves up the date by which DPO must file a statement of its financial condition; and (3) makes the annual statement filing requirements and applicable penalties for DPO consistent with requirements for other insurers.

### Insurance Producers

Under Chapters 98, 99, and 376 of 2009, an insurer is required to provide notice of any increase in premium for policies of commercial insurance and workers' compensation insurance, not only an increase above the former 20% threshold. The 2009 legislation allows an insurer to comply with this requirement by providing (1) to the named insured and the insurance producer, if any, a written notice of increase or a renewal offer with a reasonable estimate of the premium; or (2) to the named insured alone, a copy of the renewal policy that includes the renewal premium. However, an independent insurance producer who is working with the named insured may not be fully aware of the renewal policy's terms and premium if the insurer only sends a copy of the renewal policy to the named insured and not to the insurance producer. ***House Bill 249*** ***(passed)*** requires an insurer who notifies the named insured of a premium increase by sending a copy of the renewal policy also to send to the independent insurance producer, if any, either a copy of the renewal policy by postal or electronic mail, or notice of the availability of that renewal policy on the insurer's online electronic system.

### Domestic Reinsurers

Changes in corporate structure through merger or acquisition may affect the domicile of an insurer and the regulatory fees that the insurer must pay to the state where it maintains specified assets. Under ***Senate Bill 547***/***House Bill 305*** ***(Chs. 83 and 84)***, a domestic reinsurer that was domiciled in Maryland before December 31, 1995, and that moves its home office to another state may maintain its regulatory domicile in Maryland if it maintains certain required assets in Maryland, pays an annual assessment to Maryland, and makes its general ledger accounting records available to the Maryland Insurance Commissioner.

## Life Insurance, Health Insurance, and Annuities

### Misleading Use of Senior or Retiree Credentials

One area of continuing concern is the use of potentially misleading credentials or designations to market financial instruments to the elderly. The sale of an inappropriate financial vehicle to a senior citizen by an individual using a fraudulent or misleading professional designation may result in financial devastation of the senior citizen.

***Senate Bill 774***/***House Bill 882*** ***(both passed)*** make it unlawful for any person to use a senior or retiree credential or designation in a misleading way in connection with the offer, sale, or purchase of life insurance, health insurance, or an annuity. The bills further require the

Maryland Insurance Commissioner to adopt regulations in consultation with the Maryland Securities Commissioner to define what constitutes a misleading use of a senior or retiree credential or designation. The bills conform to similar Maryland legislation enacted in 2009 with respect to sellers of securities, rather than to the more specific National Association of Insurance Commissioners model regulation on the sale of these products by an insurance producer using a senior-specific certification or professional designation.

### Insolvency Protection for Annuity Holders

The Maryland Life and Health Guaranty Corporation guarantees the payment of certain life insurance, health insurance, and annuity benefits when an insurer becomes impaired or insolvent, subject to statutory limits. Under ***House Bill 423*** ***(passed)***, the maximum benefit for which the corporation may become liable to the holder of an annuity increases from $100,000 to $250,000 in the present value of annuity benefits, including net cash surrender and net cash withdrawal values, with respect to any one life. This change is in line with the National Association of Insurance Commissioners model regulations. Maximum benefits for life insurance death benefits and health insurance benefits are unchanged.

## Property and Casualty Insurance

### Homeowner's Insurance

After a fire or other casualty to property insured under a homeowner's, farm owner's, or dwelling insurance policy, it may take a considerable amount of time to repair or replace the dwelling or other property due to ongoing investigation into the casualty, delays in obtaining building permits and other construction difficulties, or limited seasonal availability of replacement goods. For policies that include the replacement value of damaged property, an insured will typically file first for the actual cash value of the property, and then file one or more additional claims for the amount by which the replacement cost exceeds the actual cash value. Some insurers have required a homeowner to submit all replacement cost claims within 180 days after the date of loss, whether or not the homeowner has finalized costs available at that time.

In order to allow an insured to obtain full repayment for repair or replacement for damaged property on a replacement cost basis, ***Senate Bill 647***/***House Bill 854*** ***(Chs. 91 and 92)*** require each policy of homeowner's, farm owner's, or dwelling insurance issued in the State with replacement coverage to allow an insured to file a claim for the additional replacement cost for not less than two years after the date of loss. However, so that the insurer knows what claims may be outstanding, the insurer may require the insured to notify the insurer, within 180 days after the date of loss, of the insured's *intent* to repair or replace the dwelling or personal property.

### Motor Vehicle Liability Insurance

Unchanged since Maryland enacted compulsory motor vehicle insurance in 1972, the minimum motor vehicle liability coverage limits increase to $30,000 for any one person and

$60,000 for any two or more persons under ***House Bill 825*** ***(passed)***, from the current limits of $20,000 and $40,000, respectively.

Maryland's motor vehicle insurance consists of four types of privately purchased coverage: (1) motor vehicle liability coverage, which is designed to pay the overall costs attributable to an accident, including bodily injury, property damage, and lost wages; (2) uninsured motorist coverage, similar to motor vehicle liability coverage for incidents involving an uninsured motorist, also at minimums of $20,000 and $40,000; (3) waivable personal injury protection (PIP), no-fault coverage for medical expenses, with a statutory minimum of $2,500; and (4) optional no-fault collision coverage for damage to the automobile. ***House Bill 825*** alters the limits of the first type of coverage, motor vehicle liability, with the other three coverages remaining unchanged.

While many states have variations of the four types of coverage, they strike different balances among required and optional coverages for bodily injury, property damage, and economic damages. Although in isolation the new Maryland limits are higher than comparable required coverage in adjoining states, the single-party and multiparty liability coverage requirements are only part of the picture. A more complete view includes regional PIP and uninsured motorist coverage requirements. A number of nearby states have PIP requirements in excess of $15,000, as opposed to Maryland's PIP level of $2,500.

Among the issues discussed in the consideration of ***House Bill 825*** were (1) the differences between the costs of medical care, property, and wages in 1972 and 2010; (2) the proportion of claims settled within current statutory coverage minimums; (3) the potential impact of increasing statutory minimums on premiums across the State; and (4) the potential impact of premium increases on customers of the insurer of last resort, Maryland Automobile Insurance Fund (MAIF), as compared with customers of other carriers. Proponents of the bill argued that increasing mandatory coverage levels would assist in making innocent victims in auto accidents whole at a time when costs have increased across the board and a difficult economy magnifies the harm caused by an accident. Opponents of the bill argued that increasing mandatory coverage minimums would increase the number of motorists choosing to drop coverage and risk driving uninsured.

In the area of coordination of health insurance benefits and PIP benefits, ***Senate Bill 704***/***House Bill 1073*** ***(both passed)*** prohibit health insurers, nonprofit health service plans, and health maintenance organizations (HMOs) from requiring that PIP benefits under a motor vehicle liability insurance policy be paid before benefits under a health insurance policy or contract. For a complete discussion of these bills, see the subpart "Health Insurance" within Part J – Health and Human Services of this *90 Day Report*.

**Condominium Insurance**

For a discussion of the procedures for cancelling property insurance and comprehensive general liability insurance for condominiums under ***House Bill 1514*** ***(passed)***, see the subpart "Real Property" within Part F – Courts and Civil Proceedings of this *90 Day Report*.

## Title Insurance

### Title Insurance Reform

Starting in 2008, the Commission to Study the Title Insurance Industry in Maryland met to review issues relating to practices in the title insurance industry in Maryland. Over the course of two years, the commission heard testimony about rate setting, affiliated businesses, closing practices, and the use and qualifications of title insurance producer independent contractors (TIPICs). As a result of extensive hearings and discussions, ***House Bill 1470*** ***(passed)*** was introduced in the 2010 session to address a number of major issues.

The bill prohibits a title insurance producer from using or accepting the services of a TIPIC unless the TIPIC is covered by the producer's fidelity bond, surety bond, or letter of credit. The bill expressly states that a producer is the legal principal of the TIPIC and is liable for all of the TIPIC's actions, even unintentional conduct, within the scope of the TIPIC's employment. The bill requires specified contact information to be included on a mortgage or deed of trust when executed by a TIPIC. Since the TIPIC is covered under the title insurance producer's security, the bill exempts a TIPIC from having to file a separate blanket fidelity bond, blanket surety bond, or letter of credit with the Maryland Insurance Commissioner.

***House Bill 1470*** also requires MIA and the Department of Labor, Licensing, and Regulation (DLLR) to collaborate on a number of issues relating to title insurance and real estate practices. The agencies must jointly develop a "Title Insurance Consumer's Bill of Rights" that explains a consumer's rights and responsibilities in a real estate transaction closing. The document must be made available to the public on MIA and DLLR web sites and be provided to a consumer at the same time that the consumer receives a good faith estimate in connection with a mortgage loan.

The bill further requires the two agencies to share information regarding complaints received involving real estate closings and work collaboratively to track any patterns of problem transactions or licensees. By December 31, 2010, MIA and DLLR must report to the Senate Finance Committee and the House Economic Matters Committee on the status of the Consumer's Bill of Rights, regulations, and collaboration between the agencies.

### Reserve Requirements for Domestic Title Insurers

The current national recession has placed financial strains on title insurance companies, in light of depressed home sales and property values that contribute to the lower pricing of and compensation derived from commissions on title insurance policies. As a result, a number of title insurance underwriters across the nation have found it necessary to redomicile in states with low reserve requirements. In order not to lose the State's last domestic title insurer, ***Senate Bill 900*** ***(passed)*** alters the statutory reserve requirements for domestic title insurers and establishes gradually increasing paid-in capital stock and minimum surplus that a domestic title insurer must maintain. The mandatory statutory reserve or unearned premium reserve is decreased to 8% from the 10% required under current law. The bill also decreases from six years to three years, the schedule for release of excess reserves, starting in calendar 2010.

# Horse Racing and Gaming

## Horse Racing

None of the six bills introduced relating to horse racing passed in the 2010 session.

## Gaming – Implementation of Video Lottery Terminals

Building on legislation first enacted in 2007 for the regulation of video lottery terminals (VLTs), ***Senate Bill 882*** ***(passed)*** makes numerous clarifying and technical changes regarding the implementation of VLTs in the State. The changes generally follow the recommendations of the Video Lottery Facility Location Commission, which is the commission designated to award up to 15,000 VLTs at five authorized locations around the State.

Several of the significant provisions of the bill involve the VLT facility authorized for Allegany County. Under the bill, if the licensee for the Allegany County VLT facility purchases the Rocky Gap Lodge and Golf Resort, the licensee will be entitled to receive, for the first five years of operation, an additional 2.5% from the proceeds generated at the facility that would otherwise go to the Racetrack Facility Renewal Account. In addition, if the licensee purchases the Rocky Gap Lodge and Golf Resort, current law authorizing a racetrack license and racing days in Allegany County would be repealed.

The bill also repeals a requirement that a permanent VLT facility in Allegany County must be physically separate from the Rocky Gap Lodge and Golf Resort, and instead provides that the facility must be in a separate building that may be adjacent or connected to the lodge and resort. Subject to approval by the State Lottery Commission and the Video Lottery Facility Location Commission, an individual or business entity may enter into a management agreement to operate a VLT facility in Allegany County that the individual or business entity does not own.

Among other changes, the bill extends the term of various VLT employee and manufacturer licenses from one to three years, allows the State Lottery Commission to exempt certain institutional investors from providing certain background information, and lowers the threshold for ownership at which an individual or business entity will be considered to have an ownership interest in the property or business of an applicant or licensee.

## Gaming – Expansion of VLTs and Additional Types of Gaming

Several bills were introduced to expand the number of VLTs and VLT locations authorized in the State or to expand gambling opportunities to include table games or card games. None of these bills passed.

***House Bill 1288*** ***(failed)*** would have allowed the Video Lottery Facility Location Commission to award additional licenses to certain alcoholic beverages license holders that offer a keno-type game or video gaming device in their establishments and to nonprofit fraternal organizations that hold an alcoholic beverages license. Under the bill, the commission would

have been authorized to allocate up to 5,000 additional video lottery terminals. The bill was contingent upon voter approval of ***House Bill 1066 (failed)***, which would have amended the Maryland Constitution to provide for the additional 5,000 video lottery terminals.

Two bills would have authorized VLTs to be located at Baltimore-Washington International Thurgood Marshall Airport**.** ***House Bill 513 (failed)*** would have amended the Maryland Constitution to allow VLTs to be housed at the airport. Contingent on the ratification of the amendment by Maryland voters, ***House Bill 512 (failed)*** would have authorized up to 2,500 VLTs at the airport.

***Senate Bill 795/House Bill 608 (failed)*** would have placed an amendment to the Maryland Constitution before the voters to allow a holder of a video lottery operation license to offer table games, including poker, blackjack, craps, and roulette. ***Senate Bill 1035 (failed)*** would have authorized a license for the commercial operation of card games within a specified area in Prince George's County, subject to passage by voter referendum.

### Local Gaming Legislation

***House Bill 56 (failed)*** would have added Worcester County to the list of counties in which specified nonprofit fraternal, religious, and war veterans' organizations may own and operate up to five slot machines at its principal meeting hall in the county in which the eligible organization is located. An amendment to the bill passed in the Senate would have allowed voters in the State to vote on allowing a for-profit company to hold card games at a location within one mile of the intersection of Interstate 95 and MD Route 414 in Prince George's County.

## Economic and Community Development

### Tax Credit Legislation

***Senate Bill 106 (Ch. 1)*** creates a tax credit against the State income tax for employers who hire qualified individuals between the effective date of the Act, and December 31, 2010. The Department of Labor, Licensing, and Regulation (DLLR) is authorized to award $20 million in credits on a first-come, first-served basis. For a more detailed discussion of this issue, see the subpart "Income Tax" within Part B – Taxes of this *90 Day Report*.

Businesses located within a Maryland enterprise zone are eligible for local property tax credits and State income tax credits for ten years after the designation of the enterprise zone. Under current law, the Secretary of Business and Economic Development is authorized to designate up to six enterprise zones during one calendar year and a county may not receive more than one designation in that calendar year. ***House Bill 1163 (passed)*** expands the amount of enterprise zones that may be designated per county in a calendar year from one to two.

***Senate Bill 64 (Ch. 20)*** extends the termination date for the research and development tax credits from June 30, 2012, to June 30, 2021. The Department of Business and Economic

Development (DBED) is authorized to award $6 million in credits in each year, the same amount provided under the current tax credit program. For a more detailed discussion of this issue, see the subpart "Income Tax" within Part B – Taxes of this *90 Day Report*.

In addition, ***Senate Bill 140*** ***(passed)*** authorized the transfer of $2 million from stem cell research to the Maryland Biotechnology Investment Tax Credit program.

## Special Taxing Districts

The General Assembly has granted 12 counties (Anne Arundel, Baltimore, Calvert, Cecil, Charles, Garrett, Harford, Howard, Prince George's, St. Mary's, Washington, and Wicomico) and Baltimore City broad authority to create special taxing districts and to levy *ad valorem* taxes and issue bonds and other obligations for purposes of financing certain infrastructure improvements including storm drainage systems, water and sewer systems, roads, sidewalks, lighting, parking, park and recreational facilities, libraries, schools, transit facilities, and solid waste facilities. Special taxing districts may utilize tax increment financing (TIF), which 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.

Chapter 182 of 2009 expanded the special taxing district authority of these counties and certain municipalities to include using special taxing districts to finance the costs of infrastructure improvements located in or supporting an area designated as a transit-oriented development (TOD), including the cost for operation and maintenance of infrastructure improvements. Chapter 182 also authorized the Maryland Economic Development Corporation (MEDCO) to enter into agreements with these counties and municipalities to use proceeds from a special taxing district, including TIF, to repay debt service on bonds issued by MEDCO on behalf of TOD projects. In addition, Chapter 182 allowed local tax revenues generated within, or that are otherwise attributable to the district, to be used by the district to pay bond debt service or MEDCO obligations or to pay for certain activities within the special taxing district.

***House Bill 1161*** ***(passed)*** extends the municipality and county special taxing district and bonding authority for a TOD granted in Chapter 182 to an area designated as a State hospital redevelopment. A State hospital redevelopment is any combination of private or public commercial, residential, or recreational uses, improvements, and facilities that is part of a comprehensive coordinated development plan or strategy involving property that was formerly occupied by a State-owned or -operated hospital or other institution that provided services to individuals with mental disorders, or a State residential center; or property that is adjacent or reasonably proximate to the "former hospital" property. The State hospital redevelopment must be designated by the Smart Growth Subcabinet and the local government or multicounty agency with land use and planning responsibility for the relevant area.

***House Bill 1182*** ***(passed)*** authorizes a county or municipality to create a business improvement district and establishes the process under which a district may be created. The purpose of a business improvement district is to promote the general welfare of residents,

employers, property owners, and others within the district. Except as limited by its articles of incorporation or a local law, a district corporation may (1) receive money from its incorporating local government, the State, or nonprofit organizations; (2) charge fees for its services; (3) employ individuals and hire consultants; and (4) use the services of other governmental units. A local government establishing a business improvement district must impose a tax within the business improvement district to provide for district operations; however, the tax imposed may not count against a county or municipal corporation tax cap. At least 80% of the owners of the total number of parcels of nonexempt property in the geographic area of the proposed district must express the intent to establish a district corporation.

## Department of Business and Economic Development

### Maryland Economic Adjustment Fund

The Maryland Economic Adjustment Fund (MEAF), established in 1994 in response to the pending 1995 Base Realignment and Closure (BRAC) process, provides funds to new or existing companies in communities affected by defense adjustments. ***Senate Bill 54 (Ch. 14)*** makes several changes to MEAF including (1) eliminating the MEAF Committee; (2) altering eligibility requirements under the loan program and eliminating the priority currently provided to defense contractors; (3) eliminating the minimum interest rate that must be charged on loans; and (4) altering application requirements.

### Maryland Military Installation Council

Chapter 335 of 2003 created the Maryland Military Installation Strategic Planning Council, consisting of representatives of State agencies and federal military installations, to serve as an advocate for military facilities located in Maryland and coordinate State agency planning in response to changes caused by BRAC. Chapter 634 of 2006 renamed the council the Maryland Military Installation Council and extended the termination date of the council to December 31, 2011. ***Senate Bill 55 (Ch. 15)*** (1) repeals the December 31, 2011 termination date for the council; (2) increases membership of the council to 24 by including the Secretary of Veterans Affairs, the Adjutant General of the Maryland National Guard, and the President of the Indian Head Defense Alliance; and (3) establishes four-year, staggered terms for appointed members.

## Maryland Technology Development Corporation

Chapter 446 of 2008 established the Coordinating Emerging Nanobiotechnology Research (CENTR) Program and Fund and required the Maryland Technology Development Corporation (TEDCO) to provide operating and capital grants for nanobiotechnology research projects. The purpose of the CENTR 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 795 (Ch. 163)*** establishes a task force to study the benefits of nanobiotechnology as it relates to job creation, the development of lifesaving treatments, reductions in health care costs, the development of commercial products, the

generation of State revenue, and improvements to the quality of life for State residents. The task force is also charged with studying the State's role in supporting Maryland's leadership in nanobiotechnology and with making recommendations regarding actions that the State should take to promote the growth of nanobiotechnology industries in the State.

## Housing

### Department of Housing and Community Development

***Microenterprise Loans:*** The Neighborhood Business Development Program, also referred to as the Neighborhood Business Works Program, provides gap financing for small businesses in designated areas approved by local governments with the concurrence of the Secretary of Housing and Community Development. ***House Bill 66 (Ch. 118)*** establishes a new initiative within the Department of Housing and Community Development's (DHCD) Neighborhood Business Development Program to authorize DHCD to partner with intermediary organizations to facilitate better access to capital by microenterprises within designated neighborhoods. A microenterprise is a business of no more than five employees, requiring no more than $35,000 in start-up capital, and which does not have access to the traditional commercial banking sector. Financial assistance provided to microenterprises under the measure may be used for development costs, working capital, or business expenses. The bill also requests DHCH to adopt regulations to establish standards for determining the eligibility of an entity to administer a microenterprise loan program. DHCD may provide financial assistance to a microenterprise by a direct loan or through an approved entity.

***Group Home Financing***: The Group Home Financing Program (GHFP) provides loans to group home sponsors to finance the costs of acquiring, constructing, and rehabilitating buildings as group homes for low-income individuals, elderly households, individuals with disabilities, and other State residents with special housing needs. ***Senate Bill 83 (passed)*** authorizes DHCD to use a GHFP loan to refinance an existing mortgage loan on a group home and use the loan proceeds to finance certain closing costs, and allows DHCD to modify the terms of a GHFP loan that is at risk of being in default.

### Affordable Housing

***Senate Bill 780/House Bill 869 (both passed)*** establish the Affordable Housing Land Trust Act as a new means to create and maintain permanently affordable housing in the State. The bills authorize an affordable housing land trust to acquire residential real property or an interest in property; make improvements on residential real property; enter into affordable housing land trust agreements with qualified persons; and engage in other activities related to the sale, leasing, management, maintenance, and preservation of properties under the control of the affordable housing land trust. For a more detailed discussion of this issue, see the subpart "Real Property" within Part F – Courts and Judicial Proceedings of this *90 Day Report*.

### Chesapeake Conservation Corps Program

The Chesapeake Bay Trust is a private, nonprofit grant-making organization established by the General Assembly in 1985 to promote public awareness and participation in the restoration and protection of the water quality and aquatic and land resources of the Chesapeake Bay and other aquatic and land resources of the State. ***Senate Bill 311/House Bill 943 (both passed)*** establishes a Chesapeake Conservation Corps Program within the trust. The measure mandates that, for fiscal 2011 through 2015, $250,000 annually from the Environmental Trust Fund be provided to the trust for the purpose of funding energy conservation projects through the Corps Program that encourage youth participation. For long-term funding of the Corps Program, the bill requires the trust and the Corps Board, established to advise the trust in the development and implementation of the Corps Program, to seek federal and private funding for the Corps Program.

For a further discussion of ***Senate Bill 311/House Bill 943***, see the subpart "Natural Resources" within Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

### Maryland Clean Energy Center

The Maryland Clean Energy Center (MCEC) was established under Chapter 137 of 2008 to (1) promote economic development and jobs in the clean energy industry sector in the State; (2) promote the deployment of clean energy technology in the State; (3) serve as an incubator for the development of clean energy industry in the State; (4) collect, analyze, and disseminate industry data; and (5) provide outreach and technical support to further the clean energy industry in the State. ***Senate Bill 893/House Bill 908 (both passed)*** make changes to State law relating to MCEC. The bill specifies that a majority of the appointed and qualified members of the board of directors is a quorum and that the board may act with an affirmative vote of a majority of the appointed and qualified members of the board. The bill specifies that MCEC, its board, and employees are subject to provisions of the State Finance and Procurement Article that establish requirements of units and contractors aimed at achieving specified levels of participation by minority business enterprises in procurement contracts. The measure also includes an employee or official of MCEC under the definition of "state personnel" under the Maryland Tort Claims Act, who have specified immunity from suit in courts in the State and from liability in tort.

## Workers' Compensation

### Exemption for Corporate or Limited Liability Company Officer

Officers or members of specified entities – including corporations and limited liability companies – are covered employees for purposes of workers' compensation coverage if they provide a service for the company for monetary compensation. However, officers or members of these entities may elect to be exempt from such coverage. The statutory provision that allows officers of close corporations to elect to exempt themselves from workers' compensation

coverage only applies to entities formed in Maryland. Thus, an officer of an identical entity formed under the laws of another jurisdiction technically is precluded from making the same election. ***House Bill 405*** ***(passed)*** specifies that officers of a close corporation incorporated outside of Maryland may elect to be exempt from workers' compensation coverage.

The bill also allows officers of ordinary corporations to elect exemption from workers' compensation coverage. However, no more than five officers of an ordinary corporation may elect such an exemption.

## Coverage for Allegany County Deputy Sheriffs

Until two years ago, Allegany County deputy sheriffs were eligible for the occupational disease presumption available under workers' compensation law; however, they became ineligible when the responsibility for patrol duty in the county was moved to another law enforcement agency. In *Soper v. Montgomery County*, 294 Md. 331, 449 A.2d 1158 (1982), the Maryland Court of Appeals found that the presumption for occupational disease is not extended to deputy sheriffs in counties that have established police departments, if the duties of the deputy sheriffs are dissimilar from the primary duties performed by police officers and do not involve unusual hazards, stresses, and strains.

***Senate Bill 482*/*House Bill 618*** ***(Chs. 75 and 76)*** restore the occupational disease presumption for an Allegany County deputy sheriff who suffers from heart disease or hypertension that results in death or partial or total disability. The bills also make such an individual eligible for enhanced workers' compensation benefits for permanent partial disabilities. A deputy sheriff who is awarded a claim of fewer than 75 weeks for permanent partial disability is compensated by Allegany County at the higher rate for awards of 75 to 250 weeks, which is two-thirds of the deputy sheriff's average weekly wage, not to exceed one-third of the State average weekly wage.

## Assessments for Uninsured Employers

The Uninsured Employers' Fund (UEF) pays workers' compensation benefit awards ordered by the Workers' Compensation Commission (WCC) in cases where uninsured employers default on payments. UEF derives its revenue from assessments on awards and settlements against employers or insurers. UEF imposes a 1% assessment and may increase the assessment by up to 1% if UEF determines the fund balance is inadequate to meet anticipated losses. The assessment may be suspended if the fund balance exceeds $5 million. UEF also collects penalty assessments from sanctions on uninsured employers and recovers benefits and medical expenses paid by UEF on uninsured claims.

UEF is authorized to institute a civil action to recover money paid under an award for workers' compensation of an uninsured employer. When WCC makes a decision on a claim against an uninsured employer, it may impose a penalty assessment on the employer of at least $150 but not more than $500 as well as 15% of any award made, up to $2,500 for any one claim.

***House Bill 1295*** ***(passed)*** increases the penalty assessment paid to UEF when WCC awards a claim against an uninsured employer. The penalty assessment against the uninsured employer increases to at least $500 but not more than $1,000, as well as 15% of any award made in the claim, up to $5,000 in any one claim.

## Death Benefits for Dependents

Chapters 616 and 617 of 2009 required WCC to conduct a study of the statutory provisions related to death benefit payments to individuals dependent on a covered employee. ***Senate Bill 953***/***House Bill 1318*** ***(both failed)*** resulted from recommendations of a workgroup established by WCC during the 2009 interim to study the death benefit provisions of the workers' compensation law. The bills would have altered the calculation of benefits paid by employers or insurers to surviving spouses, children, and other dependents to replace income lost when a person dies due to a work-related accident or occupational disease. Benefits would have been paid to surviving dependent spouses and children proportionally to reflect family income. The bills also would have eliminated the statutory distinction between wholly and partially dependent spouses and children. Thus, the actual amount of benefits received by the dependents of a covered employee would have been based on the average weekly wage of the deceased and the percentage of the total earnings the deceased person contributed to the family income. In general, surviving dependent spouses and children would have received their calculated benefits for at least 5 and up to 12 years. There would have been several exceptions, including that all dependents terminate on the date the deceased would have reached 70 years of age, if 5 years of benefits have been paid.

## Status and Renaming of the Injured Workers' Insurance Fund

The Injured Workers' Insurance Fund (IWIF) administers workers' compensation for the State and provides workers' compensation insurance to firms unable to procure insurance in the private market. IWIF only writes policies in Maryland and is the exclusive residual workers' compensation insurer in the State. Also serving as a competitive insurer in the market place, IWIF is a major insurer in the State with approximately one-third share of the market.

***Senate Bill 507***/***House Bill 1008*** ***(both failed)*** as introduced would have changed the status of IWIF from that of a quasi-State agency to a statutorily created not-for-profit, mutual insurer. To reflect its new status, IWIF would have been renamed the Chesapeake Employers' Mutual Insurance Company. The company would have retained its public purpose as the insurer of last resort and would have continued to guarantee the availability of workers' compensation insurance in the State. The bills would have established that the State has no interest in the assets of the company and may not borrow or appropriate from the company's revenues or assets. The assets of the company would have been held by the company in trust for the policyholders, injured workers, and the company's creditors. Certain employees would no longer have been subject to any law or regulation governing State employment or compensation. As amended in the Senate, ***Senate Bill 507*** would have renamed IWIF as the Chesapeake Employers' Insurance Company and given it greater autonomy to establish employee compensation. The bill also would have required the Maryland Insurance Administration to

conduct a two-part study of the company that addressed the extent to which it should be subject to the premium tax and the extent to which the State has an interest in its assets. The Department of Budget and Management, in consultation with the State Retirement Agency, also would have been required to determine the fairest and most effective way to phase out the company's participation in the Maryland State Retirement and Pension System

## Medical Presumptions

Workers' compensation law establishes a presumption of compensable occupational diseases to certain public employees who are exposed to unusual hazards in the course of their employment. In general, certain employees may be presumed to have an occupational disease that was incurred in the line of duty if the employee has heart disease, hypertension, or lung disease that results in partial or total disability or death; or the employee suffers from leukemia or pancreatic, prostate, rectal, or throat cancer (caused by contact with a toxic substance encountered in the line of duty) and the disease prevents the employee from performing normal job duties. In some cases employees are required to have met a suitable standard of physical examination before beginning employment and to have completed at least five years of service with their current employers.

***Senate Bill 646/House Bill 1280*** ***(both failed)*** would have expanded the types of occupational diseases that fall under the occupational disease presumptions related to firefighters and other similar personnel. Paid or volunteer firefighters or firefighting instructors, volunteer rescue squad members, advanced life support unit members, or sworn members of the Office of the State Fire Marshal employed by specified units of government would have been presumed to have an occupational disease if they suffered from esophageal, brain, or lung cancer caused by contact with a toxic substance encountered in the line of duty under ***House Bill 1280*** as amended in the House. The amended version would have also provided that the occupational disease presumptions are rebuttable.

## Unpaid Work-based Learning Experiences

***Senate Bill 58*** ***(passed)*** establishes that individuals placed in unpaid work-based learning experiences by the Maryland State Department of Education's Division of Rehabilitation Services (known as DORS) are considered "covered employees" under the workers' compensation law. As "covered employees," these individuals are eligible for medical services and treatment for work-related injuries. Legislation enacted in 2003 established similar "covered employee" status to high school students participating in unpaid work-based learning experiences that are coordinated by a county board or private noncollegiate institution. Employers sponsoring "DORS consumers" must maintain workers' compensation coverage for these individuals throughout the course of their employment. The Department of Education must reimburse employers, up to $250 per participant, for premium increases associated with adding DORS consumers to their workers' compensation insurance policies.

## Unemployment Insurance

Unemployment insurance (UI) 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 UI program. Funding for the program is provided by employers though UI taxes paid to both the federal government for administrative and other expenses and to the states for deposit in their unemployment insurance trust funds (UITFs). Using federal tax revenues, the program is administered pursuant to state law by state employees. Each state's law prescribes the tax structure, qualifying requirements, benefit levels, and disqualification provisions. These laws must, however, conform to broad federal guidelines.

Chapter 169 of 2005 altered Maryland's UI charging and taxation system by creating a series of experience tax rate tables that are based on the balance in the Maryland UITF. An employer's unemployment experience determines the rate charged within each of the six tables. If the balance of UITF exceeds 5% of total taxable wages in the State (as measured on September 30 of the current year), the lowest tax rate table (Table A) is used to calculate employer rates for the following calendar year. When UITF is depleted to the point the balance is less than 3% of the taxable wages, the highest tax rate table (Table F) is used to determine employer rates. The first $8,500 of an employee's earnings is taxed for purposes of UI. State and local governments and some nonprofit organizations reimburse UITF dollar-for-dollar in lieu of paying State and federal UI taxes.

Benefits paid from UITF 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 $410 per week, increasing to $430 in October 2010, based on earnings in the base period.

### Unemployment Insurance Trust Fund

The balance of UITF has fluctuated historically, growing in strong economic times to over $1.0 billion in each of calendar 2007 and 2008. On September 30, 2009, the balance in UITF fell to $301.7 million. This significant decline, combined with a recent decline of over $1.0 billion of the taxable wage base to $17.8 billion, places Maryland employers in the highest tax rate table beginning in January 2010. Table F requires employers to pay a minimum of 2.2% and a maximum of 13.5% ($187 to $1,147.50 per employee per year) depending on their UI experience rating.

The main driver of the decline of UITF, and therefore the increase in UI charges to employers, is the increased claims for UI benefits resulting from the economic downturn. The State's unemployment rate increased from 5.4% in December 2008 to 7.5% by December 2009. Average monthly payouts from UITF grew from $36 million in 2007 to $89 million in 2009. Benefit payouts reached a peak in March 2009 of $24 million per week. Initial claims grew from about 203,000 in calendar 2006 to about 362,000 in calendar 2008 and over 416,000 in

calendar 2009. Unemployment benefits remain an important factor in the decline of UITF balances, as payment rates have been slow to decrease.

***Senate Bill 107* (Ch. 2)** enacts a number of measures to mitigate the impact of increased UI contributions charged to employers. For calendar 2010 and 2011, the Department of Labor, Licensing, and Regulation (DLLR) must offer a variety of payment plan options to employers, allowing contributions due on taxable wages for the first nine months of the calendar year to be paid through December. DLLR also has to adopt regulations offering employers a payment plan for any calendar year after 2011 in which employer contributions are to be calculated using Table F. These payment plans must allow payments for contributions due for the first six months of the year to be spread through August of that year.

The Act also reduces the interest rate charged to businesses that fail to make employer contributions or reimbursement when payment is due under certain circumstances. The monthly interest rate is reduced from 1.5% to 0.5% of the outstanding balance for calendar 2010 and 2011 and any year thereafter in which employer contributions are calculated using tax rate Table F. This equates to reducing the interest penalty from 18% to 6% on an annualized basis.

***Senate Bill 107*** also qualifies Maryland to receive $126.8 million in federal stimulus funds which will be placed into UITF to increase the trust fund balance and reduce future employer contributions, as discussed below.

## Unemployment Insurance Modernization

The American Recovery and Reinvestment Act of 2009 (ARRA) included $7 billion in federal incentives to be provided to states that enact specified UI system alterations. Maryland's allotment of the total funding is estimated at $126.8 million; however, these funds are only available to the State UITF if UI benefits are expanded in specified ways. To qualify for the full amount of federal stimulus funds, Maryland must adopt an alternative base period. Adopting an alternative base period only qualifies the State for one-third of the $126.8 million allotment. After a state has adopted the alternative base period into law, the remaining two-thirds of the allotment is awarded if the state has also adopted at least two of four additional changes specified by the legislation. These changes include (1) making part-time workers eligible for benefits; (2) providing coverage to individuals who separate from work for compelling family reasons (illness of a family member, safety reasons due to domestic violence, and change in spouse's employment location); (3) providing Workforce Investment Act (WIA) training benefits for at least 26 weeks in high demand industries; or (4) adding a $15 weekly allowance to UI payments for dependents.

Even though UI benefits were extended to individuals seeking part-time work during the 2009 legislative session, Maryland did not qualify to receive federal stimulus funds. Thus, in addition to making minor changes to part-time UI eligibility, ***Senate Bill 107*** enacts additional changes to UI benefits by allowing an alternative base period to be used to determine eligibility and expanding eligibility for UI benefits to include individuals enrolled in a qualifying job

training program. The provisions in the Act make Maryland eligible for a one-time payment of $126.8 million in federal incentive funds.

### Alternative Base Period

The base period is the time period during which a claimant's wages earned are examined to determine a claimant's eligibility for UI benefits. In Maryland, and most states historically, the first four of the last five completed calendar quarters preceding the claim are considered the base period. Using the traditional base period, a lag of up to six months between the end of the base period and the date on which an individual becomes unemployed and files an unemployment claim may occur. As a result, the worker's most recent employment history is not considered when determining eligibility for UI benefits.

***Senate Bill 107*** allows an individual who does not qualify for UI benefits under the traditional base period to use an "alternative base period" for determining eligibility. The alternative base period, which consists of the four most recently completed calendar quarters preceding the start of the benefit year, may be used for calculation of benefits beginning March 1, 2011, for claims filed on or after March 6, 2011.

### Expansion of Benefits for Employment Training

***Senate Bill 107*** allows an individual who is unemployed and has exhausted all rights to UI benefits under State and federal law to seek the equivalent of up to 26 times the individual's average weekly benefit amount by enrolling in an employment training program authorized by WIA that prepares the individual for entry into a "demand occupation." These provisions take effect March 1, 2011, and apply to claimants in approved training on or after March 6, 2011. Maryland does not currently offer State UI benefits to individuals enrolled in employment training, although federal payments are available under certain conditions.

The individual must be separated from a "declining occupation" or must have been involuntarily terminated from employment as a result of a permanent reduction of operations at the individual's former place of employment. An individual must enroll in training before the end of the benefit year established for the employment separation that made the individual eligible for the training benefit. Training benefits may not be payable for more than one year following the end of the benefit year established. Additionally, an individual may not receive UI training benefits if that individual is receiving similar stipends or other allowances for nontraining costs. An individual cannot be denied additional training benefits if the individual is unavailable to work or not actively seeking work.

## Other Changes to Unemployment Insurance Benefits

To offset the cost of expanded UI benefits, ***Senate Bill 107*** also reduces UI benefit eligibility to certain claimants. The Act increases the minimum amount of qualifying wages an individual must earn during the base period to be eligible for UI benefits from $900 to $1,800 effective March 1, 2012, for claims filed beginning March 4, 2012. Accordingly, the minimum

weekly available benefit amount is increased from $25 to $50, reflecting the current amount available to a claimant with at least $1,800 in qualifying earnings.

The Act also (1) abolishes UI benefits for claimants who become ill or disabled and are unable to seek work after filing for benefits due to the illness or disability; (2) increases the disqualification penalty for claimants who are dismissed for misconduct or gross misconduct; and (3) reduces the amount of earnings a claimant who becomes partially employed may receive that do not affect a claimant's weekly benefit. This amount is decreased from $100 to $50 effective March 1, 2011, for claims filed on or after March 6, 2011.

### Joint Committee on Unemployment Insurance Oversight

The Joint Committee on Unemployment Insurance Oversight, initially established in 2005 to continue the work of predecessor legislative working groups, 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 UI benefits. ***Senate Bill 34/House Bill 267 (both passed)*** establish the joint committee as a permanent statutory committee rather than allow it to terminate as scheduled on December 31, 2010. The bills also require the joint committee to study State and federal UI law as it relates to employers engaged in seasonal industries. The study must consider the impact of UI benefit payments on employers in a county where the average unemployment rate exceeds the State average and how the obligations and payments may be reduced for employer units engaged in seasonal industries. The joint committee must report to the Governor and the General Assembly by December 1, 2010.

***Senate Bill 107*** directs the Joint Committee on Unemployment Insurance Oversight to study changes and make recommendations by December 1, 2010, on a cost-neutral plan to implement a graduated increase of the maximum weekly benefit to equal 54% of the average weekly wage. The study, including any research findings, must include a determination of whether (1) the impact of lowering the earnings disregard serves as a disincentive for claimants to return to work (possibly part-time work which may turn into full-time work); and (2) the earnings disregard should be changed from a flat amount to a fraction of weekly wages or benefits. If the study indicates that the amount of the wages subtracted in the calculation of the weekly benefit amount should be increased above $50, the joint committee has to determine a method to offset that amount with equivalent savings to UITF. If the study is inconclusive, the joint committee has to monitor the impact of lowering the earnings disregard.

## Labor and Industry

### Wage Payment and Collection Law

Maryland's Wage Payment and Collection Law governs the payment of wages by employers in the State. The provisions of the law include a requirement that an employer pay the employee on a regular schedule and only allows the employer to make certain deductions from the wages. If an employer violates the law, the employee may be entitled to an amount not

exceeding three times the wage owed to the employee. Under the State's Wage and Hour Law, the definition of "wage" traditionally has included overtime pay. ***Senate Bill 694*/*House Bill 214*** ***(Chs. 99 and 100)*** clarify that the definition of "wage" as used in the State's Wage and Hour Law includes overtime pay.

If the Commissioner of Labor and Industry determines that an employer has violated the provisions of the Wage Payment and Collection Law, the commissioner is authorized to try to resolve the issue informally; with the written consent of the employee, ask the Attorney General to bring an action on behalf of the employee; or bring an action on behalf of the employee. ***House Bill 404*** ***(Ch. 151)*** establishes an administrative procedure for resolving wage complaints if the failure to pay wages involves $3,000 or less. Under the bill, the commissioner may review and investigate the complaint and may either issue an order requiring the employer to pay the wages or dismiss the claim. In response to the commissioner's decision, the employer may request a *de novo* hearing before the Office of Administrative Hearings, but if a hearing is not requested, the commissioner's finding becomes a final order.

## Retail Employee Shift Breaks

Beginning on March 1, 2011, employees who work at retail establishments with 50 or more employees will be entitled to shift breaks. The provisions of ***Senate Bill 789*/*House Bill 1299*** ***(both passed)*** only apply to employers who are either retail establishment businesses in the State or employers that own one or more retail establishment franchises with the same trade name. Wholesalers and restaurants are exempted from the bills' provisions. Employees covered by collective bargaining agreements or employment policies that include shift breaks equal to or greater than those required by the bills are also excluded from the bills' provisions. Other exemptions from the bills' provisions include employees who are exempt from the overtime pay requirements of the Fair Labor Standards Act; work for State, county, or municipal governments; work in a corporate office or other office location; or work at least four hours at a single location with five or fewer employees.

***Senate Bill 789*/*House Bill 1299*** specifically mandate that for retail employees that work between four to six hours, employers are required to provide nonworking shift breaks of at least 15 minutes, unless the requirement is waived in writing. If employees work for more than six consecutive hours, employers must provide nonworking shift breaks of at least 30 minutes. Finally, for employees working at least eight consecutive hours, employers are required to provide nonworking shift breaks of at least 15 minutes for every additional four hours an employee works. Certain breaks may be considered a "working shift break" if the type of work prevents an employee from being relieved or an employee is allowed to consume a meal and the time is counted towards an employee's work hours. The working shift break requires a written agreement between the employee and the employer.

Employees may file complaints with the Commissioner of Labor and Industry for violations of the shift break requirements. If the commissioner receives a complaint, the commissioner is required to either try to resolve the issue informally or determine whether the employer has violated the shift break requirements. In determining whether a violation has

occurred, the commissioner is required to consider whether there was a threat to public health or safety at the time of an alleged violation. If the commissioner determines that the shift break requirements have been violated, the commissioner, subject to certain hearing and notice requirements, must issue an order compelling compliance and, in the commissioner's discretion, assess a civil penalty. The commissioner has the flexibility to determine the amount of a civil penalty. If an employer fails to comply with an order by the commissioner, the commissioner may bring in an action to the court.

### Civil Air Patrol Leave

The Civil Air Patrol (CAP) is the official civilian auxiliary of the U.S. Air Force and is a volunteer group that performs search and rescue and disaster relief operations. Under current law, employers may not discharge employees for participating in CAP activities (1) if the employee submits written proof that the employee's participation was required; or (2) when the employee is responding to an emergency declared by the Governor. ***House Bill 1323*** ***(passed)*** expands the protections for employees who are members of CAP by prohibiting an employer from discriminating against an employee or discharging an employee for membership in CAP if the employee has been employed for at least 90 days. The bill also requires employers to give CAP employees at least 15 days of unpaid leave each year to use when responding to an emergency CAP mission. CAP employees must give their employers as much notice as possible of the intended dates of the leave. Once a CAP employee returns from the leave, the employer is required to restore the employee to the position the employee held prior to taking leave.

### Prevailing Wage

***Senate Bill 451*/*House Bill 1100*** ***(both passed)*** requires an employee to file a complaint with the Commissioner of Labor and Industry prior to filing a civil suit for recovery of unpaid wages under the State's Prevailing Wage Law. An employee is only authorized to file a civil suit if the employer fails to comply with an order issued by the commissioner that requires the employer to reimburse unpaid wages to the employee. For a more detailed discussion of this issue, see the subpart "Procurement" within this part of this *90 Day Report*.

## Alcoholic Beverages

### Statewide Bills

#### The Maryland Winery Modernization Act

The number of licensed wineries in the State has grown significantly in the past five years, from 17 to 41. Statistics compiled by the Comptroller's office, which issues licenses for wineries, indicate that the amount of wine sold by Maryland wineries has more than tripled in 10 years.

In keeping pace with this growth, ***Senate Bill 858 (passed)***, effective June 1, 2010, changes the State wine laws in several ways. While simplifying the licensing process for limited wineries (that is, wineries that in general use only available Maryland agricultural products) the bill greatly broadens the scope of operations and activities of a limited winery licensee. Further, the measure establishes a permit for liquor stores and certain other alcoholic beverages licensees, enabling them to sell wine at farmer's markets that are listed by the Maryland Department of Agriculture. Finally, the bill requires the Comptroller to issue reports on two issues affecting the wine industry.

***Limited Wineries:*** A limited winery is allowed to use available Maryland agricultural products to (1) ferment and bottle wine; (2) distill and bottle pomace brandy; (3) sell and deliver the wine and pomace brandy to a wholesale licensee or permit holder in the State or a person outside the State that is authorized to acquire the wine and pomace brandy; and (4) sell its wine and pomace brandy in limited quantities to persons participating in a guided tour of the winery.

***Senate Bill 858*** greatly expands the ability of a limited winery to sell its product to visitors to its facility. Not only may a limited winery sell or provide on its premises samples of wine and pomace brandy it produces, the limited winery may also sell or serve its visitors a wide variety of food items, including soup, cured meat, bread, chili, and ice cream.

Unless otherwise specified, a limited winery may only sell wine, brandy, or specified food or provide samples for off-premises consumption and sampling from 10 a.m. to 10 p.m. The same activities for on-premises consumption may be conducted from 10 a.m. to 6 p.m. each day. However, if guests are attending a planned promotional event or other organized activity on the licensed premises, the permissible hours are from 10 a.m. to 10 p.m. The bill specifies that in Garrett County, Sunday sales only apply if approved through referendum by the voters of the county.

***Farmer's Market:*** ***Senate Bill 858*** also authorizes the Comptroller to issue a farmer's market permit to a holder of a license (1) other than a Class 4 limited winery license, such as a liquor store, that allows the holder to sell alcoholic beverages to the public for consumption off the licensed premises; and (2) that was issued by the local licensing board of the jurisdiction in which the farmer's market will be held.

A permit may only be used at the farmer's market identified in the permit during the hours of the farmer's market. In addition, the permit may be used only at one of the 103 farmer's markets listed in the farmer's market directory of Maryland Department of Agriculture. The Comptroller may issue only one permit for use at each farmer's market. A permit authorizes the holder to (1) occupy stall space at a farmer's market; (2) offer and sell sealed containers of wine to consumers for consumption off the licensed premises of the farmer's market; and (3) provide, at no charge, samples of wine not to exceed one ounce per brand to consumers for consumption on the licensed premises of the farmer's market. All wine offered for sale or samplings by the permit holder must be the product of a Class 4 limited winery.

***Study of Direct Shipment of Wine:*** ***Senate Bill 858*** addresses another wine-related issue that proved controversial during the session – that of the direct shipment of wine from out-of-

state wineries to Maryland consumers. The bill requires the Comptroller, on or before December 31, 2010, to submit a report to the General Assembly on the viability and efficacy of instituting the policy of permitting the direct shipment of wine to consumers in the State. The report must include (1) an evaluation of the best practices used by the states and the District of Columbia that allow direct wine shipment; (2) an evaluation of related fiscal, tax, and other public policy and regulatory issues; and (3) determinations regarding specified factors, including the benefits and costs to consumers and the best practices for preventing access by underage wine drinkers.

Finally, the bill requires the Comptroller to report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee on the impact that the limitation of special event permits has had on the growth of the Maryland wine industry. The report is due by December 1, 2012.

### Maximum Alcohol Content

***Senate Bill 905*** ***(failed)*** would have prohibited a person from selling at retail an alcoholic beverage with an alcohol content by volume of 95% (190 proof) or more. A violator would have been guilty of a misdemeanor and subject to a fine of up to $1,000.

### Direct Wine Shipments from Outside Maryland

***Senate Bill 566***/***House Bill 716*** ***(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. Under ***Senate Bill 858***, however, the Comptroller must report to the General Assembly on or before December 31, 2010, on the viability and efficacy of allowing direct shipment of wine to consumers in the State.

## Local Laws

### City of Annapolis

Renewal fees for alcoholic beverages licenses in the City of Annapolis are generally due in full by April 30 of each year. Due to an increase in alcoholic beverages license fees that became effective as of July 1, 2009, several license holders asked the city for additional time or for the ability to make more than one payment for the renewal of the licenses. ***House Bill 1531*** ***(Ch. 172)***, an emergency enactment, authorizes the mayor, counselor, and aldermen of Annapolis to determine a periodic basis on which payments for the renewal of an alcoholic beverages license may be made.

### Anne Arundel County

***House Bill 947*** ***(passed)*** creates for a 3-year period a Class BWST, beer, wine, and spirits (on-premises) tasting license in Anne Arundel County. A Class BWST license may only be issued to a holder of a Class BWL beer, wine, and liquor (on-premises) license. The bill increases, from $50 to $150, the annual fee for a Class BWT beer and wine tasting license and

establishes a $500 fee for a Class BWST license. The bill takes effect July 1, 2010, and terminates June 30, 2013.

Under ***House Bill 947***, a Class BWST license holder is allowed to provide the on-premises consumption of the following alcoholic beverages for tasting or sampling purposes only:

- liquor in a quantity not exceeding one-half ounce from any of five brands to any one person in a day;
- light wine in a quantity not exceeding one ounce from each brand to any one person; and
- beer in a quantity not exceeding three ounces to any one person.

**Baltimore City**

***Park Heights Redevelopment Area:*** ***Senate Bill 456/House Bill 279 (both passed)*** specify that in the Park Heights Redevelopment Area of Baltimore City establishments may not begin selling alcoholic beverages until 9 a.m. This restriction applies to the holders of Class B-D-7 licenses; Class A, B, and D beer and light wine licenses; and Class A, B, and D beer, wine, and liquor licenses. The bills take effect June 1, 2010.

***Unlicensed Restaurants:*** ***Senate Bill 376/House Bill 1326 (both passed)*** prohibit an establishment in Baltimore City that is not licensed by the Baltimore City Board of License Commissioners from giving, serving, or dispensing alcoholic beverages on its premises, unless the establishment is a restaurant and (1) the alcoholic beverages are brought to the restaurant by the patron; (2) the alcoholic beverages are consumed with a meal; (3) there is no charge for admission; and (4) the Baltimore City Fire Department determines that the maximum seating capacity of the restaurant is 50. The bills also authorize the Baltimore City Police Department to close an establishment if the department determines that the public health, safety, or welfare requires emergency action. The bills repeal provisions of law allowing bottle clubs in Baltimore City and take effect July 1, 2010.

Baltimore City has the Class WS license for wine sampling and the Class BWT license for beer and wine tasting. The holder of either class of license is permitted to serve the relevant type of alcoholic beverage in amounts specified in statute. Each license is valid for one day and no applicant may be granted more than 12 licenses per year. Chapter 342 of 2009 authorized the Baltimore City Board of Liquor License Commissioners to issue a Class BWLT beer, wine, and liquor tasting license for on-site consumption in Ward 27, Precinct 42 of the 41st Legislative District of Baltimore City; Ward 27, Precinct 41 of the 43rd Legislative District of Baltimore City; and Ward 11, Precinct 5 of the 44th Legislative District of Baltimore City.

***Beer, Wine, and Liquor Tasting (BWLT) Licenses:*** ***Senate Bill 120 (passed)*** authorizes the board to issue a Class BWLT beer, wine, and liquor (on-premises) tasting license to a holder of a Class A beer, wine, and liquor license in Ward 27, Precinct 44 of the 41st Legislative District. The bill takes effect June 1, 2010.

***Class C Licenses:*** ***Senate Bill 377*** ***(passed)*** authorizes the Baltimore City Board of Liquor License Commissioners to collect from a holder of a special Class C beer, wine, and liquor license reimbursement for costs incurred by the board while monitoring the event for which the license is issued. The bill takes effect July 1, 2010.

**Baltimore County**

***Towson Commercial Revitalization District:*** ***Senate Bill 122/House Bill 391*** ***(both passed)*** alter requirements in Baltimore County relating to the capital investment, average daily receipts, and seating capacity for some restaurants that apply for the transfer of a Class B or Class D license and the issuance of a Class B (beer, wine, liquor) license for use in the Towson Commercial Revitalization District (TCRD).

The bills take effect June 1, 2010, and allow the county Board of License Commissioners to authorize the transfer of up to 10 beer, wine, and liquor (on-sale) licenses into TCRD if the licenses meet specified criteria.

***Senate Bill 122/House Bill 391*** create an exception to the minimum seating capacity and average daily receipts requirement and repeal the provision relating to the minimum capital investment requirement. Instead, the bills establish that the board may require that, for not more than seven restaurants, applicants for license transfer and issuance must demonstrate a minimum capital investment of $500,000, excluding the costs of the land and building shell. For not more than three restaurants, the board may require that applicants for license transfer and issuance to (1) demonstrate a capital investment, excluding the costs of the land and building shell, of not less than $50,000 or more than $400,000; (2) maintain average daily receipts from the sale of food that are at least 70% of the total daily receipts of the restaurant; and (3) have a minimum seating capacity of 40 persons and a maximum seating capacity of 100 persons in the area dedicated to restaurant operations, with the seating capacity in the bar area not exceeding 15% of the total seating capacity of the restaurant.

***Tasting Licenses:*** ***House Bill 1496*** ***(Ch. 171)*** authorizes the county board of license commissioners to issue a Class BWT beer and light wine tasting or a Class BWLT beer, wine, and liquor tasting license for 104 days, which may be used consecutively or nonconsecutively. The annual fee is $400. The Act takes effect July 1, 2010.

**Carroll County**

***Senate Bill 926/House Bill 1114*** ***(both passed)*** authorize the holder of a Class B beer, wine, and liquor license in Carroll County to sell wine for off-premises consumption if the area used for the preparation and consumption of food and beverages occupies at least 90% of the total square footage of the licensed premises. The holder of the license may not sell more than six bottles of wine to an individual at one time. The bills take effect July 1, 2010.

### Cecil County

***House Bill 535*** ***(Ch. 154)*** establishes a Class EF (entertainment facility) beer, wine, and liquor license in Cecil County. The license authorizes the sale of beer, wine, and liquor by the drink and by the bottle, from one or more outlets in the entertainment facility, for consumption anywhere within the premises. One or more Class EF licenses may be issued for the same facility. Despite provisions that generally limit the number of alcoholic beverage licenses that can be issued based on the number of registered voters, the board of license commissioners may issue a Class EF license to an applicant that has a capital investment in the facility, not including any real property, of at least $35 million. The Class EF license authorizes (1) music and dancing; and (2) the sales and serving of beer, wine, and liquor throughout the entertainment facility during the days and hours that the facility is open for business. The annual license fee is $7,500, and the bill takes effect July 1, 2010. An entertainment facility is already under construction in Cecil County and scheduled to open in late 2010.

### Dorchester County

***Club Membership Requirements:*** ***Senate Bill 41*** ***(Ch. 11)/House Bill 110*** ***(passed)*** reduce the minimum membership requirements in Dorchester County for armed forces organizations or clubs from (125 to 50) and for fraternal organizations (from 250 to 125) to obtain a Class C beer, wine, and liquor license. The Act takes effect July 1, 2010.

***Minimum Seating Capacity:*** ***Senate Bill 47/House Bill 1056*** ***(both passed)*** lower the minimum seating capacity requirement from 75 to 50 for bona fide restaurants, motels, and hotels with restaurant facilities in Dorchester County to obtain a Class B (on-sale) beer, wine, and liquor license from the Dorchester County Board of License Commissioners. The bills take effect July 1, 2010.

### Frederick County

***Senate Bill 449*** ***(passed)*** expands the hours during which authorized Class A (off-sale) license holders may sell alcoholic beverages in Frederick County. The bill takes effect June 1, 2010. Under the bill, Class A (off-sale) license holders may be open from 6 a.m. until 2 a.m. the following day on Monday through Saturday and on Sunday from 11 a.m. until 2 a.m. the following day.

### Garrett County

Effective July 1, 2010, ***House Bill 400*** ***(Ch. 148)*** alters the qualifications for obtaining a wine festival license in Garrett County by extending eligibility to a person eligible for any type of special Class C license issued by the county board of license commissioners. The Act also requires the board of license commissioners to hold a hearing on each application for a wine festival license and to publish a notice of the application in a newspaper of general circulation at least seven days before the hearing.

### Harford County

***Senate Bill 153* (Ch. 43)/*House Bill 668* (passed)** alter the process for selecting nominees to the Harford County Liquor Control Board. The measures require the county executive to submit the name of one nominee to the Harford County Senators and Delegates of the General Assembly and specify procedures for the approval or rejection of the nominee.

Under the new law, at least 60 days prior to the expiration of a board member's term, or for a vacancy other than one resulting from an expired term, as soon as practicable, the county executive must submit the name of one nominee to the Harford County Senators and Delegates (collectively known as the Harford County Delegation) for its advice and consent. If the delegation does not approve or reject the nominee within seven working days, the nominee is considered to be approved. If the delegation rejects the nominee, the county executive must nominate a new individual within seven working days of receiving notice of the rejection. This process must continue until a nominee is approved. The county executive then is to submit the name of the approved nominee to the county council for its advice and consent.

### Howard County

***B-SBW License:* *House Bill 730* (Ch. 162)** establishes a Class B special beer and wine (B-SBW) (off-sale) license in Howard County. The Act takes effect July 1, 2010. Under the Act, the board of license commissioners may issue a Class B-SBW license only to a holder of a Class B beer, wine, and liquor (seven-day) (on-sale) license that is issued for a restaurant. The term of a Class B-SBW license issued to a successful applicant must be the same as that of the Class B beer, wine, and liquor license that the applicant holds.

Prior to issuance of a license, the applicant must complete a form that the board of license commissioners provides and pay an annual license fee of $500. The same advertising, posting of notice, and public hearing requirements as those for other Class B licenses must be met. A holder of a Class B-SBW license may sell beer and wine for consumption off the licensed premises only to persons who have purchased food or alcohol from the licensed premises. A Class B-SBW license holder may not display or provide shelving for beer or wine for off-premises sales in areas of the establishment that are accessible to the public. Off-sale alcoholic beverages receipts collected under a Class B-SBW license must be included in the calculation of average daily receipts from the sale of alcohol under provisions of law that define "restaurant."

The hours for sale for a Class B-SBW license are from 10 a.m. to midnight, Monday through Sunday. A holder of a Class B-SBW license may exercise the privileges of the license only if the licensed premises is open for business as a restaurant. The board of license commissioners may adopt regulations to carry out the Act's provisions, including placing a limit on the number of licenses to be issued.

***House Bill 730*** also authorizes a holder of a Class A, B, or C license in Howard County to employ an individual who is at least 18 years old to sell or serve alcoholic beverages.

***Findings of Hearing Board:*** Under ***House Bill 717*** ***(Ch. 161)*** the Howard County Appointed Alcoholic Beverage Hearing Board, on determining whether to approve an application for any new Class A (off-sale) license, is required to include findings as to each of several specified factors in its written decision. The Act takes effect July 1, 2010.

Before approving an application and issuing a license, the board must consider:

- the public need and desire for the license;
- the number and location of existing licensees and the potential effect on existing licensees of the license applied for;
- the potential commonality or uniqueness of the services and products to be offered by the applicant's business;
- the impact on the general health, safety, and welfare of the community, including issues relating to crime, traffic, parking, or convenience; and
- any other necessary factor as determined by the board.

***House Bill 717*** specifies that the board must include in its written decision findings as to each of these factors.

**Montgomery County**

***Repeal of Sunset Provision:*** In 1989, Montgomery County increased the license fee for a Class B beer, wine, and liquor license and a Class B-BWL (H-M) beer, wine, and liquor license from $2,000 to $2,500 to help fund alcoholic beverage enforcement activities. Subsequently, a series of sunset extensions kept the fee increase in effect for a few years at a time. The last in the series of sunset extensions, Chapter 48 of 2005, extended the termination date until June 30, 2010. ***House Bill 1205*** ***(Ch. 169)*** repeals that termination date, thus making the $2,500 license fee permanent.

***Farmers' Markets:*** ***House Bill 823*** ***(passed)*** authorizes the Comptroller's Office to issue up to 12 additional winery special event permits in a calendar year to a licensed Class 4 Maryland limited winery for use at farmers' markets in Montgomery County listed on the Maryland Department of Agriculture Farmers' Market Directory. The holder of a winery special event permit is prohibited from selling wine by the glass. A farmers' market administrator or its designee is required to be present during hours when wine is being sold and to be certified by an approved alcohol awareness program. The bill takes effect June 1, 2010**.**

**Prince George's County**

***Farmers' Markets:*** ***House Bill 559*** ***(passed)*** authorizes the Comptroller's Office to issue up to 12 additional winery special event permits in a calendar year to a licensed Class 4 Maryland limited winery for use at farmers' markets in Prince George's County listed on the

Maryland Department of Agriculture Farmers' Market Directory. The holder of an additional winery special event permit issued under the bill is prohibited from selling wine by the glass. A farmers' market administrator or its designee is required to be present during hours when wine is being sold and to be certified by an approved alcohol awareness program. The bill takes effect June 1, 2010.

***Special Entertainment Permit:*** ***House Bill 558*** ***(passed)*** authorizes the board of license commissioners to issue a special entertainment permit to the holder of any Class B (on-sale) license. The permit authorizes a holder, after 9 p.m. and until 2 a.m., to impose a cover charge, offer facilities for patron dancing, and provide entertainment. The board must determine the number of days in a week that the permit holder may exercise the privileges of the permit. The annual permit fee is $1,500, which is in addition to the annual fee for the Class B license.

The bill (1) specifies hearing requirements for the issuance, renewal, and revocation of an entertainment permit; (2) requires applicants to develop security plans for the establishments for which the permits are sought and to submit their plans to the board and to the Chief of the Prince George's County Police Department; and (3) specifies procedural requirements and penalties for violations. The board must hold a public hearing before approving an application for and issuing an entertainment permit, and on receipt of a petition, to revoke an entertainment permit or protest the renewal of a permit.

Under ***House Bill 558*** a circuit court of the county is authorized to issue a temporary restraining order to immediately close the premises if the county establishes that the security plan has not been implemented and that emergency action is required to protect the health, safety, or welfare of the public. Also the board is authorized to immediately suspend a permit if the board reasonably believes that the permit holder violated the terms and conditions of the permit. The bill takes effect July 1, 2010, and the board is required to report on the activities of permit holders and the impact of entertainment permits on the county by November 1, 2013.

***Class B-AE License:*** ***Senate Bill 151*** ***(Ch. 42)*** authorizes the board of license commissioners to issue a Class B-AE (arts and entertainment) beer, wine, and liquor license. The annual license fee is set at $2,750. The license may be issued only to an establishment in the county's approved arts and entertainment district for consumption of alcoholic beverages on the licensed premises. The board may issue up to five Class B-AE licenses; however, a person may not hold more than two licenses. The board is required to adopt regulations to carry out these provisions, including regulations specifying hours and days of sale.

***Waterfront Entertainment Retail Complex:*** ***House Bill 571*** ***(passed)*** creates a special Class D beer and wine (seven-day) (on- and off-sale) license in Prince George's County to be issued for use within property zoned as a waterfront entertainment retail complex. The license allows beer and wine to be sold seven days per week from 9:00 a.m. to 2:00 a.m. the next day, with no food requirements. The annual license fee is $660. ***House Bill 571*** also authorizes the board of license commissioners to grant an additional Class D beer and wine license allowing for on- and off-sale of beer and wine during the days and hours designated for an event, not to exceed seven consecutive days. Such an event must be held within the property of a conceptual

site plan, at least part of which includes a zoned waterfront entertainment retail complex. This license does not prohibit a holder of the license from holding another alcoholic beverages license of a different class or nature. The fee for this license is $100 per day. The bill authorizes the county to adopt regulations for implementation. The bill takes effect June 1, 2010.

***National Harbor:*** In 2009, legislation was enacted that authorized the Prince George's County Board of License Commissioners to issue a special three-day Class C beer, wine, and liquor license to a nonprofit organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code. The special license entitles the holder to sell beer, wine, or liquor on- or off-premises at the National Harbor Complex. The fee for a special license is $150 per day. The special license may not be issued to any one organization for more than three consecutive days in a single calendar year. However, ***House Bill 574 (Ch. 158)*** prohibits the issuance of a special three-day Class C beer, wine, and liquor license at National Harbor to any one organization for two consecutive years. The Act takes effect July 1, 2010.

***Fee and Salary Increases:*** According to the board of license commissioners, alcoholic beverages license fees in the county have not been increased in 10 years. In the county, there are 581 alcoholic beverages license holders, excluding the holders of special limited licenses. This includes 47 Class A, B, and D beer licenses; 90 Class A, B, C, and D beer and wine licenses; and 444 Class A, B, and C beer, wine, and liquor licenses.

***House Bill 567 (Ch. 156)*** increases alcoholic beverages license fees in Prince George's County by an average of $172 per license issued. The Act also increases the annual salary for alcoholic beverages inspectors in the county from $9,976 to $10,900. The Act takes effect July 1, 2010. As a result of this enactment, county licensing revenues are estimated to increase by approximately $103,600 annually beginning in fiscal 2011.

***License Extinguishment:*** ***House Bill 570 (passed)*** authorizes a person to obtain a Class A alcoholic beverages license of any kind in Prince George's County for the purpose of having the board of license commissioners declare it extinguished. The person must inform the board of the purpose of the acquisition, and within 10 days must surrender the license to the board along with evidence to satisfy the board that all taxes or obligations to wholesalers or other persons have been paid. A license extinguished in this manner may not be replaced by the board and counts toward the statutory limits on alcoholic beverages licenses in Prince George's County. A person who obtains a license for the purpose of extinguishing it may not exercise the privileges of the license or further transfer or sell the license. The bill authorizes the board to impose a penalty of up to $1,000 for a violation of the bill. The bill takes effect July 1, 2010.

***Class A/Class 4 Light Wine Licenses:*** ***House Bill 573 (Ch. 157)*** authorizes the issuance of a Class A light wine license in Prince George's County and exempts any winery applying for such a license from any quotas as to the number of licenses in the election district where the winery is located. Only three counties (Allegany, Charles, and Prince George's) were not authorized to issue this type of license. The Act takes effect July 1, 2010.

***Notification of Issuance of Licenses and Permits:*** ***House Bill 582 (passed)*** requires the board of license commissioners to notify the chief of police, the fire chief, the director of the

Department of Environmental Resources, and any relevant municipal corporation when the board issues a special Class C license. The notice is to include the time, place, and expected size of the event for which the license is issued. Notice must also be given to the board, the chief of police, the fire chief, the director of the Department of Environmental Resources, and any relevant municipal corporation when an administrative official in the county issues a use and occupancy permit that allows entertainment to be held for various organizations or the public. The bill takes effect June 1, 2010.

***Beer, Wine, and Liquor Tastings:*** ***House Bill 1478*** ***(passed)*** establishes a beer tasting license; a beer/wine tasting license; and a beer, wine, and liquor tasting license in Prince George's County. A beer tasting license is available to the holder of a beer license; a beer and wine license; or a beer, wine, and liquor license. A beer/wine tasting license is available to the holder of a beer and wine license or a beer, wine, and liquor license. A beer, wine, and liquor tasting license is available only to the holder of a beer, wine, and liquor license. The holder of a beer license may only obtain a beer tasting license. The additional fee for the new beer tasting license is $110. The county board of license commissioners is required to set the annual fee for a beer/wine tasting license and a beer, wine, and liquor tasting license. The bill takes effect July 1, 2010.

**St. Mary's County**

***Senate Bill 904*** ***(passed)*** requires the county board of license commissioners to issue not more than one Class A alcoholic beverages license with an off-sale privilege for each unit of 1,350 people in each election district in the county. The license quota must be maintained using the population figures of the most recent St. Mary's County Planning Commission Annual Report. The bill also prohibits the transfer of licenses between election districts unless the transfer can be made without exceeding the license quota. The bill takes effect July 1, 2010, and applies only prospectively. There are 43 Class A licenses with an off-sale privilege in St. Mary's County. According to the Maryland Department of Planning, the population of St. Mary's County totaled 101,578 as of July 2008.

**Somerset County**

***House Bill 451*** ***(passed)*** authorizes the county board of license commissioners to issue a local caterer's license to the holders of specified Class B restaurant or hotel (on-sale) licenses. The annual license fee is $550. The caterer's license authorized by the bill allows the holder of a Class B restaurant or hotel (on-sale) beer and light wine license to provide beer and light wine at events that are held off the Class B restaurant or hotel licensed premises; and the holder of a Class B restaurant or hotel beer, wine, and liquor license to provide alcoholic beverages at events that are held off the Class B restaurant or hotel licensed premises. License holders must also provide food at a catered event.

The bill also authorizes the board to proceed administratively against a licensee who is granted probation before judgment for a violation of the prohibitions against the sale of an alcoholic beverage to a person under age 21 or to a person who was visibly under the influence of alcohol. The bill takes effect July 1, 2010.

**Washington County**

***House Bill 399*** ***(passed)*** authorizes the county board of license commissioners to issue a beer tasting license to the holder of a Class A or Class B beer and wine license or a Class A or Class B beer, wine, and liquor license. The annual license fee is $100. The board must regulate the quantity of beer served to each person and the number and size of bottles or other containers of beer being served. The bill takes effect July 1, 2010.

**Wicomico County**

***Licenses; Employment at Licensed Premises:*** ***Senate Bill 196/House Bill 551*** ***(both passed)*** authorize the county board of license commissioners to issue a beer tasting license and a beer/wine tasting license. The bills establish fees for both licenses. The bills also specify that the Comptroller may only issue one Class 6 pub-brewery license or one Class 7 micro-brewery license, but not both, in an enterprise zone in Wicomico County to a person who holds no more than three Class B beer, wine, and liquor licenses and repeal laws authorizing the board of license commissioners to issue the license. Finally, the bills authorize an individual who is at least 16 years old and who has a work permit to be employed to stock alcoholic beverages or clear tables and bar areas in Wicomico County.

***Micro-brewery Licenses:*** ***Senate Bill 195*** ***(passed)*** authorizes a Class 7 micro-brewery licensee in Wicomico County to sell beer at retail to customers for consumption off the licensed premises in refillable containers that are sealed by the licensee at the time of each refill. The bill takes effect July 1, 2010. There are currently 15 Class 7 micro-brewery licenses issued in the State; however, the Comptroller's office has not issued any micro-brewery licenses in Wicomico County. There are 46 Class B beer, wine, and liquor license holders in Wicomico County.

**Worcester County**

***House Bill 1431*** ***(passed)*** adds Worcester County to the list of jurisdictions in which (1) the holder of a Class 6 pub-brewery license may sell malt beverages for off-premises consumption under specific conditions; (2) a Class 7 micro-brewery license may be issued; and (3) the licensee may sell at retail, beer for consumption off the licensed premises in refillable containers that are sealed by the micro-brewery licensee at the time of each refill. The bill takes effect July 1, 2010.