Part H
Business and Economic Issues

Business Occupations

Real Estate Brokers and Salespersons

Statutory Licensing Fees to Remain in Effect for at Least One Year

Chapter 399 of 2005 made the State Real Estate Commission in the Department of Labor, Licensing, and Regulation a special fund commission. In conjunction with creating a new special fund, the Act repealed the requirement that all fees collected by the commission be deposited in the general fund and repealed the amounts set in statute for fees relating to licensing real estate brokers, associate real estate brokers, and real estate salespersons. Instead, the commission is authorized, beginning July 1, 2007, to set those fees by regulation, based on the annual calculations of the Secretary of Labor, Licensing, and Regulation of the direct and indirect costs attributable to the commission.

Chapter 399 takes effect July 1, 2006, which will create at least a one-year period wherein the fee amounts have been removed from statute yet will not have been set by the commission. ***Senate Bill 55*** ***(Ch. 35)*** requires the fees set in statute on June 30, 2006, to remain in effect until the fees authorized to be set by the commission have been adopted and have taken effect.

Qualification as a Branch Office Manager

Senate Bill 384/***House Bill 715*** ***(both passed)*** expand the means by which a licensed real estate salesperson may qualify to be designated as a branch office manager of a licensed real estate broker. The licensed real estate salesperson must complete a course in real estate for brokers approved by the State Real Estate Commission, submit a letter of commitment from a licensed real estate broker proposing to engage the salesperson as a branch office manager, and pass the real estate broker's examination.

Reciprocal Licensure Authorized

***Senate Bill 684*/*House Bill 1107* (both passed)** authorize the State Real Estate Commission to issue a reciprocal license to offer real estate brokerage services in the State to an individual holding a current real estate license in another state and whose principal place of business for the provision of real estate brokerage services is outside Maryland. Applicants for a reciprocal license must meet specified requirements. A reciprocal licensee is subject to the disciplinary procedures and the renewal requirements of the commission. The commission may implement written reciprocal licensing agreements with real estate licensing authorities of other states but is not required to enter into an agreement with any other state before issuing a reciprocal license to an individual from that state.

Public Accountants

Board Granted Fee-setting Authority in Conjunction with Special Fund Status

The State Board of Public Accountancy qualifies, licenses, and regulates individuals seeking licensure to practice as a certified public accountant and firms that offer public accounting services. ***House Bill 103* (passed)** establishes a special, nonlapsing fund in the Department of Labor, Licensing, and Regulation to cover the actual documented direct and indirect costs of the board and repeals the requirement that all fees collected by the board be deposited in the general fund. The fees established in statute are repealed, and the board, beginning July 1, 2008, is authorized to set reasonable fees to cover the costs of its services. Until the fees set by the board take effect, the fees in statute prior to the effective date of the bill remain in effect.

Stationary Engineers

Licensing Requirements Eased for Practicing Engineers

Chapter 613 of 2005 established a statewide licensing requirement for individuals providing stationary engineering services. Chapter 613 created the State Board of Stationary Engineers to replace the former Board of Examining Engineers which had regulated and licensed examining engineers, also known as stationary engineers, in Baltimore City. Several thousand stationary engineers outside of the city also held licenses issued by the Board of Examining Engineers despite not being required to be licensed by law, often due to employer requirements. All stationary engineers actively regulated by the Board of Examining Engineers were authorized under Chapter 613 to become licensed without meeting the new education, experience, and examination requirements. However, stationary engineers who were working legally without a license, outside of Baltimore, did not have a similar opportunity. These engineers are required to be licensed by July 1, 2006. ***House Bill 1642* (passed)** requires the State Board of Stationary Engineers to waive, for one year, examination requirements for practicing stationary engineers if the stationary engineer meets specified experience requirements. Beginning June 1, 2007, an applicant for a stationary engineer license of any grade is required not only to meet specified experience requirements but also must take an examination.

Barbers and Cosmetologists

Reinstatement of Expired Permits Authorized

Standard State license and permit renewal procedures require a licensee or permit holder to renew a license or permit by a specified deadline established by the licensing or permit issuing authority. If a permit holder misses the renewal deadline and the permit expires, the State Board of Barbers and the State Board of Cosmetologists require a permit holder to apply for a new permit rather than allow the permit holder to apply for reinstatement of the permit. Consequently, the permit holder not only must pay application fees and State inspection costs but also may have to remain closed pending that inspection. Further, inspection resources are limited. ***House Bill 250 (passed)*** authorizes the respective boards to reinstate the permit of a barbershop or beauty shop if the owner applies for reinstatement within 45 days of the expiration of the permit, meets other renewal requirements, and pays both a renewal and a reinstatement fee to the respective board.

Practicing Law

Exception Granted for Common Ownership Communities

Disputes that arise between owners and community associations are governed by the procedures of the bylaws of the association and the courts. Generally, an individual may not represent clients in court in Maryland without having been admitted to the Bar of Maryland. Consequently, a community association could be required to retain counsel in relatively minor disputes. ***House Bill 1166 (passed)*** exempts a director or an officer of a common ownership community representing that community in a dispute, hearing, or other matter before a board or commission established to oversee a homeowners' association, residential condominium, or cooperative housing corporation from the requirement of admission to the Bar of Maryland and other requirements of the Court of Appeals.

Business Regulation

Home Builders

Social Security Numbers on Applications

Social Security numbers have been required on home builder applications to help identify problem builders attempting to get back into the business. However, these numbers are also the most common tool for identity thieves. To address concerns about the potential for identity theft due to the collection of Social Security numbers, ***Senate Bill 383*/*House Bill 326 (both passed)*** repeal provisions requiring principals of a business applicant for a home builder registration to include their Social Security numbers on the application for registration. However, the names and addresses of all principals of the applicant are still required in addition to other information.

Although federal law requires applicants for professional and other types of licenses to provide a Social Security number to aid enforcement of child support collection, the Department of Human Resources advises that the bills meet the intent of the federal law and will not jeopardize federal funds for social welfare programs. The bills will cover approximately 80 percent of the home builder registration applicants.

The Home Builder Registration Unit is part of the Consumer Protection Division of the Attorney General's Office. The Attorney General's Office requested these bills as part of its efforts to reduce identity theft. The number of identity theft complaints received by the Federal Trade Commission from Maryland residents increased by more than 400 percent over the last five years, ranking Maryland eleventh among the 50 states in the number of identity theft victims as a percent of its population.

Home Improvement Contractors

Criminal Prosecution for Acting without a License

As a result of a Court of Appeals case, *Fosler v. Panoramic Design, Ltd.*, 365 Md. 472 (2001), a District Court judge ruled that the Maryland Home Improvement Commission must first adjudicate whether a defendant acted as an unlicensed contractor before the defendant can be prosecuted on criminal charges. The commission has traditionally preferred pursuing criminal charges against unlicensed contractors rather than taking administrative action, which is more time consuming and may only result in a civil penalty. ***House Bill 436*** ***(Ch. 90)*** clarifies that an administrative hearing and adjudication by the commission is not a prerequisite to criminal prosecution of a home improvement contractor, subcontractor, or salesperson for acting without an appropriate license.

The commission regulates 14,320 licensed contractors, 566 licensed subcontractors, and 1,886 licensed home improvement salespersons. In fiscal 2005, the commission received 1,326 complaints of unlicensed contracting and initiated 196 criminal trials.

Heating, Ventilation, Air Conditioning, and Refrigeration Contractors

Continuing Education

Senate Bill 106 ***(Ch. 67)*** authorizes continuing education courses for heating, ventilation, air conditioning, and refrigeration inspectors to be conducted by a county or local government, subject to the approval of the State Board of Heating, Ventilation, Air Conditioning, and Refrigeration Contractors. The board conducts a full-day seminar once each year, which inspectors are required to attend, but reports that it does not have the resources to provide the course more often. Some local governments have requested that they be able to offer the training for their inspectors on a staggered basis so that all of their inspectors are not tied up on the same day. A number of the State boards that regulate business occupations and professions already have the authority to approve continuing education courses conducted by third parties, including those boards regulating plumbers, accountants, architects, foresters, and interior designers.

Charitable Solicitations

Registration Requirement

Under current law, a charitable organization must submit a registration statement to the Secretary of State before soliciting charitable contributions in Maryland. However, applicants do not need to wait for approval from the Secretary of State before making solicitations. Applicants who do not comply with this requirement are subject to a $25 fee 30 days after receiving a second notice of noncompliance from the Secretary of State.

***House Bill 398* (passed)** addresses concerns that a charitable organization, or a person posing as one, only has to send a letter to the Secretary of State before soliciting charitable donations of money and property from the public. The bill prohibits a charitable organization from soliciting donations until the organization's registration is approved by the Secretary of State. The bill establishes a procedure for reviewing registration applications and for appealing a finding that an applicant's registration does not comply with requirements. In addition, all written solicitations for charitable contributions, not just requests for money, must contain a disclosure statement.

Cemeteries

Enhanced Authority

The Office of Cemetery Oversight underwent a review in 2005 under the Maryland Program Evaluation Act. The report issued at the end of the review makes a number of recommendations, including that perpetual care requirements and consumer disclosure requirements be made applicable to anyone engaged in the sale of burial goods or services (and in the case of perpetual care requirements, where perpetual care was stated or implied in the sale or offer of a burial lot or right), rather than specifically to registered cemeterians and permit holders. The report notes that a significant number of cemeteries subject to registration and permit requirements were not registered or did not hold permits and that the numerous provisions of law referencing "registered cemeterians or permit holders" had the unintended effect of exempting those noncompliant owners, operators, and salespersons from being required to take any action under those provisions.

Under current, law, the Director of Cemetery Oversight has authority over registered cemeterians, registered sellers, and permit holders. ***House Bill 720* (passed)** extends the director's authority to include persons that are subject to the registration or permit requirements of the Maryland Cemetery Act. Specifically, the director may investigate, inspect the records and the business site of, and negotiate settlements related to complaints against these persons. Similarly, the director's authority to reprimand, seek a restraining order against, petition a court to appoint a receiver or trustee for, and impose penalties on registrants and permit holders is broadened to include any person subject to the Maryland Cemetery Act (not just those required to register or hold a permit).

In addition, a person that fails to obtain a registration or permit from the Office of Cemetery Oversight must comply with applicable perpetual care trust requirements and is subject to the same civil and criminal penalties that may be imposed on a registrant or permit holder. Likewise, any person subject to the Maryland Cemetery Act must comply with the statutory requirements regarding written contract disclosures, cemetery plot surveys, and price lists. The bill also clarifies that a registrant must be affiliated with a cemetery or burial goods business that is registered with, or holds a permit from, the Office of Cemetery Oversight.

Senate Bill 387/House Bill 862 ***(both failed)*** contained similar provisions but would have made more changes to the Maryland Cemetery Act. In addition, both bills would have extended the termination date of the Office of Cemetery Oversight by five years.

Motor Fuel

Commingling by Brand or Grade

Under the law regulating motor fuel and lubricants, only retail service station dealers are prohibited from commingling gasoline by brand or grade with the intent to defraud customers. In addition, transporters of petroleum may not willfully adulterate or commingle gasoline with special fuel. The Comptroller has identified three marinas in the past three years as having repeatedly commingled gasoline by grade, which is not in the best interest of consumers. In response, ***Senate Bill 120*** ***(passed)*** prohibits marinas and petroleum transporters from commingling brands or grades of gasoline in order to willfully defraud customers. The Comptroller is required to notify marinas in the State of the requirements of the bill.

Public Service Companies

Electricity Rates and Deregulation

The Electric Customer Choice and Competition Act of 1999 provides that as of July 1, 2000, all customers of electric companies have the opportunity to choose electric suppliers. By default, however, a customer remains with the electricity supplied by the distributing electric company under Standard Offer Service (SOS). Any obligation of the electric company to continue to offer SOS expired on July 1, 2003, unless the Public Service Commission (PSC) found that the market was not competitive. After that date, PSC may extend the requirement to provide SOS to residential and small commercial customers at a market price that permits recovery of the verifiable, prudently incurred costs to procure or produce the electricity, plus a reasonable return. Each year PSC must reexamine whether the market is competitive. An electric company may procure the electricity needed to meet its SOS from any electricity supplier, including its own affiliate. In settlement agreements with each of the State's investor-owned utilities, PSC has extended the obligation to provide SOS.

Further, the Act required price caps with statewide rate reductions for four years which could be extended by settlement agreement. Under the final settlement agreements, the price

caps required under the Act expired in PEPCO and Delmarva service territories on July 1, 2004, and are scheduled to expire in the Baltimore Gas & Electric Company (BGE) service territory on July 1, 2006, and in the Allegheny service territory on January 1, 2009. Because there continues to be little competition in residential electric service in the State, PSC has extended the obligation to provide SOS in the PEPCO, Delmarva, and BGE service territories by four years after the expiration of their respective price caps.

Public Service Commission Rate Stabilization Plan for BGE

Due to short-term and long-term increases in the prices of commodities used to generate electricity since 1999, retail prices of electricity in areas of the State subject to market pricing are expected to rise dramatically. As a result of wholesale electricity auctions in the 2005 winter, the market-based cost of electricity for an average residential customer will increase by 35 percent on June 1 in Delmarva service territory, by 39 percent on June 1 in PEPCO service territory, and by 72 percent on July 1 in BGE service territory. In order to lessen the impact of sudden rate increases for residential customers, PSC invited submission of proposals for rate mitigation plans for BGE service territory, as well as similar plans for PEPCO and Delmarva service territories. PSC staff developed a mitigation plan for BGE's generation price increase which PSC adopted with some modifications on March 6, 2006. The mitigation plan contains the following features:

- BGE Rate Stabilization Plan begins July 1, 2006, and ends May 31, 2008, for most residential customers. This two-year rate mitigation plan allows customers the option of more gradually adjusting to market rates over an extended period of time by deferring market-based costs for 8 months and repaying the deferral gradually over the following 15 months.

- Low-income customers who participate in the Electric Universal Service Program will receive an option of a three-year rate mitigation plan under which the repayment of deferred market-based costs is extended by an additional year.

- As part of the plan, the initial increases are limited to 21 percent and customers see deferral credits on the distribution portion of their bills from July 2006 to February 2007. For the remaining period of the plan, customers will see a deferral charge on the distribution portion of their bills to recover the deferred costs of electricity. At the conclusion of the program, a final true-up will occur for program participants.

- The plan is the default option for residential customers. Customers who wish to pay the full price of electricity supplied through SOS from BGE beginning July 1, 2006, may do so, or may choose another electricity supplier at a different price.

- BGE will pay the full market price of the electricity supplied through SOS even though customers will only be paying the mitigated amount. PSC has determined that the appropriate interest rate for recovering this short-term deferred balance is 5 percent.

- BGE must work with PSC and other interested parties to develop a consumer education plan and enrollment details for submission to PSC by March 31, 2006.

Alternative Rate Stabilization Plan and Other Considerations

Related to PSC's mitigation plan, a number of bills were introduced in the General Assembly to address issues concerning electricity rates and deregulation in general. Bills were introduced (all failed) that would have, among other things:

- made changes to the procurement of SOS; (***House Bill 1525***, ***House Bill 1712***, ***Senate Bill 1050***, ***Senate Bill 1052***, ***Senate Bill 1103*** ***(all failed)***);

- extended rate caps or prohibited rate increases over a certain amount (***Senate Bill 814***/ ***House Bill 1334***, ***Senate Bill 1048***, ***Senate Bill 1051***, ***Senate Bill 1078***, ***Senate Bill 1079*** ***(all failed)***);

- reregulated electricity rates, including allowing electric companies to own generating assets (***Senate Bill 972***/***House Bill 1736*** ***(both failed)***);

- required electric companies to solicit proposals for energy efficiency measures and services (***Senate Bill 1104*** ***(failed)***); and

- required return of stranded costs (***Senate Bill 1099*** ***(vetoed)***).

Two of the failed bills, ***House Bill 1525*** and ***House Bill 1712***, passed to the Senate with provisions that would have:

- altered the term of the PSC commissioners and changed the appointing authority of the Peoples' Counsel to be the Attorney General;

- required an electric company to continue permanently to have the obligation to provide SOS to residential and small commercial customers at a market price that permits recovery of verifiable, prudently incurred costs of procuring or producing the electricity plus a reasonable return;

- required an electric company participating in SOS to obtain its electricity supply through a competitive process that would be designed to obtain the best price in light of market conditions and need to protect customers from excessive price increases;

- provided that the competitive process would include a series of competitive wholesale bids in which the electric company solicits bids for its SOS load as part of a portfolio of blended wholesale supply contracts of short, medium, and long terms as needed to meet demand in a cost-effective manner;

- to protect residential customers from the impact of sudden and significant increases in rates of 20 percent or more, allowed PSC to hold proceedings to determine an appropriate phased implementation of electricity rates;

- expanded the pool of applicants eligible for the Electric Universal Service Program (EUSP) to include those at or below 175 percent of the federal poverty level and increased the total amount of funds collected for EUSP each year to $37 million, with the industrial and commercial classes paying the additional amount;

- allowed an electric company to file a rate stabilization plan with PSC for the deferral of incremental expenses of electricity supplies and allowed the rate stabilization plan to provide that a deferral is to be securitized as regulatory assets through the issuance of rate stabilization bonds authorized by a qualified rate order approved by PSC;

- provided that residential customers would be charged the full cost of SOS necessary to recover the electric company's costs, with any credits or charges included as non-bypassable credits or charges on the electric distribution portion of the customers' bills;

- required an electric company (BGE) that has an obligation to provide SOS to residential customers for whom rate caps expire at the end of June 30, 2006, to file tariffs with PSC to implement a rate stabilization plan;

- required PSC to order the electric company (BGE) to establish regulatory assets for the rate stabilization plan of the deferral of the SOS rate deferred during the July 1, 2006, through December 31, 2007, period and allowed the payback to begin January 1, 2008, through charges to residential electric customers;

- required that the increase in the total rates charged to residential electric customers (BGE) on SOS, as compared to the total rates in effect on June 30, 2006, would be (1) from July 1, 2006, through May 31, 2007, 15 percent of the total rate in effect on June 30, 2006; and (2) from June 1, 2007, through December 31, 2007, 29 percent of the total rate in effect on May 31, 2007;

- required, contingent on the effective date of the merger of Constellation Energy, Inc. and FPL Group, Inc., the electric company (BGE) to apply residential electric credits of a total of $60 million per year for a period of 10 years to residential electric bills;

- required that the credits be in the form of a non-bypassable credit on the electric distribution portion of the customers' bill (BGE), derived from (1) the suspension of the collection of the residential return component of the administrative charge collected by the electric company for providing SOS, which would be deemed a value of $20 million; (2) an integration credit equal to $21.4 million per year of stipulated merger savings from a merger of the parent company of the electric company; and (3) a credit of the

$18,661,980 annual nuclear decommissioning charge collected to be imputed as deposits in the Nuclear Decommissioning Trust Fund and to be credited against residential electric customer bills;

- required PSC to initiate an evidentiary proceeding to study and evaluate the status of electric restructuring in the State as it pertains to the availability of competitive generation for residential and small commercial customers;

- required the Department of Assessments and Taxation to study whether the current valuation of power plants provides an adequate and equitable determination of the value of power plants in a restructured electric industry;

- provided that the Act may not be construed to interfere with any determination PSC may make to authorize a merger, including any noneconomic terms and conditions with respect to that authorization, in a proceeding involving the parent company of an electric company incorporated in Maryland;

- required an electric cooperative, based on a determination that total electric rates for residential customers are anticipated to increase by more than 20 percent in a 12-month period, to survey its membership to determine whether to make a request to PSC to initiate a proceeding to investigate options for a rate stabilization plan to assist residential electric customers to gradually adjust to market rates over an extended period of time;

- directed the Attorney General to intervene and participate in the merger proceedings before PSC or any other appropriate State or federal unit regarding the merger of Constellation Energy Group, Inc. and FPL Group, Inc.;

- required that an electric company (Pepco and Conectiv/Delmarva) whose rate cap expired before June 30, 2006, to provide an opt-in price mitigation plan for electric service beginning June 1, 2006, with the transition total rate as: (1) from June 1, 2006, to February 28, 2007, 15 percent greater than the rate in effect on May 31, 2006; and (2) from March 1, 2007, to May 31, 2007, 15.7 percent greater than the rate in effect February 28, 2007;

- required that beginning June 1, 2007, total rates charged to residential electric customers (Pepco and Conectiv/Delmarva) would be at market rates and that any reasonable return received by the electric company for providing SOS to residential customers would offset the actual carrying costs charged to customers as part of the revenue recovery component; and

- required PSC, on its own initiative or on request of an electric company (Allegheny Power) in the service territory of which a rate cap or freeze expires after July 1, 2006, to initiate a proceeding to investigate options available to implement a rate mitigation plan or rate stabilization plan.

Electric Utility Merger

On December 19, 2005, FPL Group, Inc. and Constellation Energy Group, Inc. announced the signing of a definitive agreement to create the nation's largest competitive energy supplier. Constellation Energy is the parent company of BGE which supplies electricity to more than one million residential and business customers in the State and supplies gas to over 600,000 gas customers in 10 counties and Baltimore City. On January 6, 2006, the Office of People's Counsel filed a request to open an investigation of the proposed merger, and on January 23, 2006, BGE submitted a petition to PSC with respect to the merger, resulting in PSC opening Case No. 9054. Subsequently, Constellation Energy Group challenged PSC's jurisdiction over the matter, but later conceded.

The Federal Energy Regulatory Commission (FERC) is conducting a separate proceeding to consider the matter. FERC has authority under the Federal Power Act to review mergers. It must approve a merger if it finds that the consolidation will be consistent with the public interest. FERC's analysis of consistency with the public interest generally involves consideration of three factors: the effect on competition; the effect on rates; and the effect on regulation.

***House Bill 1713* (vetoed)**, an emergency bill, sets out application and PSC review requirements related to electric or gas company acquisitions and mergers involving either a public service company or a nonpublic service company. The bill would have expanded PSC review and approval authority over certain stock and obligation activities of a public service company that *operates* in the State. PSC's authority over those activities currently only applies to a company *incorporated* in the State.

The bill would also have established an Office of Special Counsel to investigate the proposed merger between Constellation Energy Group, Inc. and FPL Group, Inc., and would have authorized the General Assembly to approve or disapprove the merger.

***Senate Bill 1107* (Ch. 33)**, contingent on enactment of ***House Bill 1713* (vetoed)**, would have exempted certain transactions of a public service company operating, but not incorporated, in Maryland from the application of the latter bill. The Act was curative legislation intended to allow an ongoing transaction to be completed. As a result of the contingency, the bill, although signed, did not become law.

***Senate Joint Resolution 11*/*House Joint Resolution 8* (both failed)** would have directed the Attorney General to intervene and participate in the PSC proceedings or any other appropriate State or federal unit, or any other case brought before any court of competent jurisdiction in the State or any federal court, regarding the merger of FPL Group, Inc. and Constellation Energy Group, Inc.

Public Service Commission Operations

PSC is an independent unit of the Executive Branch of State government. Its mission is to promote adequate, safe, reliable, and economic delivery of services to Maryland consumers by

public service companies. In 1910, the General Assembly established PSC to regulate public utilities and certain passenger transportation companies doing business in Maryland.

Senate Bill 1102 ***(vetoed)*** would have altered the appointment process for members of PSC. Rather than being appointed by the Governor with the advice and consent of the Senate, commissioners would have been variously appointed by the President of the Senate, the Speaker of the House of Delegates, and the Governor. The terms of the new commissioners would have begun on April 10, 2006, with staggering expirations, and the terms of the current commissioners would have expired April 9, 2006.

Gas and Electric Utilities

Audit Requirements

All permitted transactions between regulated public service company activities and nonregulated affiliates must be recorded according to the public service company's cost allocation manual. The cost allocation manual specifies various accounting rules and regulations of how a subsidiary and parent company interface. The manual was developed and is maintained by PSC to ensure that transactions between related utility companies are properly accounted for and that inappropriate costs are not passed on to ratepayers. ***Senate Bill 786*** ***(passed)*** requires gas and electric companies that are subject to cost allocation manual requirements to have an independent audit opinion at least once every two years. The auditor must examine (1) compliance with the company's cost allocation manual; (2) proper allocation of costs to an affiliate in accordance with the manual; and (3) whether the costs and transactions relative to the manual have been appropriately charged to the company and its affiliates. The auditor must identify adjustments that should be made to the manual consistent with earlier PSC rulings and to the company or affiliate relative to the examination. The bill repeals the provision that a company may not be required to have an audit more than once in a consecutive three-year period.

Certificate of Public Convenience and Necessity

The licensing of new electric power plants in the State is a comprehensive two-part process involving PSC and several other State agencies, including principally the Department of Natural Resources (DNR) and the Maryland Department of the Environment (MDE). PSC is the lead agency for licensing the siting, construction, and operation of power plants in the State. Companies wishing to obtain a license for a new power plant apply to PSC for a Certificate of Public Convenience and Necessity (CPCN).

During the CPCN application process, the agencies hold extensive discussions with interested parties such as local governments, environmental organizations, the company proposing to build the power plant, and individual citizens. The agencies incorporate identified concerns into their evaluation.

Before a CPCN is issued for a proposed power plant, the State agencies provide PSC the results of their evaluation and a consolidated set of recommendations as to whether the proposed

site is suitable and whether the proposed power plant can be constructed and operated in an acceptable manner. The agencies also provide detailed recommendations on conditions that should be attached to CPCN. These conditions can relate, for example, to minimizing impacts to air, surface and groundwater, aquatic and terrestrial resources, cultural and historic resources, noise, and land use.

House Bill 1615 ***(passed)*** requires PSC to consider and take final action on an application for a CPCN in an expeditious manner on proposed construction of a specified electric generating station. Specifically, the bill applies to a proposed generating station that is designed to provide electricity for a single electric customer that uses at least 1.5 billion kilowatt hours each year with a generating capacity that does not exceed 750 megawatts. It is expected that the one facility that could take advantage of this legislation is the Eastalco aluminum smelter in Buckeystown, which ceased operations at the end of 2005 when its former long-term electricity supply contract ended. The bill takes effect on June 1, 2006, and terminates June 30, 2011.

Liquefied Natural Gas Facilities

Liquefied natural gas (LNG) is a natural gas that has been supercooled to a liquid at minus 260°F, thus reducing its volume more than 600 times. LNG is stored at more than 100 facilities in the United States. According to the Federal Energy Regulatory Commission (FERC), LNG is stored in double-walled, insulated tanks designed to prevent any gas from escaping. In addition to the double-walled tank, FERC requires all new LNG facilities to have a dike or impounding wall surrounding the facility which would be capable of containing the tank's volume.

Early in 2006, AES Corp. announced a plan to build a $400 million LNG facility on the site of the former Sparrows Point shipyard in eastern Baltimore County. Shipments of LNG would arrive by tanker and natural gas would be pumped from the plant through a pipeline to Pennsylvania. Concerns have been raised by area communities and leaders regarding the safety of locating an LNG facility at that site. Some safety reports have shown that, in a worst case scenario, an LNG fire could cause second degree burns up to 1.3 miles away. The nearest residential community to Sparrows Point is less than two miles away.

While State law does not require PSC to approve the construction of an LNG facility, under a memorandum of understanding with the federal Department of Transportation, PSC does pre-approve facilities as meeting federal regulations. PSC has adopted State regulations to ensure, to the greatest extent practicable, the operational safety of LNG facilities. PSC is also required to periodically inspect each LNG facility to ensure compliance with regulations.

Senate Bill 996 ***(passed)*** establishes the Baltimore County Liquefied Natural Gas Task Force staffed by the Maryland Department of the Environment. A report with findings and recommendations is due by December 31, 2006. The task force is charged with studying:

- the risks and hazards of a liquefied natural gas production, storage, or regassification facility;

- the kind and use of the proposed facility;
- the current and projected population and demographic characteristics of the proposed location;
- the current and proposed land use near the proposed location;
- natural and physical aspects of the proposed location;
- the emergency response capabilities near the proposed location;
- the need and appropriate distance for remote siting;
- the effect of the proposed facility on recreational and commercial boating and fishing and crabbing;
- the impact on the environment, especially on water quality; and
- the impact on the ability of residential property owners near the proposed facility to retain access to their property by way of water.

Net Energy Metering

Chapter 484 of 1997 established solar net energy metering to (1) encourage private investment in renewable energy resources; (2) stimulate in-State economic growth; (3) enhance continued diversification of the State's energy resource mix; and (4) reduce costs of interconnection and administration. While the rated generating capacity for the program is capped in statute at 34.722 megawatts, PSC reports that the program generates substantially less than one megawatt annually in the State. Chapter 542 of 2004 added wind generators to the program and Chapter 266 of 2005 added biomass generators. "Net energy metering" is the measurement of 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 billing period. An "eligible customer-generator" means a customer that owns and operates or leases and operates a biomass, solar, or wind electrical generating facility that (1) is located on the customer's premises; (2) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and (3) is intended primarily to offset all or part of the customer's own electricity requirements.

An eligible customer is given credit for the electricity it generates on its monthly bill from the electric company and is billed for the net energy supplied by the electric company. However, the electric company is not required to provide the customer a credit if the customer's electric generation exceeds the electricity supplied by the grid. In this case, the customer is only required to pay customer charges for that month.

Senate Bill 167*/*House Bill 1323 ***(both passed)*** allow an eligible customer-generator of electricity from biomass, solar, or wind power to accrue generation credit for a period not to

exceed 12 months. The electric company must carry forward a negative kilowatt-hour reading until the customer's usage of electricity from the grid eliminates the credit or the 12-month accrual period expires.

For an eligible customer-generator whose facility can produce energy in excess of the customer's annual energy consumption, PSC may require the installation of a dual meter that is capable of measuring the flow of electricity in two directions. PSC must develop a credit formula that excludes recovery of transmission and distribution costs and provides that the credit may be calculated using a method other than a kilowatt basis. This could include a method that allows dollar for dollar offset of electricity supplied by the grid compared to electricity generated by the customer.

Telephone Services

Telephone Company Lifeline Service

Tel-Life service is a program provided to eligible subscribers that, at a discount, provides a residential local exchange dial access line plus the first 30 residential local untimed messages each billing month. Eligible participants receive a basic land-line phone service at $0.66 each month (plus charges for calls over the 30 free calls). Repairs to inside wiring, connection, and installation are charged at 50 percent of the regular charge.

The Department of Human Resources (DHR) certifies to the phone company the eligibility of an individual to participate in the telephone lifeline service program if the individual (1) participates in any of several assistance programs administered by DHR; (2) receives State-funded public assistance benefits; or (3) receives supplemental security income under Title XVI of the federal Social Security Act. Telephone companies that participate in the Tel-Life program receive a tax credit on the gross receipts tax for the difference between the regular service charge and the charge to the eligible Tel-Life subscriber.

Senate Bill 693*/*House Bill 1562* *(both passed) expands the eligibility and program options for the telephone lifeline service (Tel-Life). The bill requires DHR to provide local phone companies offering Tel-Life monthly electronic access to a file containing a list of all individuals who are eligible for the program. At the direction of PSC, a local phone company must provide the Tel-Life services to an eligible subscriber. The bill adds individuals who receive assistance from the electric universal service program and the Maryland energy assistance program to the pool of eligible subscribers.

An eligible subscriber may select the enhance Tel-Life service which provides unlimited local calls for $10 per month and allows the purchase, at full price, of up to two value-added services (*e.g.*, Caller ID and Call Waiting).

PSC must study the implications of expanding the definition of eligible subscriber to include individuals who do not receive the specified assistance or benefits to be eligible for a telephone lifeline service and who reside in subsidized housing where residential local exchange

access and other associated phone services are included as part of the individual's rent payments. PSC must report its findings and recommendations by December 31, 2006.

Energy Programs

Healthy Air Act

***Senate Bill 154* (Ch. 23)/*House Bill 189* (passed)**, commonly referred to as the Healthy Air Act, establish specified limits on the emissions of nitrogen oxides (NO_X), sulfur dioxide (SO_2), and mercury from six listed electric generating facilities in the State. The bills also address carbon dioxide (CO_2) emissions by requiring the Governor to include the State in the Regional Greenhouse Gas Initiative. Affected facilities must submit annual reports to MDE, DNR, and PSC. MDE must set emissions budgets for each affected facility to implement the emissions limitations. For a more detailed discussion of this issue and other energy legislation, see the subpart "Environment" within Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

Insurance

Regulation of Insurers and Insurance Producers

Loans and Advances Made to Stock Insurers and Mutual Insurers

A director, officer, member of a mutual insurer or a stock insurer, or any other person, may lend or advance any money necessary to enable the insurer to comply with a surplus requirement or any other requirement of law. ***Senate Bill 251*/*House Bill 513* (both passed)** treat loans and advances made to stock insurers like those made to mutual insurers. The bills repeal the 6 percent interest rate limit on a loan or advance to a stock insurer. There is no limit on the interest rate that may be charged on a loan or advance to a mutual insurer. The bills also provide that the instrument evidencing a loan or advance must be approved as to form and content by the Maryland Insurance Commissioner and contain specified provisions. Proceeds of a loan or advance must be in the form of cash or other admitted assets having readily determinable values and liquidity satisfactory to the Commissioner. Finally, the bills repeal the provision requiring the Commissioner's written consent for the repayment or withdrawal of a loan or advance under a notice of deficiency.

Examination Reports

The affairs, transactions, accounts, records, and assets of each authorized insurer; management company of an authorized insurer; subsidiary owned or controlled by an authorized insurer; rating organization; health maintenance organization; premium finance company; private review agent; and pharmacy benefit manager are subject to examination by the Maryland Insurance Commissioner at least once every five years. The Commissioner may also conduct a targeted examination of an entity subject to examination if the Commissioner considers it advisable.

At least 30 days before filing a proposed examination report, the Commissioner must provide a copy to the person examined. If the person requests a hearing within the 30-day period, the Commissioner must grant the request and may not file the proposed report until after the hearing is held and any modifications to the report that the Commissioner considers proper are made. Final examination reports are public documents and may be disclosed to the public.

***House Bill 165* (Ch. 79)** requires the Commissioner to provide a copy of an adopted examination report to the person examined. The Act requires the person examined to present the report to its board of directors at the next regularly scheduled board meeting. According to the Maryland Insurance Administration (MIA), this change in the law is intended to ensure that a board is aware of the examination's findings and recommendations in a timely manner. The Act also changes references from "filing" a report with the Commissioner to "adopting" a report by the Commissioner to track models adopted by the National Association of Insurance Commissioners.

Surplus Lines Insurer Reports

A report, affidavit, or return that must be filed with the Maryland Insurance Commissioner by a surplus lines insurer under the provisions governing surplus lines insurance complies with the filing requirement if it is (1) mailed and postmarked on or before the filing date; or (2) delivered on or before the filing date to a private delivery service recognized by the Commissioner, if the delivery is evidenced by a receipt. ***Senate Bill 377*/*House Bill 583* (both passed)** add an additional method of complying with the filing requirement by authorizing a surplus lines insurer to electronically transmit a report, affidavit, or return if the report, affidavit, or return is transmitted on or before the filing date in a manner approved by the Commissioner.

Prior Approval Rating – Exempt Commercial Policyholders

Generally, there are two models for filing and using insurance rates and forms. Under a "file and use" or "competitive rating" model, an insurer may use materials covered by the filing immediately. Under a "prior approval" model, a state's insurance regulator must approve the filed materials prior to their use. Maryland has both models; they generally apply to different lines of insurance.

Under the State's prior approval rating system, an insurer must file with the Maryland Insurance Commissioner all rates, supplementary rate information, policy forms, and endorsements and any modifications of the filings. The Commissioner must then approve the filings before the insurer may use the rates, policy forms, and endorsements. These filing requirements do not apply to policy forms and endorsements issued to an "exempt commercial policyholder."

***Senate Bill 63*/*House Bill 245* (both passed)** lower the threshold amount, from $75,000 to $25,000, that a person must pay in annual aggregate property and casualty insurance premiums for commercial policies to qualify as an exempt commercial policyholder. Generally, commercial policyholders paying aggregate premiums of $75,000 or more end up in the surplus lines market where insurers are exempt from regulation by MIA. By decreasing the threshold

amount to $25,000, insurers with certificates of authority issued by MIA will not have to file forms with the Commissioner and can better compete with surplus lines insurers for these commercial policies.

Temporary Licenses for Insurance Producers

Chapter 731 of 2001 incorporated provisions of the Model Producer Licensing Act adopted by the National Association of Insurance Commissioners into Maryland's agent and broker licensing law, as required by the federal Financial Services Modernization Act of 1999 (Gramm-Leach-Bliley). Chapter 731 provided for reciprocity for nonresident insurance producers wishing to obtain a Maryland license. Under the reciprocity provisions, the Maryland Insurance Commissioner must waive application requirements and issue an insurance producer license to an insurance producer licensed in another state if that state issues insurance producer licenses to Maryland residents on the same basis.

House Bill 246 ***(Ch. 83)*** repeals provisions authorizing the Commissioner to issue a temporary license to act as an insurance producer for property insurance, casualty insurance, a subdivision of property or casualty insurance, life insurance, or health insurance under specified conditions. The reciprocity provisions for nonresident insurance producers under Chapter 731 of 2001 have rendered these temporary licenses obsolete. Maryland has reciprocity with all 50 states and the District of Columbia. The Act does not affect the authority of the Commissioner to continue issuing temporary insurance producer licenses to specified individuals to carry on a business of a deceased or disabled insurance producer under specified circumstances.

Regulation of Premium Financing and Premium Finance Companies

Premium Finance Companies

Premium finance companies must register with the Maryland Insurance Commissioner, who is responsible for regulating the industry. ***House Bill 861*** ***(passed)*** makes various technical and other changes to the law governing premium finance companies.

Registrations: ***House Bill 861*** increases the fee for an initial registration as a premium finance company from $50 to $250. The bill requires the registrant to file specified information, with the initial registration and on renewal.

Reports: ***House Bill 861*** requires reports about changes in officers, directors, owners, trade names, principals, partners, business addresses, and telephone numbers to be provided to the Commissioner within 30 days after a change occurs. A premium finance company must also file all changes to its premium finance agreement form; and the finance charge, initial service fee, and any other fees and charges. The filings must be approved by the Commissioner before they may be used, and the premium finance company must disclose how the finance charges and amount of refund on cancellation of the insurance contract were calculated to the Commissioner.

Discipline: Subject to applicable hearing requirements, the Commissioner may deny a registration to an applicant or suspend, revoke, or refuse to renew the registration on finding that

the applicant or registrant has violated specified prohibitions. Instead of, or in addition to these actions, the Commissioner may impose a monetary penalty on a registrant. Currently, the Commissioner may impose a penalty of up to $500 for a first or second offense. ***House Bill 861*** alters the maximum monetary penalty that the Commissioner may impose up to $1,000 for each violation and up to a maximum of $20,000 in the event of multiple violations. In addition, the bill provides that a premium finance company that delegates administration of a premium finance agreement to a third party is responsible for any violation by the third party.

Contents of Premium Finance Agreement: ***House Bill 861*** requires the premium finance agreement to contain an itemized list for each insurance contract or coverage financed under the agreement.

Notices of Cancellation: If a notice of cancellation is withdrawn before its effective date and the insurance coverage is reinstated, the insured may be required to pay a reinstatement charge in the same amount as the cancellation charge. ***House Bill 861*** repeals the requirement that the withdrawal be made before the effective date of the cancellation. The bill authorizes the premium finance company, at the insured's option, to send any required notice by personal delivery, first-class mail, commercial delivery service, e-mail, or facsimile transmission. A delivery method other than personal delivery, first-class mail, or commercial delivery service may be used under the bill only with the insured's written consent.

Cancellation of Insurance Contract: ***House Bill 861*** provides that the cancellation of an insurance contract on the date stated in a notice of intent to cancel or a notice of cancellation is not superseded by a premium finance company's issuance of a subsequent notice of intent to cancel or notice of cancellation. Under the bill, there is no valid insurance contract or contracts, and the policy is voided if, within 15 business days after the date of the written notice from a financial institution that the initial down payment for the coverage being financed has been dishonored, an insurer receives notice of the dishonor from the insurance producer or premium finance company.

Disclosures: For personal lines automobile insurance, an independent insurance producer who has an ownership interest in a premium finance company must disclose the interest. ***House Bill 861*** requires the disclosure to state (1) the total amount to be paid by the insured under the agreement during the policy term; and (2) the total amount to be paid by the insured under the insurer's alternative payment plan during the policy term.

Inducements to Financing of Premiums

House Bill 597 ***(passed)*** prohibits an insurance producer, an employee of an insurance producer, or any other person from accepting, directly or indirectly, any valuable consideration as an inducement to facilitate an agreement to finance an insurance premium when the agreement contains an assignment of, or is otherwise secured by, the unearned premium or refund obtainable from an insurer on cancellation of an insurance contract.

Regulation of Surety Insurers and Surety Insurance Professionals

A "surety insurer" is a person in the business of becoming, either directly or through an authorized agent, a surety on a bail bond for compensation. A "surety" is a person other than the defendant who guarantees the appearance of the defendant in court. Bail bondsmen are authorized agents of surety insurers.

Improper Premiums

Generally, a person may not willfully collect a premium or charge for insurance that (1) exceeds or is less than the premium or charge applicable to that type insurance, if subject to prior approval by the Maryland Insurance Commissioner; or (2) if the classifications, premiums, or rates are not subject to prior approval by the Commissioner, exceeds or is less than the premium or charge specified in the policy and set by the insurer. The general prohibition does not prevent an insurance producer from charging a fee of up to 15 percent of the premium for services rendered in placing insurance with an insurer if the commissions are not payable by the insurer.

In order to enforce these provisions, the Commissioner may hold a hearing, issue a cease and desist order, suspend or revoke a license, or impose a penalty for violating these provisions. For an insurer (including a surety insurer), the penalty ranges from $100 to $125,000. For an insurance producer (including a bail bondsman), the penalty ranges from $100 to $500. ***Senate Bill 378***/***House Bill 739*** ***(both passed)*** provide that, in addition to any sanction otherwise applicable, a person that violates the prohibition against improper premiums with regard to a bail bond is subject to a penalty of up to $5,000 for each violation.

Failure to Pay Bail Bond Judgment

The Chief Clerk of the District Court is required to maintain a list containing (1) the names of all surety insurers who are in default in the payment of any bail bond forfeited in any court in the State for a period of 60 days or more; (2) the names of all bail bondsmen authorized to write bail bonds in the State; and (3) the limit for any one bond specified in the bail bondsman's general power of attorney. ***House Bill 833*** ***(passed)*** provides that a surety insurer that is removed by the District Court from the list of surety insurers eligible to post bonds with the court because of a failure to timely resolve or satisfy a bail bond forfeiture is subject to a penalty of $100 up to $125,000 or suspension or revocation of the surety insurer's certificate of authority, or both, as provided in statute. The bill requires the District Court clerk to notify the Maryland Insurance Commissioner in writing of the name of the surety insurer and each bond forfeiture that was not resolved or satisfied by the District Court deadline within 14 days after the failure to resolve or satisfy all bond forfeitures in default by the District Court's deadline.

Property and Casualty Insurance

Cancellation, Nonrenewal, and Premium Increases

Senate Bill 913/***House Bill 570*** ***(both passed)*** revise the provisions of law governing cancellation, nonrenewal, and premium increases of property and casualty insurance policies and

establish separate notice provisions regarding cancellation, nonrenewal, and premium increases for personal and commercial lines of property and casualty insurance. The personal insurance provisions are generally unchanged.

The bills establish a 45-day underwriting period for a binder or policy, other than a renewal, of private passenger motor vehicle, homeowners, dwelling, credit loss, or commercial property insurance, or liability insurance. During this period, an insurer may cancel a binder or policy if the risk does not meet the insurer's underwriting standards. An insurer must give written notice concerning its ability to cancel during the underwriting period. If an insurer intends to cancel a binder given to a consumer borrower to satisfy a lender's requirement, the insurer must give the lender and the consumer borrower 15 days written notice.

For commercial property and casualty insurance, an insurer may terminate a policy if the insured has not paid the renewal premium, as long as the insurer sent the renewal policy and notice of the premium due 45 days prior to the renewal date and sent an offer to reinstate the policy without lapse in coverage that provides at least 10 days for the insured to pay the premium.

Insurers must provide a "statement of the reason" in the notice to cancel or nonrenew a policy. The Commissioner may not disallow a proposed action of an insurer to cancel or nonrenew a policy of personal property and casualty insurance based on errors in the statement of reason that are not misleading. A commercial insured may request, within 30 days of receiving the statement, information from the insurer about the proposed action. The insurer must respond within 15 days.

Under current law, insurers must provide notice 45 days prior to the date a premium is due if the premium is increased 20 percent or more. For personal insurance, ***Senate Bill 913***/***House Bill 570*** require insurers to provide the 45-day notice for all premium increases. For commercial insurance, the bills retain the 45-day notice for premium increases of 20 percent or more; however, commercial insurers are required to provide a statement that the insured may call to request additional information about the increase. The bills authorize a commercial insurer to estimate a premium, if complete information from the insured is unavailable at the time.

Notices about Premium Increases for Personal Insurance

House Bill 1387 ***(passed)*** requires an insurer to send a notice to the named insured and the insurance producer, if any, by first-class mail stating both the amount of the renewal policy premium and the amount of the expiring policy premium at least 45 days prior to a policy's renewal date. The requirement only applies to policies of personal insurance which include property or casualty insurance issued to an individual but does not include motor vehicle liability insurance policies, policies issued by the Joint Insurance Association, or surety insurance.

Homeowners' Insurance

Inquiries by Policyholders: Generally, an insurer must use standards that are reasonably related to the insurer's economic and business purposes in deciding whether to cancel or refuse

to underwrite or renew a particular insurance risk or class of risk. ***House Bill 285*** ***(passed)*** prohibits an insurer, for homeowner's insurance, from refusing to underwrite a risk, increasing a premium, or canceling or refusing to renew coverage based on an inquiry by an insured or an insurance producer on behalf of an insured that does not result in the payment of a claim. The bill defines an "inquiry" as a telephone call or other communication to an insurer regarding the terms and conditions of a homeowner's insurance policy, including a telephone call or other communication about whether the policy provides coverage for a particular loss or the process for filing a claim.

Summary of Coverage, Notice Regarding Flood Insurance, and Statement of Additional Optional Coverage: ***House Bill 1261*** ***(passed)*** requires an insurer that issues a homeowner's insurance policy to provide a policyholder with an annual statement that summarizes the coverages and exclusions under the policy. The bill requires an insurer or insurance producer to provide an applicant for homeowner's insurance with a notice stating that the standard homeowner's insurance policy does not cover losses from flood. The notice must state that flood insurance may be available through the National Flood Insurance Program or other sources. The bill also requires an insurer or insurance producer to provide an applicant for homeowner's insurance with a notice regarding all additional optional coverage available.

Automobile Insurance and Prosecution of Automobile Theft

Senate Bill 975/***House Bill 1600*** ***(both passed)*** require an insurer that uses territory as a factor in establishing automobile insurance rates to submit to the Maryland Insurance Commissioner a statement certifying that (1) the territories used have been reviewed within the previous three years; and (2) the use of territories is actuarially justified. The Commissioner must report annually to the General Assembly about the use of territory as a factor in establishing private passenger automobile insurance rates by insurers and MAIF. The bills also require MIA's fraud division to assist local and State law enforcement agencies in the prosecution of automobile theft.

Motor Vehicle Liability Insurance

Generally, for a policy of private passenger motor vehicle liability insurance or a binder of motor vehicle liability insurance in effect for at least 45 days, an insurer may not (1) cancel or fail to renew the policy or binder for a reason other than nonpayment of premium; (2) increase a premium for any coverage on the policy; or (3) reduce coverage under the policy. At least 45 days before the proposed effective date of one of these actions, an insurer must send written notice of its proposed action to the insured. ***Senate Bill 948***/***House Bill 760*** ***(both passed)*** establish separate provisions governing cancellations, nonrenewals, and reductions in coverage from the provisions governing premium increases.

Cancellations, Failures to Renew, and Reductions in Coverage: For cancellations, failures to renew, or reductions in coverage, ***Senate Bill 948***/***House Bill 760*** require the insurer's statement to the insured for proposing to take the action to include a brief statement of the basis for the action. The Maryland Insurance Commissioner may not disallow a proposed action because the insurer's statement of actual reason contains erroneous information, provided that, in

its absence, there remains a sufficient basis to support the action. At a hearing challenging a cancellation, nonrenewal, or reduction in coverage, the insurer has the burden of proving that its action is in accordance with its filed rating plan, its underwriting standards, or the lawful and applicable terms and conditions of the policy.

Premium Increases: For premium increases, at least 45 days before the effective date of an increase in the total premium, ***Senate Bill 948***/***House Bill 760*** require the insurer to send written notice of the increase to the insured at the insured's last known address by certificate of mail. The notice may accompany or be included in the renewal offer or policy.

If the insured believes that the premium increase is incorrect, the bills authorize the insured to protest the proposed action within 30 days after the mailing date. The Commissioner must then notify the insurer. Generally, a protest does not stay the proposed action. If a premium increase on the policy exceeds 15 percent, the Commissioner may order a stay pending a final decision if the Commissioner makes specified findings about the increase. The Commissioner must determine whether the action is in accordance with the filed rating plan and dismiss or allow the action based on the information contained in the notice. An aggrieved party to request a hearing for a premium increase of more than 15 percent for the entire policy. At a hearing, the insurer has the burden of proving that the action is in accordance with its rating plan and, in so doing, may rely only on the reasons set forth in its notice to the insured. The bills require the Commissioner to issue an order within 30 days after the hearing.

Senate Bill 948/***House Bill 760*** prohibit the Commissioner from dismissing a protest solely because of the insured's failure to state a reason that the insured believes the premium increase is incorrect. If the Commissioner disallows a premium increase for the entire policy, the insurer must return the disallowed premium with interest.

Lastly, ***Senate Bill 948***/***House Bill 760*** authorize MIA to establish a pilot program for the purpose of reducing the number of protests filed under the bills. Participation by insurers and insureds is voluntary. The program may require participating insurers to provide certain information and assistance to consumers who request information about premium increases. MIA must report on the implementation and results of the program by January 1, 2008.

Title Insurance and Title Insurance Producers

Senate Bill 463/***House Bill 1460*** ***(both passed)*** establish standards for "title insurance producer independent contractors." A title insurance producer independent contractor is a person that (1) is a licensed title insurance producer; (2) provides escrow, closing, or settlement services as an independent contractor for, or on behalf of, a licensed and appointed title insurance producer; and (3) is not an employee, or associated with, the licensed and appointed title insurance producer. A title insurance producer may not use or accept the services of a title insurance producer independent contractor unless the contractor holds an appointment with the title insurer with which the contract of title insurance may be placed.

The bills also clarify the annual on-site review requirements of title insurance producers; provide that the licensing, bonding, education, experience, and examination requirements

relating to title insurance producers do not apply to law firms; and provide that notice provisions with respect to title insurance do not apply to commercial real estate transactions.

Life Insurance

Insurable Interests in the Insured

An individual of competent legal capacity may procure or effect an insurance contract on the individual's own life or body for the benefit of any person. Generally, a person may not procure or cause to be procured an insurance contract on the life or body of another individual unless the benefits under the contract are payable to the insured, the insured's personal representative, or a person with an insurable interest in the insured at the time the contract was made. Under *Beard v. American Agency Life Ins. Co.*, 314 Md. 235 (1988), an insurance contract in which the beneficiary has no insurable interest is void as against public policy.

***Senate Bill 300*/*House Bill 271* (both passed)** provide that the trustee of a trust, a partnership, limited partnership (LP), or limited liability company (LLC) has an insurable interest in the life of an individual for life insurance purposes under specified conditions. Under the bills, the trustee of a trust has an insurable interest in the life of an individual insured under a life insurance policy owned by the trust or the trustee of a trust if, on the date the policy is issued (1) the insured is the grantor of the trust, closely related to the grantor, or otherwise has an insurable interest; and (2) the life insurance proceeds are primarily for the benefit of trust beneficiaries having an insurable interest in the life of the insured. A partnership, LP, or LLC has an insurable interest in the life of an individual insured under a life insurance policy owned by the partnership, LP, or LLC if, on the date the policy is issued, substantially all of the owners are the insured; individuals closely related to the insured; or persons having an insurable interest in the life of the insured.

Viatical Settlements

A viatical settlement broker or provider facilitates the sale of a life insurance policy from a terminally ill patient or other person to an investor at a discount. The investor then recovers the face value of the policy after the policyholder's death. Meanwhile, the terminally ill seller secures income in the final years of life. In general, viatical settlements are a secondary market for life insurance policies. ***Senate Bill 689*/*House Bill 1386* (both passed)** establish new requirements for viatical settlement brokers and insurers relating to viatical settlement transactions.

At the time of each application for a viatical settlement, ***Senate Bill 689*/*House Bill 1386*** require a viatical settlement broker to provide the viator with a written disclosure that contains at least a description of the services that must be provided by statute. The bills prohibit a viatical settlement broker from purchasing, directly or indirectly, a policy that is the subject of a viatical settlement contract between the broker and a viator through a person owning or controlling an interest in the broker; or a person in which any interest is owned or controlled by the broker.

The bills require a broker to submit to the viator all offers, counter-offers, acceptances, and rejections within 72 hours after receiving them. The bills also require a written disclosure regarding the broker's compensation. The brochure that the broker must provide to a viator must contain a description of the broker's fiduciary duty under Maryland law to the viator.

Lastly, the bills require an insurer to respond to a request for verification of coverage submitted by a viatical settlement provider or viatical settlement broker within 30 days after receiving the request if the request is received with a signed authorization from the viator and a "verification of coverage for life insurance policies" form. An insurer may not, for responding to such a request, charge a fee of more than $50. The insurer may send an acknowledgement of receipt of a request for verification, containing specified information, to the viator and, if the viator is not the insured, the insured.

Horse Racing and Gaming

Video Lottery Terminals

Video Lottery Terminal Proposals

For the fourth consecutive year, legislation to authorize video lottery terminals (VLTs) at horse racing tracks and other locations was unsuccessful. ***Senate Bill 225*/*House Bill 318* *(both failed)***, were Administration bills that would have authorized up to 15,500 VLTs at six locations (four horse racing tracks and two unspecified nontrack locations), as well as creating an Education Trust Fund (ETF) and other special funds. ***House Bill 442* *(failed)*** would have authorized up to 9,500 VLTs at four locations and created several funds, including an ETF. ***House Bill 575* *(failed)*** would have authorized up to 12,500 VLTs at five horse racing tracks and would have created a Public School Construction Fund and other special funds. ***House Bill 970* *(failed)*** would have authorized up to 13,500 VLTs and would have created several funds, including an ETF.

Other Proposals

House Bill 1012* *(failed) would have provided that, if controlled gaming such as VLT gaming is allowed, the State would own or lease the gaming facilities and equipment. ***House Bill 1178* *(failed)*** would have proposed an amendment to the Maryland Constitution to prohibit the General Assembly from authorizing additional forms or an expansion of commercial gaming on or after January 1, 2007, unless the voters approve. Similarly, ***House Bill 193* *(failed)*** would have proposed an amendment to the Maryland Constitution to prohibit the General Assembly from allowing more than 13,000 VLTs and six VLT facilities and would have also required that a VLT license could be issued only if a majority of the votes cast in the proposed county approved. ***Senate Bill 42* *(failed)*** would have required that Maryland voters vote, via a straw ballot question on the November 2006 ballot, on whether they support locating VLTs at up to three racetracks and at up to three nonracetrack destination locations. ***Senate Bill 785* *(failed)*** would have authorized VLT gaming on vessels at dock or underway in State waterways. ***Senate***

Bill 132/House Bill 884 (both failed) and ***House Bill 1553 (failed)*** would have allowed certain qualified organizations to own or operate slot machines throughout the State.

State Lottery

Voluntary Assignments

State lottery winners may assign voluntarily all or part of prizes that are paid in installments under ***Senate Bill 48 (Ch. 34)/House Bill 158 (passed)***, provided that certain conditions are met. A voluntary assignment is an uncompelled transfer by way of sale or gift of the right to receive the lottery prize from the winner (assignor) to another person or entity (assignee). An assignment may be made only if, among other conditions, the State is held harmless by the assignee and assignor as a result of the voluntary assignment. The assignor also has five business days after signing the contract to cancel the agreement.

In 2005, the General Assembly passed substantially similar legislation that was vetoed by the Governor, who expressed concerns that certain provisions of the legislation contradicted provisions of the State's Uniform Commercial Code. This legislation resolves those differences.

Charitable and Commercial Gaming

Task Force to Study Charitable and Commercial Gaming Activities in Maryland

This session, the lack of uniform procedures among counties in regulating charitable and other organizations that conduct gambling activities drew interest among some legislators.

Although there were several bills dealing with these concerns, the General Assembly did not pass any of the bills. ***House Bill 1426 (failed)*** would have established a Task Force to Study Charitable and Commercial Gaming Activities in Maryland. The task force would have studied the current statutory and regulatory provisions governing charitable and commercial gaming in the State and at local levels; the prevalence of illegal charitable and commercial gaming activities in local jurisdictions; and the financial impact of these gaming activities on various affected organizations.

Other bills addressed specific areas of charitable and commercial gaming. ***House Bill 1325 (failed)*** would have required each county to establish a standard gaming commission to regulate charitable gaming. ***House Bill 1438 (failed)*** would have required a person who transfers a video gaming device to an establishment to inform the operator of the establishment in writing that cash payouts may not be awarded to players. ***House Bill 1411 (failed)*** would have required the Comptroller to submit an annual report to the General Assembly about the operation of slot machines and specified video gaming devices in the State.

Local Gaming Legislation

Baltimore County

House Bill 1304 ***(passed)*** enables a qualified organization in Baltimore County to conduct a casino event that includes a card game once each calendar month, instead of once during each calendar year. A person that holds a casino event may not allow a player to bet more than $10 in any one game within the calendar month.

Carroll County

Under ***House Bill 938*** ***(passed)***, senior center site councils in Carroll County may conduct billiards, card games, and bingo in the senior centers five days each week, excluding Sundays. Furthermore, the bill specifies maximum entry fees and the maximum value of prizes that may be awarded. Any money remaining after the prizes are awarded are to be distributed to the senior center site council.

Frederick County

Under current law, an authorized nonprofit organization in Frederick County may conduct not more than six raffles per year, provided that the prize drawings are held on a single day and the major prize has a value of no more than $5,000. ***House Bill 255*** ***(passed)*** allows an organization each calendar year to hold one "calendar" raffle in which prize drawings are held over the course of several days, provided that the major prize has the same value of no more than $5,000.

Garrett County

House Bill 119 ***(passed)*** clarifies the types of organizations in Garrett County that are authorized to conduct paper gaming and bingo under existing law, and clarifies that all organizations that conduct paper gaming must purchase a paper gaming license from the county. The bill also eliminates restrictions on the frequency of gaming events and the size of prizes awarded.

Horse Racing

Financial Statements of Horse Racing Licensees

The time that horse racing licensees have to submit certain financial information to the Maryland Racing Commission is extended from the seventh-fifth day to the ninetieth day following the end of the licensee's fiscal year, under ***House Bill 174*** ***(Ch. 81)***. The information includes an itemized statement of receipts of all sources, and an itemized statement under oath for the preceding fiscal year of receipts and expenses and disbursements**.**

Interstate Licensing Compact

Many Maryland horse owners and trainers participate in live racing in several states. To help these persons reduce the cost and paperwork involved in acquiring licenses in each state, ***House Bill 555*** ***(passed)*** authorizes Maryland to join the Interstate Compact on Licensure of Participants in Live Racing with Pari-Mutuel Wagering. Under the bill, Maryland owners and trainers are eligible for a compact license. Issued by a compact committee composed of racing officials from the member states, a compact license is honored by the racing commission in each member state, thus allowing licensees to avoid the necessity of acquiring individual state licenses.

Maryland-Bred Fund Races

House Bill 903 ***(passed)*** authorizes the State Racing Commission to approve the running of a Maryland-Bred Fund Race at a thoroughbred track outside the State. Fund races are held to promote horse breeding in Maryland, with awards given to breeders of successful entries. Entries in fund races are restricted to horses that were foaled in Maryland as shown by a foal certificate from the Maryland Jockey Club.

Purse and Bred Fund Supplements

House Bill 1672 ***(failed)*** would have mandated that in fiscal 2006, up to $15,000,000 of State lottery revenue overattainment that would otherwise have been paid to the general fund be allocated to purses and to the Maryland-Bred Race Fund and the Standard Bred Race Fund under a certain formula.

Economic and Community Development

Housing and Community Development

Housing Authorities

Code Revision: ***Senate Bill 11*** ***(Ch. 63)*** completes the new Housing and Community Development Article of the Annotated Code by revising, restating, and recodifying the statutes in Article 44A of the Code that governed the operations of housing authorities. The Act repeals Article 44A in its entirety and, without making any substantive changes to the law, organizes those provisions into 12 titles within Division II ("Housing Authorities") of the Housing and Community Development Article. ***Senate Bill 12*** ***(Ch. 64)*** corrects cross references in the Annotated Code to reflect the structure of the new Housing and Community Development Article.

Local Housing Authority Operation: ***House Bill 960*** ***(passed)*** allows a housing authority to establish and control a not-for-profit limited liability company (LLC) that may own, operate, develop, and undertake housing projects. An LLC is a legal entity that combines certain

elements of a corporation and a partnership. LLCs are becoming the preferred legal entity to own real estate, as this type of entity is more flexible than a corporation.

House Bill 657 ***(passed)*** authorizes the Montgomery County Housing Opportunities Commission (MCHOC) to enter into development agreements outside of Montgomery County in order to provide low-income housing. The bill also authorizes MCHOC to enter into contracts to furnish services, consultation, and assistance to other persons and housing authorities either in or out-of-state to assist in providing low-income housing. MCHOC is one of a limited number of housing agencies that, in addition to owning and managing public housing, is also authorized to develop and finance affordable housing.

Workforce Housing

House Bill 1160 ***(passed)*** establishes the Workforce Housing Grant Program in the Department of Housing and Community Development (DHCD), which provides flexible capital funds to qualifying local governments for costs to develop workforce housing located in a priority funding area. Workforce housing is rental or homeownership housing that is affordable to households within a certain percentage of the area median income. A local government qualifies for the program if it has certain elements in its comprehensive plan and it provides an equal match for any program funds received. The bill outlines a procedure that requires program funds and matching funds to be repaid to the State and local governments if an initial buyer sells the workforce housing unit before owning it for 15 years.

Rental Housing Programs

According to the 2000 U.S. Census, an estimated 33 percent of Maryland households pay more than 30 percent of their income in rent. Additionally, quality affordable rental units are increasingly scarce. The 2004 final report of the Governor's Commission on Housing Policy indicates that there will be a shortfall of 157,000 affordable rental units from 2005 to 2015, including 25,000 units for seniors and 29,000 units for individuals with disabilities. DHCD has pledged to take steps to mitigate this shortfall, through creative partnerships with private entities and local authorities. DHCD currently produces approximately 2,700 affordable rental units per year and is working on enhancements that will allow it to produce another 1,800 units. The enhancements are anticipated to reduce the shortfall to 94,750 in 2014.

Senate Bill 126 ***(passed)*** expands the eligible uses of Partnership Rental Housing Program funds to include financial assistance to private developers to construct, acquire, or renovate rental housing units for lower-income persons with disabilities or special needs. Additionally, the bill removes the requirement for the local governments' contributions to increase for each subsequent project, in order to encourage local governments to undertake more projects.

Senate Bill 127 ***(passed)*** alters the eligible uses of funds from the Maryland Housing Rehabilitation Program to include the acquisition and rehabilitation of multifamily housing containing more than four dwelling units. DHCD advises that its multifamily Maryland Housing Rehabilitation Program for buildings with more than four units is currently inactive, but that it is

considering restarting the program. DHCD anticipates funding acquisitions of buildings to assist nonprofits or faith-based organizations without sufficient resources to acquire buildings to preserve them as affordable housing. Additionally, the bill gives the Secretary of DHCD the flexibility to modify the age limits of DHCD programs to reach individuals who are 55 or older.

Senate Bill 683 ***(failed)*** would have expanded eligibility for the Rental Assistance Program, which provides rental payments for low-income families, to include eligible households with a disabled member, regardless of other program requirements. In addition, the bill would have increased funding for the program through an additional $5 special transfer tax.

Economic Development

Base Realignment and Closure

In 1990 the U.S. Congress created a process known as Base Realignment and Closure (BRAC) to address an excess capacity of military facilities. The 2005 BRAC represented the first major base closure and realignment activity in 10 years. In total, Maryland gained approximately 17,000 military and civilian jobs in the Department of Defense (DOD), phased in over a five- to six-year period. According to the Department of Business and Economic Development (DBED), the total number of new jobs generated by the 2005 BRAC could exceed 40,000, and bring 50,000 new residents to the State, concentrated primarily in Harford, Anne Arundel, and Montgomery counties.

Chapter 335 of 2003 established the 19-member Military Installation Strategic Planning Council to review State policies to identify actions needed to prepare for the 2005 BRAC. The council serves as a single point of contact between DOD and the State for issues relating to realignment and closure of federal military installations.

House Bill 1700 ***(passed)*** renames the Maryland Military Installation Strategic Planning Council (MMISPC) to be the Maryland Military Installation Council (MMIC). The bill expands the purposes of the council to include identifying actions related to base expansion, associated impacts on infrastructure, encroachment, and educational collaboration. The bill also extends the council from December 31, 2008, to December 31, 2011, and appoints two new members representing local liaison organizations formed since the council was first formed. The council must report to the General Assembly by December 31 of each year and issue a final report by December 1, 2011.

Biotechnology and Nanotechnology Incentives

Senate Bill 144 ***(Ch. 19)*** creates a Maryland Stem Cell Research Fund and a Stem Cell Research Commission in the Maryland Technology Development Corporation (TEDCO). The purpose of the fund is to promote State-funded stem cell research and cures through grants and loans to public and private entities in Maryland. Each year, starting in fiscal 2008, the Governor may include in the budget bill an appropriation to the stem cell research fund. The TEDCO budget includes $15 million for stem cell research, contingent on enactment of ***Senate Bill 144***

or ***House Bill 1*** ***(failed)***. A more detailed discussion of ***Senate Bill 144*** can be found under Part J – Health of this *90 Day Report*.

Nanotechnology involves manufacturing products made of components the size of atoms and molecules, and medical applications are expected in areas such as drug delivery and gene therapy. The State budget also includes $6 million for a biotechnology investment tax credit that was established by Chapter 99 of 2005. In addition, nano-biotechnology funding receives $2.5 million to be allocated to University System of Maryland institutions. A more detailed discussion of this funding can be found under Part A – Budget and State Aid of this *90 Day Report.*

Enterprise Zones

Enterprise zones are areas that are targeted by local jurisdictions and the federal government to encourage economic development through the use of tax incentives and economic development assistance. Enterprise zones expire after 10 years. Eligible businesses in an enterprise zone may claim several benefits, including a 10-year credit against local real property taxes on a portion of qualified property improvements; 1-year or 3-year income tax credits for wages paid to new employees in new positions; and financial assistance from eligible economic development funds within DBED. Under DBED, the Maryland Small Business Development Financing Authority and Maryland Economic Development Assistance Authority Fund may provide funds for financial assistance to eligible businesses.

House Bill 399 ***(passed)*** allows the Secretary of DBED to approve an expansion of up to 50 percent in the size of an existing enterprise zone, without this expansion counting towards the six enterprise zones or the one extraordinary expansion that DBED may approve in one year. The bill also alters the time limit on the number of enterprise zones and extraordinary expansions DBED may approve in one year to be a calendar year, as opposed to the 12-month period under current law.

Although an enterprise zone designation expires after 10 years, a business may obtain the property tax benefits of the zone for up to five additional years under ***Senate Bill 764***/ ***House Bill 941*** ***(both passed)***. These bills are more thoroughly discussed under Part B – Taxes of this *90 Day Report*.

Maryland Food Center Authority

Senate Bill 323/***House Bill 881*** ***(both passed)*** make technical changes to the 39-year-old Maryland Food Center Authority Statute and updates outdated references in anticipation of the recodification of this statute for introduction next session.

Heritage Areas

The Maryland Heritage Areas Program was created in 1996 to help communities use heritage tourism to build their economies while protecting, developing, and promoting their cultural, historical, and natural resources. The program targets financial and technical assistance

to a limited number of areas designated across the State as "certified heritage areas." Currently, there are 10 State-certified heritage areas in Maryland.

House Bill 175 (Ch. 82) repeals the September 30, 2006, termination date of the authorization for the Maryland Heritage Areas Authority to use Program Open Space (POS) funds transferred to the authority for operating and debt service expenses. The Act allows for the continued use of up to 10 percent of the $3 million transferred from POS to the authority for operating expenses and up to 50 percent for debt service on any bonds issued by the authority.

Tax Incentives

Neighborhood and Community Assistance Program: Senate Bill 1076 (passed)/House Bill 1235 (failed) make programmatic changes to the Neighborhood and Community Assistance Program's Community Investment Tax Credit. Under this legislation, business donors may receive credit for donating real property as well as goods and services. The legislation also increases the maximum credit a business may receive from $125,000 to $250,000.

Maryland-mined Coal: Senate Bill 335/House Bill 487 (both passed) phase out the tax credit that certain electricity suppliers may claim against the income tax and the public service company franchise tax, ending in 2021. These bills are discussed in greater detail in Part B – Taxes of this *90 Day Report*.

Rural Communities

Rural Broadband: In rural areas, the cost of obtaining high-data-transmission rate Internet connection (broadband) may be several thousands of dollars for any residential or business customer. This has led to a reduced penetration of broadband into rural areas. Currently, more than 30 percent of homes and businesses on the Eastern Shore are not served by high-speed cable modems or digital subscriber lines, the two most common methods of residential high-speed Internet.

Senate Bill 753/House Bill 1156 (both passed) establish a Maryland Rural Broadband Coordination Board to assist in the deployment of broadband communication infrastructure in rural and underserved areas of the State. The bills also establish the Rural Broadband Assistance Fund (RBAF) as a nonlapsing special fund in DBED to be used for planning, construction, and maintenance of rural broadband.

The bills require $4 million in general funds to be appropriated in fiscal 2008 and 2009 for RBAF, in addition to $2 million included in the 2007 budget from the Maryland Economic Development Assistance Authority Fund (MEDAAF). In addition, if DBED spends more than $2 million on rural broadband in fiscal 2007, the fiscal 2009 appropriation is to be reduced by a commensurate amount. This funding, in combination with $2 million in federal funding and funding from private industry, will help create a 525.2-mile fiber optic network from the NASA facility on Wallops Island, Virginia, through the Eastern Shore and Southern Maryland to the Patuxent River Naval Air Station. The bills take effect July 1, 2006, and sunset on June 30, 2020.

Rural Maryland Prosperity Investment Fund: In 2001, the National Conference of State Legislatures (NCSL) established a Rural Development Task Force charged with exploring how legislatures can institutionalize mechanisms to address rural issues in a coordinated and sustained way. In 2002, the task force developed 10 principles for rural development for states to consider when deliberating on rural challenges.

***Senate Bill 902*/*House Bill 1487* (both passed)** establish a Rural Maryland Prosperity Investment Fund that is designed to implement several of the NCSL recommendations. The objective of the fund is to help raise the overall standard of living in rural areas to a level that meets or exceeds statewide benchmark averages by 2020, while preserving the best aspects of a pastoral heritage and rural way of life. The fund will be administered by the Rural Maryland Council with the assistance of the Maryland Agricultural Education and Rural Development Assistance Board. Money in the fund must be allocated equally among four categories: rural regional planning and development assistance; regional infrastructure projects; rural entrepreneurship development; and rural community development, programmatic assistance, and education. Grants will be awarded by the board on a competitive basis.

Agritourism: ***Senate Bill 485*/*House Bill 1106* (both passed)** establish minimum performance standards for agricultural buildings used to house farm tools, animals, or products in several rural counties engaged in agritourism, and exempts these buildings from the Maryland Building Performance Standards. A more detailed discussion of these bills can be found under Part K – Natural Resources, Environment, and Agriculture in this *90 Day Report*

Tri-County Council for Western Maryland: The Tri-County Council for Western Maryland is a regional economic development organization representing Allegany, Garrett, and Washington counties. ***Senate Bill 334*/*House Bill 268* (both passed)** reduce the membership of the council from 27 to 23 members by removing the four nonvoting members. The bills also alter the appointment process of the three elected municipal officials and six private citizens on the council by requiring that each be appointed by their respective boards of county commissioners. Finally, the bills clarify that council members-at-large serve at the pleasure of their respective boards of county commissioners, and their term of office must coincide with the term of their appointing board of county commissioners.

Workers' Compensation

Corporate Officers and Limited Liability Company Members

Generally, an employer that fails to comply with workers' compensation coverage requirements or fails to pay a workers' compensation award is guilty of a misdemeanor and is subject to a fine of up to $5,000 and/or one year imprisonment. An officer of a corporation and a member of a limited liability company (LLC) are not jointly and severally liable for workers' compensation awards or assessments. While general management officers of a corporation are subject to the fine and imprisonment, members of an LLC are not subject to the same penalties.

House Bill 1035 ***(passed)*** makes an officer of a corporation with general management responsibility and a member of an LLC with general management responsibility jointly and severally liable for the payment of workers' compensation awards or assessments, if the assets of the corporation or LLC are not sufficient for payment and the officer knowingly failed to secure workers' compensation insurance.

Numerous other jurisdictions have already implemented laws that make officers of corporations jointly and severally liable for workers' compensation judgments or fines, including Alaska, New York, New Jersey, Oregon, and the District of Columbia.

Covered Employees – Civil Defense Volunteers

Maryland citizens who volunteer in State-declared emergencies pursuant to an emergency management assistance compact are entitled to workers' compensation benefits. However, the only volunteers who are explicitly covered by the State for workers' compensation are enrolled volunteer members or trainees of the Maryland Emergency Management Agency, who are not clearly defined and members of the Maryland Defense Force, a civilian volunteer militia.

Senate Bill 849/***House Bill 1005*** ***(both passed)*** provide workers' compensation benefits for an individual who volunteers for a State agency during an emergency if he or she qualifies as a "civil defense volunteer." The bill defines a civil defense volunteer as an individual pre-certified or preregistered with a unit of State government to provide services at the request of the State during an emergency. Among the beneficiaries would be the Maryland Professional Volunteer Corps, which was created in 2003 to ensure preparedness in case of a disaster such as the September 11 terrorist attack or a bioterrorism attack. These volunteers are recruited and trained by various licensing boards and include almost 6,000 medical personnel, of which 2,600 are trained and credentialed for emergency deployment.

The bill provides that a civil defense volunteer is a covered employee of the State if the individual sustains an injury while providing services at the request of the State during an emergency or during scheduled emergency training, unless the volunteer is otherwise covered by workers' compensation insurance.

Finally, the bill adopts the payment formula used to compensate volunteer fire and rescue members for lost wages, which states that (1) if the volunteer received a salary or wages from another employer at the time of the accident, that salary is used to compute the average weekly wage; or (2) if the volunteer did not receive a wage or salary from other employment, one of the following calculations apply:

- if the volunteer derived income from a source other than salary or wages, the maximum compensation allowed under law;

- if the volunteer was not engaged in a business enterprise, the weekly income last received by the volunteer when the volunteer was engaged in a business enterprise; or

- if the volunteer was never engaged in a business enterprise, the minimum compensation allowed under law.

Self-insurance Employers – Increased Annual Assessment

If approved by the Workers' Compensation Commission, certain qualifying governmental and individual employers are authorized under State law to be self-insured for workers' compensation. There were 117 authorized self-insured employers during fiscal 2005 covering 419,400 employees in Maryland. Self-insured employers pay an annual assessment to the commission of $500 for actuarial studies and audits. Those audits are conducted to provide reasonable assurance that self-insured employers are in compliance with the State law and are providing adequate security to the State in the event of default on workers' compensation payments. Each self-insured employer is audited approximately every four years.

House Bill 191 ***(passed)*** increases from $500 to $1,500 the annual assessment charged to self-insured employers to allow for an increased number of these actuarial studies and audits. As a result, the commission's special fund revenues are expected to increase by approximately $120,000 annually.

Lyme Disease – Presumptions

Maryland has the seventh highest Lyme disease infection rate in the nation, with 17.4 cases per 100,000 residents. Lyme disease is a disease that begins when a type of bacteria enters the skin after a person is bitten by an infected tick, and spreads throughout the entire body.

The Food and Drug Administration (FDA) licensed LYMErix, a vaccine to prevent Lyme disease, in December 1998. In January 2001, the FDA held a special session on the safety of the vaccine to review reports that the vaccine may trigger treatment-resistant Lyme arthritis and other chronic arthritic disorders. Although the FDA never concluded that the vaccine was unsafe, in the summer of 2002, GlaxoSmithKline voluntarily discontinued manufacturing the vaccine due to poor demand. The Centers for Disease Control and Prevention has advised that anyone who was vaccinated before 2002 is probably no longer protected from Lyme disease.

A paid law enforcement employee of the Department of Natural Resources who is regularly assigned in an outdoor wooded environment and contracts Lyme disease is eligible to be covered for workers' compensation coverage under the presumption that the disease was a result of employment. However, the employee must demonstrate that the employee had a Lyme disease vaccination made available to the employee by the department, unless the vaccination conflicts with the employee's religious beliefs and practices.

Senate Bill 765 ***(passed)*** repeals the requirement that these employees must receive any vaccination for Lyme disease to be eligible for the Lyme disease presumption for workers' compensation coverage.

Howard County Deputy Sheriffs

House Bill 1144 ***(passed)*** increases the workers' compensation payment for Howard County deputy sheriffs who suffer a permanent partial disability if the deputy sheriff was performing law enforcement duties in accordance with a memorandum of understanding. Deputy sheriffs who are awarded permanent partial disability claims of less than 75 weeks will be compensated at the rate used for awards of 75 to 250 weeks. Accordingly, the maximum weekly rate increases from $144 to $267. Howard County, which is self-insured for workers' compensation, has estimated annual increased claim payments of approximately $30,600.

Cecil County – Students in Unpaid Work-based Learning Experiences

Chapter 354 of 2003 provided that a county board of education that places a student in a structured, unpaid work-based learning experience with an employer may choose to secure workers' compensation coverage for the student. If a board secures the coverage, the participating employer must reimburse the board the lesser of the cost of the workers' compensation premium or $250. The student is considered to be an employee of the employer under the workers' compensation law and covered against medical expenses if he or she gets injured.

House Bill 209 ***(passed)*** authorizes the Cecil County Board of Education to waive the requirement that an employer reimburse the board for providing workers' compensation coverage for students in an unpaid work-based learning experience.

Insurers and Health Maintenance Organizations

House Bill 868 ***(passed)*** prohibits a health insurance carrier from requiring a health care provider, as a condition of participation or continuation on a provider panel for health care services, to also serve on a provider panel for workers' compensation services. The bill also prohibits a carrier from terminating, limiting, or otherwise impairing its contract or agreement with a health care provider, who chooses not to provide workers' compensation services. The bill applies to contracts or agreements between health insurance carriers and health care providers that are executed on or after July 1, 2006.

Senate Bill 303/House Bill 364 ***(both failed)*** would have prohibited a health insurer, nonprofit health service plan, or health maintenance organization from delaying payment for services that may be covered under a workers' compensation claim while the issue of compensability of the claim is being determined. A carrier would have been required to comply with prompt payment provisions for all services rendered to its enrollees for an injury or other medical condition that is or may be covered under a workers' compensation claim.

Stay of an Order Pending Appeal

House Bill 1019 ***(failed)*** sought to authorize a court, on a motion and after a hearing, to grant a stay of an order of the Worker's Compensation Commission regarding accrued additional

permanent partial disability payments. Under the bill, the court would have been able to require the party bringing the motion to post a bond or provide other collateral as a condition of the stay and payments would have been stayed until the court rules on the appeal of the commission's order.

The bill arose out of a court case (*Gleneagles, Inc., et al. v. Linda M. Hanks*, CA No. 57, Sept. Term 2004) in which the Maryland Court of Appeals held that an employer/insurer is not entitled to a stay or an injunction of a workers' compensation award pending judicial review. In May 2003, the Worker's Compensation Commission issued an order for compensation for Ms. Hanks which resulted in a liability for Gleneagles, Inc. and from the Subsequent Injury Fund. Gleneagles filed a petition for judicial review in the circuit court and a request for Immediate Temporary Restraining Order and Request for Stay and/or Preliminary Injunction, which was granted. The Court of Appeals held that the lower court did not have the authority to grant the injunctive relief based on statutory law.

Unemployment Insurance

Special Administrative Expense Fund

In a June 2002 report, the Office of Legislative Audits found that the Department of Labor, Licensing, and Regulation (DLLR) had improper special fund expenditures of $4.7 million from the Unemployment Insurance Special Administrative Expense Fund (SAEF). SAEF revenue is derived primarily from fines, interest, and penalties collected by DLLR's Unemployment Insurance Administration. State law required that the funds be used for unemployment insurance expenses and any balance in the fund in excess of $250,000 at year end must revert to the general fund. In calendar 2005, this fund contained approximately $3.4 million.

Instead of reverting the funds, DLLR used them for various expenditures that the Office of Legislative Audits determined were normal operating expenditures. DLLR objected to this finding on the basis that it relied on legal advice that SAEF funds could be used for any purpose authorized by the General Assembly.

In an opinion issued November 3, 2004 (89 Opinions of the Attorney General 172 (2004)), the Attorney General stated, "While there is no specific provision in the SAEF statute that allows for the payment from the fund of costs related to occupancy, such as utilities, maintenance, and security, in some circumstances these costs may be considered part of the cost of [office] acquisition. Money in SAEF may not be devoted to a use not allowed by the SAEF statute, such as operational expenses, unless the General Assembly passes a law permitting that use." The opinion goes on to state that "The General Assembly has specified those purposes [for using SAEF money] in the Unemployment Insurance Law. The appropriation of moneys from the SAEF in the budget bill is limited to those purposes. Of course, the General Assembly may expand those purposes in separate legislation. And, to the extent that the SAEF statute is ambiguous, language in the budget bill may shed light on the meaning of that statute." In

response to a request from DLLR during the 2005 interim, the Joint Committee on Unemployment Insurance Oversight introduced legislation to broaden the uses of the fund and offset yearly declines in federal funding.

***Senate Bill 585*/*House Bill 802* (both passed)** expand the authorized uses of SAEF and require an annual report beginning December 31, 2007, to the Governor, the Senate Budget and Taxation and Finance committees, and the House Appropriations and Economic Matters committees. The report must include SAEF's financial status and a summary of activity along with a description of all projects receiving money from the fund. DLLR may use SAEF for administrative expenses considered necessary for the unemployment insurance program, such as computer and telecommunication systems and office space improvements or acquisition.

Labor and Industry

Minimum Wage Increase

Although Maryland has a minimum wage law, the State has traditionally adopted the federal minimum wage, which is currently $5.15 per hour for covered employees. Federal law, however, does not prevent states from adopting a higher minimum wage.

During the 2005 session, the General Assembly passed House Bill 391, which requires private-sector employers to pay the greater of the federal minimum wage or a wage that equals a rate of $6.15 per hour to employees subject to federal or State minimum wage requirements. Employers may apply a "tip credit" against the direct wages paid to tipped employees. The tip credit was raised to 50 percent of the higher of the federal or State minimum wage. As a result, employers are required to pay tipped employees a wage rate that equals $3.08 per hour.

The Governor vetoed the bill; however, during the 2006 session, the General Assembly voted to override the Governor's veto, and the bill was signed into law ***(Ch. 2)***. Chapter 2 took effect January 17, 2006. Maryland now joins 17 other states and the District of Columbia in mandating a minimum wage higher than the federal minimum wage of $5.15 an hour, which amounts to $10,712 annually for a full-time worker.

Employers subject to the minimum wage increase, as defined by Chapter 2 of 2006, do not include State or local governments. ***House Bill 55* (passed)** extends the State minimum wage of $6.15 per hour and tip credit mandated by Chapter 2 to State and local government employees.

Fiscal Impact

State Government Employees: According to the Department of Legislative Services (DLS), the State has a minimal number of employees who would be affected by ***House Bill 55***. DLS estimates that ***House Bill 55*** will cost the State approximately $847,500 in fiscal 2007 due to additional wages and mandatory payroll taxes paid by the State. Most of the impact would be on higher education institutions. These costs are likely to decline by approximately 3 percent annually, which reflects the national annual decline in minimum wage workers.

Approximately 467 contractual employees and 6 regular employees, excluding University System of Maryland (USM) employees, are paid less than $6.15 per hour. Increasing the wages paid to these employees would cost approximately $120,400 on an annualized basis.

USM advises that approximately 2,400 contractual employees who are subject to the minimum wage are paid less than $6.15 per hour. The implementation of ***House Bill 55*** would lead to an increase in wage and payroll tax expenditures by approximately $600,000 in fiscal 2007. Additionally, St. Mary's College of Maryland advises that increasing the minimum wage would increase its expenditures by approximately $128,000 in fiscal 2007, which represents increased wages for approximately 600 student-employees.

Of the states with an above-federal minimum wage, those that apply the state minimum wage to state and local government employees include Maine, Connecticut, Oregon, Illinois, Delaware, Rhode Island, and Washington.

Local Government Employees: Maryland counties and cities typically pay their employees more than the federal minimum wage, with the exception of some part-time, seasonal, or recreational employees. Several local governments surveyed by DLS indicated that an increase to $6.15 would have minimal or no fiscal impact. Of the local governments surveyed by DLS:

- Baltimore City indicated that 220 summer employees could be affected but that the city has already decided to pay these employees a minimum wage of $6.15 per hour.
- Montgomery County would not be impacted due to its living wage regulations.
- Howard County would be minimally impacted. Fourteen workers currently earn less than $6.15 per hour, and increasing wages to these employees would cost the county approximately $2,300 in fiscal 2007.
- Prince George's County indicated that a limited number of short-term contractual employees would be affected.
- Calvert, Caroline, Cecil, Somerset, and Calvert counties as well as the cities of Bel Air, Hagerstown, Laurel, and Salisbury indicate that they would not be significantly impacted.

Provision of Health Insurance

During the 2005 session, the General Assembly also passed Senate Bill 790/House Bill 1284 ***(Chs. 1 and 3)***. Those bills require an employer with 10,000 or more employees that spends less than 6 percent of total wages for a nonprofit employer or 8 percent of total wages for a for profit employer on health insurance costs to pay the Department of Labor, Licensing, and Regulation an amount equal to the difference between what the employer spends on health insurance and the required percentage of total wages paid. Although the bill was vetoed by the Governor, the veto was overriden by the General Assembly during the 2006 session. For a more detailed discussion of Chapters 1 and 3, see Part J – Health Insurance of this *90 Day Report*.

Privacy of Social Security Numbers

Unauthorized use of a Social Security number (SSN) is the most common technique used by criminals to commit identity theft. As indicated in the Report on the Attorney General's Identity Theft Forum, the number of identity theft complaints received by the Federal Trade Commission from Maryland residents increased by more than 400 percent over the last five years, ranking Maryland eleventh among the 50 states in the number of identity theft victims as a percent of its population.

Chapter 521 of 2005 set forth several restrictions on the use or display of a SSN to combat this problem. For example, it prohibited a person from (1) publicly posting or displaying an individual's SSN; (2) printing an individual's SSN on a card required to access products or services provided by the person providing the card; or (3) requiring an individual to transmit the individual's SSN over the Internet unless there is a secure connection and encryption protection.

House Bill 388 ***(passed)*** further restricts the publication of SSNs by prohibiting an employer, including a governmental unit, from printing an employee's SSN on the employee's (1) paycheck; (2) attachment to a paycheck; (3) direct deposit notice; or (4) notice of credit to a debit card or card account. Although SSNs of State employees are currently printed on each employee's pay stub, the Comptroller of the Treasury intends to remove them prior to January 1, 2007, the effective date of the bill.

Employment of Ex-felons

Senate Bill 193/***House Bill 1391*** ***(both passed)*** reestablish the Pilot Program for the Long-Term Employment of Qualified Ex- Felons under the Department of Labor, Licensing, and Regulation. For a more detailed discussion of the bills, see Part B – Income Tax of this *90 Day Report*.

Employment of Immigrant Workers

Immigration and the status of undocumented workers are matters of federal law, and there have been recent efforts at the national level to make changes to the laws regarding undocumented workers. In the wake of this national attention, some states have sought to address the issue of undocumented workers through tighter employer regulation. The General Assembly addressed two bills, ***House Bill 1336*** and ***House Bill 1475*** ***(both failed)***, during the 2006 session that sought to regulate the employment of immigrant workers.

House Bill 1336 would have prohibited a day labor agency from operating in the State without a day labor agency license issued by the Secretary of Labor, Licensing, and Regulation. Furthermore, day labor agencies would have been prohibited from (1) knowingly referring a day laborer to a job if any condition of the employment violates State or federal law; (2) referring a day laborer to an establishment where a labor dispute exists; (3) establishing or setting wage rates or benefits for day laborers; or (4) employing a day laborer who is not authorized to reside or work in the United States.

In terms of day-to-day operations of these day labor agencies, each agency would have been required to keep detailed records of each job order from an employer, each employer or person that receives services from a day laborer through the agency (including employment address and federal employer identification number), and the name and address of each day laborer using the agency. Day laborers who visit the agency would have been required to produce documentation of legal U.S. residency status.

The continuing operation of local government-funded worker centers in Montgomery County and Baltimore City would have been affected by the provisions of this failed bill.

House Bill 1475 would have required all State contractors, subcontractors, and grantees to participate in the federal Basic Pilot Program electronic verification of work authorization program as a condition of receiving their contract or grant.

The pilot program requires employers to certify on federal Form I-9 that they have reviewed employees' immigration documentation and that the documents appear genuine. Employers are not responsible if those documents are later found to be false. According to the U.S. Government Accountability Office (GAO), numerous studies have found that document and identity fraud are prevalent and often sophisticated, and that employers have few tools available to them to combat it. The GAO has also detected problems with implementation of the pilot program.

Emergency contracts or grants for goods or services would have been exempted from the requirements. Additionally, the bill would have allowed the Board of Public Works to audit any contractor, subcontractor, or grantee to ensure compliance with the requirements, and, in the case of noncompliance, to recommend termination of the contract or grant.

Alcoholic Beverages

Statewide Bills

Wineries – Direct Sales to Retailers

In one of the most important cases in decades concerning the regulation of alcoholic beverages, the U.S. Supreme Court recently declared in *Granholm v. Heald*, 125 S.Ct. 1885 (2005) that allowing in-state wineries to sell wine directly to consumers in that state without allowing out-of-state wineries to do so constitutes discrimination against interstate commerce in violation of the Commerce Clause of Article I, Section 8 of the U.S. Constitution.

In the wake of the *Granholm* decision, a Pennsylvania winery filed suit in federal district court, alleging that Maryland discriminates against out-of-state wineries by allowing only instate licensed wineries to deliver their product directly to restaurants, retailers, and permit holders. More recently, the Office of the Comptroller, based on its reading of *Granholm*, determined that this long-standing practice of direct delivery by in-state wineries violated the Commerce Clause.

On February 1, 2006, the office issued an Administrative Release that suspended direct delivery by Maryland's licensed wineries.

Senate Bill 812 ***(passed)***, addresses the Commerce Clause issue by entitling both small in-state and out-of-state wineries to sell their product directly to retailers. First, the bill creates a Class 6 limited wine wholesaler's license, which may be issued to an in-state winery that holds a Class 4 limited winery license and that produces not more than 27,500 gallons of its own wine annually. The license entitles the licensee to sell and deliver its own brand of wine produced at the licensee's premises to a retail licensee or permit holder in the State authorized to acquire the wine. In addition, the bill creates a nonresident winery permit for out-of-state wineries that also produce not more than 27,500 gallons of its own wine.

An in-state winery that acquires a Class 6 limited wine wholesaler's license and an out-of-state winery that acquires a nonresident winery permit must sell their product directly to retailers and may not use wholesalers to distribute their product.

A holder of a nonresident winery permit shall be governed by all requirements governing wholesalers (*e.g.*, the prohibition against price discrimination and the setting of maximum discounts by the Comptroller), except that a holder is exempt from the provision that requires any alcoholic beverages acquired by a wholesaler to first come to rest on the licensed premises of the wholesaler before being sold and delivered to a retail licensee.

Finally, the bill requires the holder of a nonresident winery permit to pay the alcoholic beverage tax on the wine it sells or delivers to retail dealers in the State and to post security for the tax.

Micro-breweries – Direct Sales to Retailers

House Bill 1302 ***(failed)*** would have allowed certain licensed micro-breweries to sell not more than 5,000 barrels of beer in a calendar year directly to licensed retailers in the State.

Removal of Partially Consumed Bottle of Wine from Licensed Premises

A person who orders a bottle of wine with a meal at a restaurant but only consumes part of the contents of the bottle may now take the bottle with its remaining contents home, under ***Senate Bill 280***/***House Bill 517*** ***(both passed)***. The licensee of the licensed premises where the meal and wine were purchased or an employee of the licensee must insert a cork in or place a cap on the bottle before the purchaser takes the bottle away.

Once removed from the licensed premises, the bottle is to be considered an "open container" for purposes of the State's Open Container Law, meaning that the bottle may not be placed in a passenger area of a motor vehicle but rather must be stored in a locked glove compartment, trunk, the area behind the rearmost upright seat, or other area that is not normally occupied by the driver or a passenger.

Military Identification Card as Proof of Age

House Bill 752 ***(passed)*** allows an alcoholic beverages licensee or employee of a licensee to accept a person's U.S. military identification card as proof of age before selling or furnishing alcoholic beverages to the person.

Alcohol without Liquid Machines

An Alcohol without Liquid (AWOL) machine is a device that mixes spirits with pure oxygen, creating a cloudy alcohol vapor that can be inhaled. Bypassing the stomach and liver, the vapor is absorbed through blood vessels in the nose or lungs, thereby creating a quicker and more intense effect on the brain than drinking. ***House Bill 1284*** ***(failed)*** would have prohibited the use of AWOL machines to (1) inhale alcohol vapor or otherwise introduce alcohol in any form into the human body or (2) to possess, purchase, transfer, or offer for sale or use an AWOL machine.

Local Bills

Allegany County

Micro-breweries: ***House Bill 1612*** ***(passed)*** adds Allegany County to the list of counties that may issue a Class 7 micro-brewery (on-and off-sale) license that authorizes the holder to sell at retail up to 4,000 gallons of home-brewed beer each year.

Anne Arundel County

BLX Licenses: To make certain parts of Anne Arundel County that are underserved by luxury-style restaurants more attractive to high-end restaurant chains, ***House Bill 1454*** ***(passed)*** creates a seven-day Class BLX (deluxe restaurant) (on-sale) beer, wine, and liquor license for restaurants that have a minimum capital investment of $800,000, exclusive of the cost of the land and buildings. Under the bill, a single person may have an interest in up to six BLX licenses, provided that the restaurants for which they are issued are located in specified areas. With certain exceptions, licenses held on or before June 30, 2006, are counted against the maximum number of six licenses that the licensee may hold.

A licensee may have a direct interest in not more than four licenses and an indirect interest (as evidenced by any of a number of specified factors, such as a licensing or franchise agreement) in the remaining licenses.

The bill also calls for the Anne Arundel County Economic Development Corporation, in consultation with representatives of the retail alcoholic beverage industry and the Board of License Commissioners, to conduct a study on dividing the county into alcoholic beverages districts, with each district assigned a population quota for every class of license. The study may be used to determine the number of licenses that may be issued in each district. The corporation is required to provide a final report on the study to the county executive and the county delegation on or before December 31, 2006.

Baltimore City

Golf Course Licenses: The City of Baltimore owns five golf courses, one of which is located in Baltimore County. ***Senate Bill 1100 (passed)*** authorizes the Board of Liquor License Commissioners to issue special Class M-G beer, wine, and liquor licenses for each golf course to allow consumption only on the land and in the facilities used for golfing purposes.

License Application Procedures: ***Senate Bill 344 (passed)*** requires the Board of Liquor License Commissioners to consider certain factors, such as public need and desire, before approving an application for an alcoholic beverages license. The bill also requires that an application must be disapproved if the board makes any one of certain determinations, such as that the granting of the license is not necessary for the accommodation of the public.

Public Hearing on License Transfers: ***Senate Bill 90 (passed)*** requires a public meeting to be held on the transfer of a license for an establishment in operation if the hearing is requested by at least 10 residents in the immediate area of the establishment.

License for Arts Club: Under ***Senate Bill 78 (passed),*** the Board of Liquor License Commissioners may issue one Class C beer, wine, and liquor license for use by an arts club in the Highlandtown Arts and Entertainment District. The board may issue this license, however, only before December 31, 2006.

After Hours Food Service: ***Senate Bill 304 (passed)*** allows the Board of Liquor License Commissioners to allow Class D beer, wine, and liquor licensees that operate a restaurant in the 46th Legislative District to remain open after hours to serve food in a dining room that is not adjacent to a bar.

Baltimore County

License Issuances and Transfers for Revitalization Districts: Several bills increase the number of restaurants in the Towson and Loch Raven areas. ***Senate Bill 1061/House Bill 1702 (both passed)*** authorize the Board of Liquor License Commissioners to issue up to three Class B (B,W,L)(TSB) restaurant-service bar beer, wine, and liquor (on-sale) licenses in the Towson Commercial Revitalization District or the Loch Raven Commercial Revitalization District. The restaurants for which the licenses are issued must have a minimum seating capacity of 40 persons and a maximum seating capacity of 120 persons. The Board has until the end of December 31, 2011, to issue the licenses. ***Senate Bill 1063/House Bill 1703 (both passed)*** authorize the board to allow the transfer of up to two beer, wine, and liquor (on-sale) licenses into the Towson Commercial Revitalization District from election district 13, 14, or 15. A license transferred is to be converted into a Class B (B, W, L) (TCRD) license for use by a restaurant with a minimum seating capacity of 100 persons and a minimum capital investment of $500,000. License transfers must be made before the end of December 31, 2009.

Sunday Sales: Last minute shoppers for the Jewish High Holidays will benefit from ***House Bill 1575 (passed)***, which allows liquor stores and other licensees to exercise their off-sale privileges on the Sunday before Rosh Hashanah and the Sunday before Yom Kippur.

Wineries: In an effort to attract wineries into the county, ***House Bill 1577 (passed)*** exempts a winery that applies for a Class A/Class 4 winery license from any quotas established by the Board of License Commissioners as to the number of licenses in the election district with the winery is located.

Calvert County

Senate Bill 905 (passed) creates in the 27th Legislative District a Class BLX license for luxury-type restaurants with a minimum capital investment of $500,000. Under the bill, an individual, corporation, or other person or combination of persons may have a direct or indirect interest in any combination in up to three Class B and Class BLX licenses. The bill also offers of evidence of an indirect interest, such as of a common parent company a franchise agreement involving a combination of persons.

Caroline County

Salaries of License Commissioners: ***Senate Bill 603/House Bill 341 (both passed)*** increase the salaries of the members of the Board of License Commissioners. Under the bill, the annual salaries are chairman, $3,000; regular board member, $2,500; and alternate member, $100 per meeting, but not more than $2,000 in any one-year period.

Cecil County

Wine Festival License: ***House Bill 634 (passed)*** creates a wine festival alcoholic beverages license, authorizing the County Liquor Board to choose one weekend annually for the festival from June through September for the festival, as long as the dates do not conflict with certain other wine festivals in the surrounding area.

Charles County

Senate Bill 905 (passed) expands the scope of the existing Class BLX license for luxury restaurants to allow an individual, corporation, or other person or combination of persons to have a direct or indirect interest in any combination in up to six Class BLX licenses. The bill also offers of evidence of an indirect interest, such as of a common parent company a franchise agreement involving a combination of persons.

Dorchester County

A bottle club is an unlicensed establishment that serves, gives, or allows alcoholic beverages to be consumed by its members or guests from supplies that the patrons previously purchased or reserved. ***Senate Bill 899/House Bill 689 (both passed)*** state that bottle clubs may not evade the alcoholic beverage license laws, including hours of operation and the sale, giving, serving, dispensing, keeping, and allowing the consumption of any alcoholic beverage, setups, or other component parts of mixed drinks. A person violating the bill's provisions is guilty of a misdemeanor and is subject to a fine of up to $10,000.

Frederick County

Special Beer Festival: Reflecting the widening appeal of beer festivals in the county, ***House Bill 259*** ***(passed)*** expands from one to four the number of weekends the beer festival may be held each year. The bill also allows beer festivals to be held at Harry Grove Stadium.

Beer and Wine Sampling or Tasting: ***House Bill 1641*** ***(passed)*** expands the wine tasting license into a beer and wine tasting or sampling license, increases the annual license fee from $150 to $200, and specifies that not more than one ounce of light wine or not more than three ounces of a given brand of beer may be consumed by a single individual at a sampling or tasting event.

Conversion of Tuscarora from Dry to Wet District: Frederick County is one of the few jurisdictions in the State that have "dry" areas; that is, areas in which licenses for the sale of alcoholic beverages may not be issued. ***House Bill 726*** ***(passed)*** converts the dry Tuscarora election district into a "wet" district in which alcoholic beverages licenses may be issued. Before the conversion becomes effective, however, the conversion must be submitted to a referendum and approved by county voters in the November 2006 election.

St. Katharine Drexel Roman Catholic Congregation: To enable the St. Katharine Drexel Roman Catholic Congregation to hold wine tasting events, spaghetti suppers, and other fundraising events to fund building construction or for other charitable purposes, ***House Bill 725*** ***(passed)*** allows the Congregation, which is located in the Tuscarora District, to acquire a one-day special beer, wine, and liquor license; thus, the Congregation is assured of acquiring a license even if the referendum to convert the Tuscarora District under ***House Bill 726*** fails.

Harford County

BFD Licenses: ***Senate Bill 443***/***House Bill 480*** ***(both passed)*** authorize holders of a Class B (inn) license may sell alcoholic beverages in conjunction with a meal under certain conditions. The bills also allow a holder of a Class B (inn) license issued after March 6, 2006, to sell beer and wine from the dining room to guests for consumption off the premises, if the holder previously held a Class B (restaurant) license permitting conferring off-sale privileges.

Residency Requirements for Applicants for Licenses: Until now, an applicant for an alcoholic beverages license must be a bona fide resident of Harford County at the time of filing the license application. ***Senate Bill 656***/***House Bill 482*** ***(both passed***) alter this requirement so that an applicant must be a resident for at least one year before filing the application.

Restaurants in an Integrated Community Shopping Center: Generally, a licensee may not sell alcoholic beverages within 1,000 feet of any public or private school building in Harford County. ***House Bill 1626*** ***(passed)*** allows the Liquor Control Board may waive this restriction under if the restaurant for which an alcoholic beverages license sought is located in an integrated community shopping center and if the Liquor Control Board takes into account, among other considerations, comments received from parents whose children attend the public or private school.

After Hours Food Service: The general rule for closing hours is that a licensed premises must end all operations, including food service, at the closing hour for that class of licensed premises. ***Senate Bill 304 (passed)*** carves out a food service exception to this rule in the 46th Legislative District, allowing a Class D beer, wine, and liquor licensee that operates a restaurant to remain open if it is used only for serving food to patrons seated in a dining room that is not adjacent to a bar.

BDR Licenses: Intended to attract deluxe restaurants to what county planners call the Development Envelope, which encompasses the Interstate Route 95 and Maryland Route 24 corridors, ***Senate Bill 922 (failed)*** would have increased by one the number of Class BDR (beer, wine, and liquor) licenses a single person who already holds any Class B license could possess, provided that the restaurants for which the licenses are issued would be located in specified areas. The bill also would have increased from two to four the number of BDR licenses that may be issued to a person who does not hold a Class B license.

Howard County

Light Wine Licenses: ***House Bill 226 (passed)*** adds Howard County to the list of counties that authorize the issuance of light wine licenses. The licenses allow wineries to sell their product to consumers on the premises.

Multiple Licenses: ***House Bill 902 (passed)*** allows the Board of License Commissioners to issue to a single person up to two Class B (on-sale) beer, wine, and liquor licenses, up to three Class BLX (luxury restaurant) (on-sale) beer, wine, and liquor licenses, or up to five Class BLX (luxury restaurant) (on-sale) beer, wine, and liquor licenses for separate premises.

Montgomery County

Lifting of Moratorium: If an alcoholic beverages license is revoked, the general rule is that the licensee is banned from obtaining any other license, and no other person is entitled to obtain a license for the same premises until six months after the date of revocation. ***House Bill 1266 (passed)*** authorizes the Board of License Commissioners to issue a license for the same premises to a person other than the former licensee without the six-month moratorium.

Prince George's County

Additional Licenses: ***House Bill 919 (passed)*** increases the maximum number of these licenses: Class B beer and light wine licenses – 45, Class B beer, wine, and liquor licenses – 185, Class BCE beer, wine, and liquor licenses – 8, and Class BH beer, wine, and liquor licenses – 25.

Places of Public Entertainment: Places of public entertainment are unlicensed establishments that allow nudity and sexual displays. ***House Bill 922 (passed)*** prohibits a person from serving or dispensing setups or serve, dispense, keep, or allow to be consumed any alcoholic beverages or other component parts of mixed alcoholic drinks in a place of public entertainment. In addition, the bill prohibits a person who operates a business establishment for

profit that is not licensed from not knowingly allowing customers to bring alcoholic beverages for consumption into the establishment.

Nudity and Sexual Displays – Bottle Clubs: Last year, the General Assembly passed legislation that prohibits nudity and sexual displays in establishments with alcoholic beverages licenses. This year, ***Senate Bill 72 (failed)*** would have applied the same prohibition to bottle clubs. Like places of public entertainment, a bottle club is an unlicensed establishment that allows alcoholic beverages to be consumed by patrons from supplies that the patrons previously purchased or reserved. The bill would have authorized an inspector of the Board of License Commissioners to issue a citation against a bottle club if the inspector had probable cause to believe that the person charged is committing or has committed a violation.

Salaries of Commissioners and Board Personnel: ***Senate Bill 446 (failed)*** would have increased annual salaries for each member of the Board of License Commissioners, the administrator of the Board, and the attorney of the board. The bill also would have allowed the county council to provide the attorney to the board with appropriate additional compensation for necessary services.

St. Mary's County

Beer and Wine Tasting or Sampling: ***House Bill 357 (passed)*** creates a one-day Class BWTS beer and wine (on-premises) tasting or sampling license. Under the bill, a person may consume wine or beer in a quantity not exceeding one ounce from a single brand of wine, and four ounces from all brands in a single day; and three ounces from a single brand of beer, and eight ounces from all brands in a single day.

Somerset County

Wine Tasting and Sampling: ***House Bill 202 (passed)*** establishes a wine tasting and sampling license, modifies the process to apply for an alcoholic beverages license, establishes new fees and increases existing license fees, and increases salaries for the Board of License Commissioners.

Wicomico County

Wine Festival: Doubling the license fee for a Wicomico County Wine Festival license, ***Senate Bill 618 (passed)*** increases the cost from $25 to $50 a day.

Wineries: By enabling wineries to acquire a Class A light wine license, ***Senate Bill 614 (passed)*** allows wineries to sell their product to consumers on their premises.

Administrative Proceedings: A licensee that sells alcoholic beverages to a person under 21 years old commits a misdemeanor, for which the licensee may be granted probation before judgment. ***Senate Bill 617 (passed)*** ensures that a grant of probation before judgment does not bar the Board of License Commissioners from revoking the license or taking other administrative action against the licensee.

Conference Center License: ***Senate Bill 613*** ***(passed***) increases the annual license fee for a Class B – Conference Center license from $1,100 to $1,500.

Maximum Fine: ***Senate Bill 619*** ***(passed)*** increases the maximum fine that the Board of License Commissioners may impose on a person for committing any alcoholic beverages violation from $2,000 to $5,000.

Board of License Commissioners as State Agency: ***Senate Bill 620*** ***(passed)*** confirms the status of the Board of License Commissioners as a State agency that administers the alcoholic beverages provisions in the county and that may grant, refuse, revoke, or suspend licenses for the sale of alcoholic beverages.

Stadium License: ***Senate Bill 616***/***House Bill 504*** ***(both passed)*** raise the annual license fee for a Class B beer and light wine on-sale (stadium) license from $1,500 to $2,000. The license is the one used for the Arthur W. Perdue Stadium, home of the Delmarva Shorebirds.

Alcohol Awareness Program Required: Except for the holder of a Class C license, an alcoholic beverages licensee or a supervisor employed by the licensee must be certified by an approval alcohol awareness program and must be present during the hours when alcoholic beverages may be sold, under ***Senate Bill 615***/***House Bill 462*** ***(both passed).*** A person certified by an approved alcohol awareness program may be absent from the licensed premises for a bona fide personal or business reason or an emergency if the absence lasts no more than two hours.

Food Sales Requirement: ***Senate Bill 612***/***House Bill 464*** ***(both passed)*** require holders of alcoholic beverages licenses for use in hotels, restaurants, stadiums, and golf courses to have the average daily receipts from the sale of food for each month exceed the average daily receipts from the sale of alcoholic beverages.

Worcester County

Noise Level Limits: In an attempt to give relief to give relief to neighbors of premises licensed for alcohol beverages sales where loud music is played, ***House Bill 402*** ***(passed)*** prohibits the music from exceeding certain noise level limits of the county or municipal corporation in which the licensed premises is located. If the Board of License Commissioners finds that a licensed premises violates the limits, the board may require the licensee to alter the time that the music is played, require the licensee to reduce the noise level, or take any other action for which it has authorization.

Wineries: ***House Bill 404*** ***(passed)*** allows Class A light wine licenses to be issued so that a wine manufacturer may sell light wine produced at the winery at retail at the place described in the license.

Caterer's License: ***House Bill 1085*** ***(passed)*** allows the Board of License Commissioners to issue a caterer's license to a holder of a Class D (taverns) beer, wine, and liquor license.

Sales and Deliveries by Liquor Control Board: ***House Bill 401*** ***(passed)*** authorizes the Liquor Control Board to sell or deliver alcoholic beverages except beer and light wine to retail license holders from 6 a.m. to midnight Monday through Saturday and from 9 a.m. to 5 p.m. on Sunday.

Class D Licenses: Clarifying boundaries that were rendered obsolete by the Legislative Districting Plan of 2002, ***House Bill 532*** ***(passed)*** specifies where in the County a Class D beer, wine, and liquor license may be issued. The bill also states that annual license fees for the six-day the seven-day licenses are set by the Worcester County Commissioners, but they may not fall below specified amounts.