Part H
Business and Economic Issues

Business Occupations

State Board of Law Examiners

Authority of the State Board of Law Examiners Extended

The State Board of Law Examiners is subject to periodic review under the Maryland Program Evaluation Act (also known as the sunset law). A 2007 preliminary evaluation of the board by the Department of Legislative Services recommended that the Legislative Policy Committee waive the board from further evaluation. The evaluation also recommended extending the board's termination date to July 1, 2020.

Senate Bill 514 ***(passed)*** implements these recommendations and increases the statutory cap on the bar examination fee that must be set by the Court of Appeals to a maximum of $250 in fiscal 2009 and $400 beginning in fiscal 2010. The bill expresses the intent of the General Assembly that fee revenues approximate the board's expenditures.

Stationary Engineers

Heating Boilers Exempted from Oversight Requirements

Chapter 613 of 2005 requires an individual to be licensed by the State Board of Stationary Engineers before providing stationary engineer services in the State. Licenses are issued in five grades, generally distinguished by the horsepower of the boiler the licensee is authorized to oversee. A license is required of any individual who oversees a boiler that operates at a pressure of more than 15 pounds per square inch and a minimum of 30 horsepower.

Senate Bill 622**/*****House Bill 808*****(both passed)*** establish that a licensed stationary engineer is not required to oversee the operation of a heating boiler. The provisions of the bill do not supersede the authority of the Board of Boiler Rules to implement boiler and pressure vessel safety standards.

Resource Recovery Facility Operators Exempted from Licensing Requirements

Resource recovery facilities process solid waste to produce steam, electricity, metals, or refuse-derived fuel. These facilities rely on waste heat, rather than fossil fuels, to generate energy that is transmitted off premises. The incinerator operators at these facilities are certified by the Maryland Department of the Environment (MDE), which establishes training and examination requirements.

Senate Bill 969*/*House Bill 1561* *(both passed) establish that an individual who provides stationary engineer services at a resource recovery facility does not have to hold a license from the State Board of Stationary Engineers if otherwise certified by MDE.

Certified Public Accountants

Practice Privilege Established for Out-of-state Licensees and Permit Holders

The State Board of Public Accountancy regulates and licenses certified public accountants and issues permits to business entities that provide accountancy services. ***House Bill 1296*** ***(passed)*** establishes practice privilege for certified public accountants, which authorizes an individual licensed by another state to practice without a Maryland license while remaining subject to the State's regulatory and disciplinary authority.

An individual who qualifies for practice privilege and the firm that employs the individual is subject to the authority of the board and must comply with all State accountancy laws. Practice privilege applies as long as an individual holds a valid license from another state. Sole practitioners operating under the practice privilege are limited in the services they are authorized to provide and must associate with a permitted firm.

House Bill 1296 also repeals the requirement that a partnership, limited liability company, or corporation hold a permit issued by the board before offering certified public accountancy services. Instead, businesses offering these services must hold a permit if operating an office in Maryland that performs attest services or if performing certain attest services for a client with a home office in Maryland. In general, firms must also be permitted if an office in the State uses the title "CPA" or "CPA firm."

A firm that does not have an office in the State may provide financial statement review or compilation services for a client in Maryland if the firm meets applicable application and peer review requirements and performs services through an individual who qualifies for practice privilege. Other professional services may be offered without a permit if provided by an individual with practice privilege in the state where the individual retains a principal place of business.

Individual Tax Preparers

Registration of Individual Tax Preparers by the State Board of Individual Tax Preparers Established

Senate Bill 817 ***(passed)*** establishes an eight-member State Board of Individual Tax Preparers in the Department of Labor, Licensing, and Regulation to register qualified individuals to provide individual tax preparation services. The bill also establishes an Individual Tax Preparers Fund to approximate the costs associated with administration and enforcement requirements of the bill.

An individual is required to be registered by the board before providing individual tax preparation services in the State. To qualify, an individual must be at least age 18, a high school graduate, and pass an examination equivalent to the Special Enrollment Examination prepared by the Internal Revenue Service.

A registered individual tax preparer must disclose certain information to a customer prior to rendering services, including the preparer's credentials and contact information. The preparer must sign a return that he or she prepares, obtain the customer's signature on a completed return, and maintain confidentiality.

Persons exempted from the registration requirements include persons licensed by the State Board of Public Accountancy or a licensing authority in another state, persons admitted to practice law in Maryland or another state, persons employed by government in performance of official duties, persons enrolled to practice before the Internal Revenue Service under Circular 230, and persons serving as an assistant to an individual tax preparer or exempted professional.

An individual who provides tax preparation services has until June 1, 2010, to meet registration requirements. The board must waive examination requirements for an individual who has at least 15 consecutive years of individual tax preparation experience, has completed at least eight hours of annual continuing education, and is in good standing with federal and State regulatory agencies.

Home Inspectors

Insurance and Training Requirements Increased

An individual must be licensed as a home inspector by the State Commission of Real Estate Appraisers and Home Inspectors before practicing in the State. ***Senate Bill 196*** ***(passed)*** increases training requirements to include at least 72 hours of on-site training approved by the commission and a national home inspection organization. (Current law requires a minimum of 48 hours of an off-site training course.) The course must include successful completion of the National Home Inspector Examination or an equivalent examination.

A home inspector licensed by the commission has to maintain general liability insurance of at least $150,000. Proof of insurance is required as part of the initial application or renewal of

a license. A licensee must notify the commission at least 10 days before the cancellation of his or her general liability insurance policy. The commission may reprimand a licensee or suspend or revoke a license for failure to maintain minimum required levels of insurance.

Makeup Artists

Limited Licensing Repealed

An individual is required to be licensed by the State Board of Cosmetologists before practicing cosmetology in the State. A limited license to provide makeup artist services authorizes the holder to apply creams, lotions, cosmetic preparations, and cleansing solutions to an individual's face for compensation. ***Senate Bill 144 (Ch. 18)*** repeals limited licensing of makeup artists, as the Department of Labor, Licensing, and Regulation has determined that regulation of makeup artists is not necessary to protect public health or safety.

Real Estate Brokers

Penalty Provisions Expanded

House Bill 626 (passed) increases criminal penalties for violations of specified provisions of the Maryland Real Estate Brokers Act. For persons who violate the act, the bill establishes a high penalty for second and subsequent offenses. First offense penalties remain at a fine of up to $5,000 and/or imprisonment up to one year. A person found guilty of a second violation is subject to a fine of up to $15,000 and/or imprisonment for up to two years; subsequent violations are punishable with a fine of up to $25,000 and/or imprisonment for up to three years. The bill also makes a licensee acting as an agent subject to criminal penalties for failure to properly disclose a relationship with a seller and makes any licensee subject to criminal penalties for failure to fulfill his duties to a client.

For corporations, partnerships, and other associations, the bill establishes a higher penalty for second and subsequent offenses of committing or contributing to an act that constitutes grounds for disciplinary action against a licensee or violates any other provision of the act. The bill increases the maximum penalty to $15,000 for a second violation and $25,000 for any subsequent violation for a corporation, partnership, or other association that commits or contributes to an act that constitutes grounds for disciplinary action (first offense penalty remains at a fine up to $5,000.)

Business Regulation

Privacy of Soldiers

Use of Soldier's Image Prohibited

Senate Bill 3*/*House Bill 64 (both passed) prohibits the knowing use of the name or image of a soldier killed in the line of duty within the previous 50 years in advertising the sale of

merchandise or services. A person using such an image is required to obtain prior consent from the soldier, the soldier's next of kin, or a representative before using the image to gain commercial advantage. A person who violates these provisions is guilty of a misdemeanor and is subject to a fine of up to $2,500 and/or imprisonment for up to one year. Restrictions do not apply to noncommercial uses of a soldier's name or image, including use in print media, broadcast programming, film, a photography exhibition, or a performance.

Elevator Safety Review Board

Special Fund Established to Support Board Activity

House Bill 63 ***(passed)*** establishes the Elevator Safety Review Board Fund to retain fee revenues generated from licensing of elevator mechanics and contractors and registration of third-party qualified elevator inspectors. At the end of each fiscal year, special fund revenues in excess of 10 percent of the Elevator Safety Review Board's direct and indirect costs revert to the general fund. Expenditures for the board are expected to approximate $100,000 on an annualized basis.

The bill establishes an ongoing source of revenue to support the activities of the Elevator Safety Review Board, which was established in 2001 to license elevator contractors and mechanics. Prior to fiscal 2009 the Governor's annual operating budget did not include funds for the board and the credentialing program was not implemented. With the dedicated funding source established in the bill, the board is expected to begin to credential applicants in fiscal 2009, with full initial licensing complete by fiscal 2011.

Employment Agencies

Commissioner of Labor and Industry Authorized to Enforce Bonding Requirements

An employment agency is an entity that obtains an employee for another person, obtains employment for a client, or provides information that enables a client to gain employment. These agencies do not include businesses that directly employ individuals to provide part-time or temporary services.

An employment agency is required to submit a penal bond of $7,000 to the Commissioner of Labor and Industry as payment for any damages caused by the agency's deceit, fraud, misrepresentation, or misstatement. ***Senate Bill 650/House Bill 866*** ***(both passed)*** authorize the commissioner to initiate an investigation or investigate a complaint that an employment agency has failed to submit a penal bond. In investigating an employment agency that has failed to submit a penal bond, the commissioner may require an employment agency to submit the required bond or provide information showing that the employment agency is not required to comply with bonding requirements.

If an employment agency complies with bonding requirements, the commissioner may terminate proceedings or schedule a hearing. The commissioner is authorized to impose a civil

penalty of between $500 and $1,000 for each violation identified during the hearing. The commissioner is also authorized to impose a civil penalty of between $500 and $1,000 for each failure to comply with an order or failure to submit a timely response.

Boat Sales

Boat Brokers Required to Keep Funds in Trust Account

House Bill 648 ***(passed)*** requires a boat broker to place trust money received in anticipation of a boat purchase in a trust account until the boat is purchased. If the purchase is not completed, the trust money must be returned to the buyer.

Secondhand Precious Metal Object Dealers

Licensing Requirements Extended to Traditional and Online Auctioneers

The Department of Labor, Licensing, and Regulation regulates dealers who acquire and trade secondhand precious metal objects, including gold, iridium, palladium, platinum, silver, precious and semiprecious stones, and pearls. Dealers of these objects, including individuals, retail jewelers, and pawnbrokers not otherwise regulated by a county must be licensed before doing business in the State.

Senate Bill 569**/*****House Bill 422*** ***(both passed)*** expand the definition of a secondhand precious metal object dealer to include an individual who is compensated for the sale or delivery of a secondhand precious metal object on behalf of an unlicensed party. This definition includes auctioneers of secondhand precious metal objects, including those who operate at traditional auction sites and those who arrange for sale of objects on Internet auction sites. All dealers of secondhand metal objects must meet licensing requirements to continue to do business in the State.

Mixed Martial Arts

Mixed Martial Arts Contests Regulated by the State Athletic Commission

The State Athletic Commission has jurisdiction over all boxing, kick boxing, and wrestling contests held in the State, with the exception of intercollegiate or amateur events. The commission licenses participants, managers, referees, judges, seconds, matchmakers, and promoters of these contests. ***Senate Bill 649*****/*****House Bill 795*** ***(both passed)*** extend the commission's regulatory authority to include mixed martial arts contests, defined as competitions in which contestants use interdisciplinary forms of fighting, including striking with the hands, feet, knees, or elbows and grappling by take-downs, throws, submissions, or choke holds. Mixed martial arts contestants are required to be licensed by the commission in order to participate in a regulated event.

Licensing requirements do not apply to amateur mixed martial arts conducted under the supervision of an amateur kick boxing or mixed martial arts organization reviewed and approved by the commission; however, the commission is required to adopt regulations to ensure the safety of individuals who participate in these events. Licensing requirements also do not apply to exhibition events.

The bill extends the boxing and wrestling tax to gross receipts derived from admission charges for mixed martial arts events and their telecast. The commission is required to impose a penalty of up to $5,000 for failure to pay this tax, which also applies to gross receipts from boxing or wrestling contests.

Maryland Home Improvement Commission

In general, a person must be licensed by the Maryland Home Improvement Commission before acting as a contractor, subcontractor, or salesperson in the State. In addition to other licensing and regulatory duties, the commission maintains the Home Improvement Guaranty Fund to reimburse homeowners from losses that result from an act or omission by a licensed contractor or that licensee's subcontractor, salesperson, or employee.

Claims on the Home Improvement Guaranty Fund

House Bill 409 ***(passed)*** authorizes the commission to issue a proposed order without a hearing for claims against the Home Improvement Guaranty Fund of up to $5,000, an increase of $2,500. The limit on an award to a single claimant for an act or omission of a single contractor is increased from $15,000 to $20,000.

Mold Remediation Companies Must Be Licensed

House Bill 1309 ***(passed)*** requires the commission to establish a licensing program for companies and firms that provide mold remediation services on residential property. To qualify for licensure, an applicant must submit proof that each employee who provides mold remediation services is certified by an accreditation body as a microbial remediation supervisor or microbial remediation technician. An application for a firm license must be made by a representative member of the organization.

An applicant for a license must submit an application fee, proof of employee certification, and proof of insurance. The commission is authorized to waive certain requirements for applicants licensed in another state. Licensees are required to conspicuously display their license and license number in their principal place of business and on any company vehicles. A company or firm providing mold remediation services must be licensed by the commission by June 1, 2010, to continue to provide services.

Home Builders

Rename of the Home Builder Registration Unit and Sales Representative Registration

***Senate Bill 1008*/*House Bill 1557* (both passed)** rename the Home Builder Registration Unit within the Consumer Protection Division of the Office of the Attorney General to be the Home Builder and Home Builder Sales Representative Registration Unit. The bills expand the purview of the unit to include sales representatives employed by a home builder and repeal current licensing requirements for these sales agents. The bills require sales representatives for a home builder to register with the before providing services in the State. A sales agent for a nonprofit organization with at least a two-year record of developing affordable housing is not required to be registered by the unit.

Once registered, a sales representative must display the registration certificate at his or her primary place of business. A home builder must provide a written disclosure regarding the professional relationship between the builder and the sales representative, with any materials available at a property serviced by a registered sales representative; this disclosure must also be included with the first agreement signed by the consumer.

Home Builder Registration Fees: The bills double the initial registration fee for home builders to $600. The renewal fee is doubled to $300 for a builder who has been issued building permits for fewer than 11 homes in the preceding year; the fee for a builder who has been issued 11 or more new building permits is likewise doubled to $600.

Montgomery County home builders, who are currently exempt from State registration requirements, are required to pay a $150 administrative fee to the county. The county must remit this fee to the unit for deposit in the Home Builder Registration Fund.

Home Builder Guaranty Fund: The Consumer Protection Division is required to establish a Home Builder Guaranty Fund to compensate claimants for an actual loss that results from an act or omission by a registrant. The division must maintain a minimum balance of $1 million in the Guaranty Fund. Direct and indirect costs incurred in administering the fund are charged to the Home Builder Registration Fund. A home builder is required to pay a Guaranty Fund fee of up to $50, as determined by the division, with each application for a new home construction permit.

The division may award up to $50,000 to one claimant for acts or omissions of one builder; the division may not award more than $300,000 to all claimants for acts or omissions of a single builder unless the builder reimburses the fund for all or a portion of these claims. The division may not award an amount for attorney's fees, court costs, damages, or interest. In general, a claim against the Guaranty Fund must be filed within two years of discovering any damage or defect.

A builder whose act or omission gave rise to a claim against the Guaranty Fund must reimburse the Guaranty Fund. If a builder liable for reimbursing the Guaranty Fund fails to do

so, the division may refer the matter to the Central Collection Unit and place a lien on the person's real property. The division may also suspend the builder's registration until claims against the fund are reimbursed in full.

Public Service Companies

Of all the areas regulated by the Public Service Commission (PSC), electricity by far garnered the greatest attention during the 2008 legislative session.

Electric Restructuring

History

Effective July 2000, the Maryland Electric Customer Choice and Competition Act of 1999 restructured the electric utility industry in the State to allow electric retail customers to potentially shop for electric power from various electric suppliers. Implementation of the Act was predicated on the supposition that the emergence of a competitive retail market would put downward pressure on prices and provide consumers with lower cost power. Before restructuring, the local electric utility, operating as a regulated, franchised monopoly, supplied all end-use customers within its service area with the three principal components of electric power service: generation, transmission, and distribution.

Separate restructuring settlements were agreed to in 1999 with the four large investor-owned electric companies that operate in the State: BGE, PEPCO, Potomac Edison (Allegheny), and Delmarva. Restructuring settlements were designed to implement electric restructuring as adopted by the General Assembly. With Maryland's restructuring of the electric power industry, generation of electricity is offered in a competitive wholesale marketplace. Prices for power supply are determined by electric suppliers operating in the market, rather than being determined by PSC in a regulated environment.

Merchant generators or unregulated utility affiliates now own most power plants serving the State. Consequently, residential, commercial, and industrial customers purchase power from electric suppliers; residential and small commercial customers have the additional option of being supplied standard offer service, procured by the local electric company. Power supplies are purchased from electric suppliers, who either own generation assets or have purchased power from the wholesale market which is overseen by the Federal Regulatory Energy Commission. This power is transported through the local utilities' transmission and distribution system and delivered to retail customers.

A number of bills during the 2008 session considered aspects of electric industry restructuring by modifying the current market structure, altering PSC abilities, or requiring PSC to undertake additional investigations or reports to those required under current law.

PSC Proceedings and Reports

Chapter 5 of the 2006 special session and Chapter 549 of 2007 required PSC to conduct studies and complete reports to assist the General Assembly in assessing the status of electric restructuring on the State. PSC was charged with reevaluating (1) the general regulatory structure, agreements, orders, and prior actions of PSC under the 1999 Act, including the determination of and allowance for stranded costs; (2) the availability of competitive generation to residential and small commercial customers and the structure of standard offer service for these customers; and (3) options for re-regulation, if advised. A final report containing the complete set of evaluations, findings, and recommendations is due December 1, 2008.

In the December 2007 interim report, PSC stated that Maryland faces a serious reliability concern in the 2011-2012 timeframe. The lack of new generation in the State, coupled with inadequate transmission capability and growing demand means Maryland faces the prospect of brownouts or even rolling blackouts on hot summer days in 2011 and 2012. In January 2008, PSC issued another report that, in part, asserted that the 1999 PSC order approving the 1999 BGE settlement resulted in unforeseen financial gains to BGE. The report concluded that, had foresight and the actual cost and benefits of the settlement been properly weighed, under the current PSC, the BGE settlement might not have been found to be in the public interest. Soon after the report was issued, and for a number of reasons, Constellation gave the State notice that the company would abandon the standstill agreement entered into after the enactment of Chapter 5, and shortly after that agreement terminated, the State and Constellation sued each other, as explained below.

2008 Constellation Settlement

Senate Bill 1013 (passed)/House Bill 1626 (failed) were introduced as part of a 2008 settlement agreement to resolve pending litigation and other disputed matters between the State of Maryland, certain State officials, and various Constellation Energy Group, Inc. companies, including BGE. The Attorney General and Governor O'Malley had filed suit in Baltimore City Circuit Court asking the court to find the credits to BGE customers specified in Chapter 5 to be constitutional and legal acts of the General Assembly. Constellation Energy Group had filed suit in federal court to affirm BGE's 1999 settlement agreement that implemented electric restructuring in the BGE service territory. The latter suit sought to prevent what was alleged to be an unconstitutional taking of the $386 million that Chapter 5 had required to be paid or otherwise credited to BGE's residential customers.

In 1999, PSC adopted a settlement establishing a restructuring plan for BGE. The plan included rate reductions, rate freezes, capped BGE's responsibility for Calvert Cliffs nuclear decommissioning costs, unbundled electric rates, and provided for the transfer or sale of generation facilities. The agreement also provided BGE with after-tax transition costs of $528.0 million to be recovered by customers by June 30, 2006.

Chapter 5 required BGE to credit $18.7 million in annual nuclear decommissioning charges for 10 years. The amount totals to $186.6 million over the 10-year period. BGE also

collects $18.7 million from industrial, commercial, and residential customers and redistributes this total amount to residential customers as a credit, resulting in a reduction in residential rates. The remaining $200 million of the total $386 million of rate relief for residential customers is from a suspension of the collection of the residential return component of the administrative charge collected by BGE for providing standard offer service (deemed to be an annual value of $20 million for 10 years).

In the 2008 settlement agreement, all parties acknowledged and agreed that the terms of the agreement are subject to enactment of conforming legislation. The parties agreed on specified issues, including Calvert Cliffs decommissioning, a $187.0 million BGE electric rate credit to residential customers (approximately $170 for each of BGE's 1.1 million residential customers), the terms of collection of the return component of BGE's residential SOS, resolution of ongoing PSC proceedings, and elimination of PSC's obligation to prepare certain final reports to the General Assembly. When enacted, ***Senate Bill 1013***, which incorporates these terms in legislation, will seal the agreement.

The bill incorporates in Maryland law oversight of public utility holding companies derived from the federal Energy Policy Act of 2005, which granted states the right to oversee the operations of utilities' parent companies as part of the repeal of the federal Public Utilities Holding Companies Act (PUHCA). In order to enhance the ability of Constellation to attract capital investment for development of generation in the State, the bill establishes as a "safe harbor" the acquisition of up to 20 percent of the capital stock of the parent company without requiring prior PSC approval. However, ***Senate Bill 1013*** specifically asserts the authority of PSC to investigate and take action to preserve the regulated utility, BGE, regardless of how much or little stock an acquiring entity owns, if the acquiring entity is found to exercise substantial actual influence over the operation of the regulated utility. The bill specifically applies strong State merger oversight to acquisition of a gas and electric company or its parent, and requires PSC to review its ring fencing provisions each time it reviews a merger or acquisition of an electric company, gas company, or gas and electric company.

Senate Bill 1013 deems the ratepayers' obligations for decommissioning expenses for Calvert Cliffs to be satisfied. Once the original term of decommissioning payments under the 1999 settlement agreement ceases in 2016, ratepayers will be entirely free from liability for nuclear decommissioning (valued at $5.2 billion and a savings to ratepayers of $1.5 billion). That liability will rest with the plant's owner, Constellation Nuclear. The bill restores residential ratepayer credits relating to the residential return component that Constellation challenged in its suit, although the credits are suspended for two years to cover certain cash flow issues. The bill also limits the ability of BGE to file and obtain a rate increase for its distribution services, which have not increased since 1993. Any increase could not take effect until October 2009 and would be limited to 5 percent, absent a specific PSC finding to the contrary.

Other Restructuring Proposals

Several other legislative proposals were introduced to modify or restructure the electric industry in Maryland. Although electricity supplies can be enhanced through additional

transmission capacity to support the import of lower cost power supplies, development and construction of capacity resources in the State, and implementation and demand-side, retail customer-based efforts, many of the 2008 legislative restructuring proposals focused on the generation component of the electric industry. Legislative proposals were also submitted that would return a number of functions to PSC or delay PSC's current abilities to implement or impose requirements on the State's electric companies.

Long-term Contracts: Under current law, in order to meet long-term, anticipated demand in the State for residential and small commercial standard offer service (SOS) and other electricity supply, PSC may require or allow an investor-owned electric company to construct, acquire, or lease, and operate, its own generating facilities, and transmission facilities necessary to interconnect the generating facilities with the electric grid, subject to appropriate cost recovery.

One of the two main subject areas identified in PSC's September 25, 2007, "Notice Initiating Phase II Proceeding" is the need for utilities to build and procure "new build" capacity to avert a potential electric supply reliability problem within the next four or five years. ***House Bill 1578 (failed)*** would have authorized PSC to authorize a consortium of electric companies, including electric cooperatives, to build or lease new generation capacity as an alternative to long-term supply contracts. ***Senate Bill 991/House Bill 822 (both failed)*** would have delayed PSC from requiring electric companies to enter into long-term electricity generation contracts until other options such as transmission enhancements, demand response solutions, and power plant development by private electric company consortia had been considered as alternatives and reported on to the Governor and the General Assembly.

Supplier Referral Program: ***Senate Bill 329/House Bill 1165 (both failed)*** would have required PSC to establish a competitive electricity supplier referral program for residential and small commercial retail electric customers. The bills would also have strengthened the position of competitive electricity suppliers regarding handling of accounts receivable and turnoffs.

Reliability and Constraints in Maryland's Electricity Supply

Electric restructuring was intended to bring increased efficiencies to the electric utility industry, resulting in lower overall costs for industrial, commercial, and eventually residential customers. The result has been quite different. Growth in demand based on increasing population, as well as the proliferation of new devices requiring electricity has outstripped any efficiencies created by restructuring, at least as to the residential sector. This demand, coupled with the lack of any substantial new generating capacity in the State, as well as constrained transmission facilities and little in the way of substantial increase in transmission capacity has led the State to the brink of threatened brownouts during times of peak demand as soon as 2011.

The transmission system, as regulated by the Federal Energy Regulatory Commission (FERC) and operated regionally by PJM Interconnection, LLC, is currently inadequate to allow the unrestrained importation of cheaper electricity from coal-based plants in the Ohio River valley, both on economic and physical grounds. The response by FERC has been to impose

capacity surcharges on electricity transmitted into central Maryland, in hopes of spurring development of additional transmission facilities. The response by PJM has been twofold – imposition of locational marginal pricing (LMP) under which electricity is priced as a commodity based on a continuous auction of operating plants, with the final resulting price based on the bid of the most expensive plant actually dispatched to serve the load, adjusted for delivery into a constrained area; and an explicit forward-looking capacity market, the reliability pricing mechanism (RPM), in which electricity providers bid to provide various forms of supply capacity in future years, and for which electricity customers pay.

There is some evidence that electricity suppliers that own and develop "iron in the ground" – physical power plants and transmission lines – are starting to respond to some or all of these federal and regional incentives, though the timeframe for most of these new or expanded facilities extends beyond critical congestion effects in Maryland. Between permitting and construction, neither a substantial base-load power plant nor a high-capacity transmission line can reasonably be constructed in less than five years, with many proposals expected to take twice as long. In addition, all these pricing mechanisms contribute to raising the retail price of electricity in constrained areas – such as central Maryland and the Eastern Shore – and all are out of the control of Maryland policymakers and regulators.

The Administration Package

Faced with electricity prices increasing due to factors outside of State control, and with the possibility of rolling brownouts within as little as three years, the Administration, PSC, and the Maryland Energy Administration (MEA) worked on legislative proposals to address both short-term and long-term issues of reliability and capacity within the legal jurisdiction of the State. Issues and solutions for reliability and capacity of the State's electricity system must address one or more of the three basic components of that system – generation, transmission, and demand. Transmission is primarily a federal issue, other than siting authority for facilities located in the State. Generation may be addressed through the incentive payment system in PJM or by any of several options on the State level. Demand may be addressed through energy efficiency and conservation – which are arguably the quickest acting and cheapest alternatives to building new supply, though they are also fraught with issues of reliable quantification and implementation.

The Administration's package of legislative proposals in the 2008 session addresses both the generation of and the demand for electricity. The three principal proposals are "EmPOWER Maryland Energy Efficiency Act of 2008," ***House Bill 374* (passed)**, "Regional Greenhouse Gas Initiative – Maryland Strategic Energy Investment Program," ***Senate Bill 268*/*House Bill 368* (both passed)**, and "Renewable Portfolio Standard Percentage Requirements – Acceleration." ***Senate Bill 209*/*House Bill 375* (both passed)**. The first two proposals address supply concerns through promotion of energy efficiency and conservation, while the last addresses diversity of generation.

Other Administration bills deal with the Solar and Geothermal Grant Program, ***House Bill 377* (passed)**, and the High Performance Building Program, ***Senate Bill 208* (passed)**. The

Constellation settlement bill, ***Senate Bill 1013***, discussed above, also addresses supply by removing certain barriers to investment in order to ease proper review and development of a potential third reactor at Constellation's Calvert Cliffs facility.

Maryland Strategic Energy Investment Program and Fund

Under the Healthy Air Act, enacted by Chapters 23 and 301 of 2006, Maryland joined the Regional Greenhouse Gas Initiative (RGGI) compact to limit greenhouse gas emissions in the participating states. Under that compact, Maryland is preparing to participate in auctions of carbon dioxide emissions allowances starting in September 2008. The State's primary sources of carbon dioxide emissions are power plants fired by coal and natural gas and industrial facilities such as steel mills and brick yards.

Under current law, RGGI auction proceeds would be paid into the Maryland Clean Energy Fund, which the Department of the Environment uses to administer its federally delegated air quality control programs. That fund, however, has a cap of $750,000, beyond which excess monies revert to the general fund. The RGGI compact specifies the permissible uses of auction proceeds, which do not include general expenditures. Accordingly, the State needs a separate special fund to receive RGGI auction proceeds, which are estimated to yield between $80 and $140 million each year.

Senate Bill 268*/*House Bill 368 ***(both passed)*** establish a Maryland Strategic Energy Investment Program and Fund administered by MEA. The program applies proceeds from the sale of RGGI carbon dioxide allowances to specified purposes, including low-income energy assistance, energy efficiency and demand response programs, and ratepayer relief. The stated purpose of the fund is to decrease energy demand and increase energy supply to promote affordable, reliable, and clean energy to fuel Maryland's future prosperity. The bills repeal the Maryland Renewable Energy Fund and redirects revenues currently paid into that fund to the new fund, along with RGGI auction proceeds. The bills specify allocations from the fund, establish a related advisory board, and establish planning and reporting requirements. Finally, the bills modify provisions relating to the Maryland Clean Air Fund by segregating RGGI proceeds from it and by raising to $2 million the cap before reversion to the general fund.

The bill establishes specified duties for MEA with respect to managing, supervising, and administering the fund. Among other things, MEA must adopt regulations to implement the program and to ensure that fund resources are used only to carry out the purposes of the program.

MEA must use the fund to:

- invest in the promotion, development, and implementation of cost effective energy efficiency and conservation programs, projects, or activities; renewable and clean energy resources; climate change programs; and demand response programs designed to promote changes in customer electric usage;

- provide targeted programs, projects, activities, and investments to reduce electricity consumption by low-income and moderate-income residential customers;

- provide supplemental funds for low-income energy assistance to the EUSP Fund;

- provide residential customers with rate relief by offsetting electricity rates of residential customers, including an offset of surcharges imposed on ratepayers for utility energy efficiency programs;

- provide grants, loans, and other assistance and investment as necessary and appropriate;

- implement energy-related public education and outreach initiatives regarding energy consumption and greenhouse gas emissions; and

- pay the expenses of the program.

The bill specifies that compliance fees currently paid into the Maryland Renewable Energy Fund that are redirected to the new fund must be used in the same manner as provided by the current RPS law. Other monies, in particular RGGI proceeds, are allocated as provided in **Exhibit H-1**.

Exhibit H-1
Maryland Strategic Energy Investment Fund Allocations

Low-income assistance through EUSP and related programs	17.0%
Residential rate relief	23.0%
Energy efficiency, conservation, and demand response	at least 46.0%
Renewable and clean energy, climate change, and energy-related public education and outreach	up to 10.5%
MEA administration	up 3.5%, but not more than $4.0 million
Total	**100.0%**

Of the allocation for energy efficiency, conservation, and demand response programs, at least one-half must target the low-income residential sector with no cost to participants and the moderate-income residential sector.

By December 15, 2008, MEA must develop a plan for expenditures from the fund for fiscal 2009 and 2010. By September 1, 2009, and every three years thereafter, MEA must

develop a plan for expenditures covering the next three fiscal years. After holding public meetings in conjunction with the development of a plan, MEA must submit the plan to the advisory board for review. MEA also must regularly disclose specified summary information on any contract that encumbers $100,000 or more from the fund. The bill also establishes specified requirements for MEA with respect to monitoring and analyzing program impacts and outcomes.

By January 1 of each year, MEA must report to the Governor and the General Assembly on the uses and expenditures of the fund from the prior fiscal year. The bill establishes several requirements for that report.

For discussion of some of the environmental aspects of these bills, see also the subpart "Environment" in Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

EmPOWER Maryland

During an energy seminar sponsored by MEA in July 2007, Governor O'Malley announced a State goal of reducing "15 by 15" – 15 percent of electricity demand from State facilities by 2015 and an aspirational goal of reducing per capita electricity demand statewide by 15 percent by 2015, based on 2007 levels, through energy efficiency and conservation efforts. In order to address reliability and capacity concerns, the Administration then sought to solidify these goals through legislation.

House Bill 374 ***(passed)***, the EmPOWER Maryland Energy Efficiency Act of 2008, requires electric companies to procure and provide customers with energy conservation and energy efficiency programs and services that are designed to achieve targeted electricity savings and demand reductions for specified years through 2015. Electric company plans must include program descriptions, anticipated costs, projected electricity savings, and other information PSC requests. Electric companies must consult with MEA regarding cost recovery, program design, and adequacy to meet the target reductions. PSC must review the plans for adequacy and cost effectiveness in achieving the electricity savings and demand reduction targets.

Using 2007 as a base year, the bill establishes a per capita State goal of achieving a 15 percent reduction in per capita electricity consumption and a 15 percent reduction in per capita peak demand by the end of 2015. Beginning with the 2008 calendar year and each year thereafter, PSC must calculate the per capita electricity consumption and peak demand for the year. On or before December 31, 2008, PSC, to the extent it determines that cost effective energy efficiency and conservation programs are available for each affected class, must require electric companies to procure and provide customers with a cost effective demand response program that is designed to achieve targeted electricity savings and demand reduction through 2015. Utility-based reductions of 5 percent are required in both electricity consumption in peak demand by 2011, and utility programs must reduce electricity consumption by 10 percent by 2015. Additional 2015 per capita reductions in electricity consumption of 5 percent may be achieved independent of the bill, through MEA efforts to obtain the overall 15 percent reduction in electricity consumption in 2015.

Electric companies must submit plans for obtaining the targeted reductions in July 2008, and every three years following, and must provide annual updates on progress. PSC must monitor progress to achieve the best possible results and may require an electric company to include specific measures designed to achieve the targeted reductions.

For discussion of some of the environmental aspects of this bill, see also the subpart "Environment" in Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

Renewable Energy Portfolio Standard Acceleration

A long-term concern related to capacity and reliability is the State's continued heavy reliance on fossil fuels for generating electricity. Even under the traditional rate-of-return regulatory mechanism, electricity customers were exposed to fluctuations in prices based on the cost of fuel, although the overall cost of generation from fossil fuels remains lower than that from alternative technologies. Fossil fuels also give rise to significant fuel-related issues such as carbon dioxide emissions and other byproduct and waste disposal matters.

In 2004, Maryland adopted its Renewable Energy Portfolio Standard (RPS), under which electricity suppliers must include a certain percentage of energy derived from renewable sources through purchase of renewable energy credits (RECs) each year, or pay a compliance fee into the Renewable Energy Fund, which is replaced by the Maryland Strategic Energy Investment Fund under ***Senate Bill 268***/***House Bill 368***. However, because neighboring states have adopted more aggressive compliance schedules and fees than those in effect in Maryland, there has been little incentive to deploy renewable generation sources in Maryland.

Senate Bill 209/***House Bill 375*** ***(both passed)*** seek to increase the diversity of generation sources available to Maryland customers by increasing the RPS percentages and compliance fees, while modestly shrinking the area within which RECs may be created to satisfy Maryland's RPS. These Administration bills accelerate the increase in Tier 1 percentage requirements of the RPS to 20 percent in 2022 and beyond. Percentage requirements begin to accelerate beginning in 2011. Effective January 1, 2011, Tier 1 compliance fees rise to four cents per kilowatt-hour, from the current 2 cents, and the geographic scope in which renewable resources can be obtained for compliance is restricted. Through December 31, 2018, however, an electricity supplier that demonstrates to PSC that the compliance cost for obtaining nonsolar Tier 1 RECs exceeds 10 percent of the supplier's total in-state revenues may defer the scheduled increase in the RPS percentage for a year. Unlike the preceding two proposals, the RPS acceleration legislation is acknowledged to involve a continuing charge to residential customers, although it is intended to be offset by savings developed through the Strategic Energy Investment Program and the EmPOWER Maryland Program. For discussion of this legislation from the environmental perspective, see also the subpart "Environment" in Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

Solar and Geothermal Grant Program

Over time, the inflexibility of grant amounts under the Solar and Geothermal Grant Program has been cited as a reason that MEA has been able to give few grants, leaving an unspent balance at the end of the fiscal year. In order to allow the program to respond better to potential demand, ***House Bill 377***, an Administration bill, increases specified grant limits under the Solar Energy and Geothermal Heat Pump grant programs and allows MEA to vary the size of the grant with the capacity of the supported system. The bill exempts the sale of specified solar energy and geothermal equipment from the State sales and use tax, and exempts specified solar energy property from State and local real property taxes. The bill also provides that a geothermal heating and cooling system, either as a stand-alone system or as a combined geothermal and conventional system, may not be assessed at more than the value of a conventional system for property tax purposes.

High Performance Buildings

Senate Bill 208, another Administration bill, was introduced to implement recommendations made by the Maryland Green Building Council in its December 2007 report. The bill requires new or renovated State buildings and new school buildings to be constructed as high performance buildings under specified circumstances. For a more detailed discussion of this legislation, see the subpart "Procurement" under Part C – State Government of this *90 Day Report*.

Other Electricity Issues

Poultry Litter

In order to address reliability concerns in the transmission-constrained Eastern Shore and significant environmental concerns with nutrient-rich runoff, ***Senate Bill 348*/*House Bill 1166* *(both passed)*** elevate generation of electricity from poultry litter-to-energy to the list of eligible Tier 1 renewable energy sources under the RPS. Under the bills, poultry litter-to-energy is an eligible resource only if the source is connected with the electric distribution grid serving Maryland.

State Power Authority

One option for increasing the State's generating capacity that PSC identified in its December 2007 interim report was the establishment of a State power authority, though PSC did not specifically endorse that option. ***House Bill 1509 (failed)***, a departmental bill, would have authorized the Maryland Environmental Service (MES) to engage in additional types of energy projects and services, such as the construction of power plants, the undertaking of energy conservation measures, and engaging in research and development studies, all unrelated to the agency's current authority to engage in projects involving water resources and waste treatment. The projects envisioned by MES were primarily focused on leveraging current projects, directly implementing smaller-scale renewable projects, and assisting public or private entities with

larger energy projects. However, the bills would have allowed MES, as a State power authority, to construct, own, and operate power plants of any capacity.

A similar bill, ***House Bill 1384*** ***(failed)***, would have established a Maryland Energy Generation Authority as an instrumentality of the State, possessing bonding authority, with the purposes of acquiring and operating generating facilities in the State, and facilitating procurement of affordable electricity for low-income populations.

Other Energy Efficiency and Conservation Measures

Currently, electric utilities in Maryland must develop and implement energy efficiency and conservation programs, subject to review and approval by PSC. PSC compares the benefits with the costs of a program to determine if the program should be implemented and a surcharge placed on customer rates. PSC also determines the appropriateness of the program for utility customers and considers the impacts on jobs, the environment, rates, and cost effectiveness. In determining the usefulness of a program, PSC undertakes a series of cost-effectiveness tests each designed to measure the benefits in relationship to costs.

In January 2008, Allegheny Power stopped a compact fluorescent light (CFL) mailing program sponsored with Energy Star. Allegheny Power had undertaken the program as a PSC-approved effort, sending two CFLs to each of 220,000 Maryland residential households. To recover program costs, Allegheny Power was allowed to include an energy conservation surcharge of 96 cents a month for 12 months, totaling $11.52. CFLs are advertised as using about 75 percent less energy a month and lasting 10 times as long as a traditional incandescent light bulb, thereby saving customers between $30 and $60 over the life of the unit. However, residential customers expressed concerns with respect to the incurred costs for the program. In response, the electric utility apologized, gave the bulbs away free of charge, stopped collecting the surcharge, and undertook efforts to develop a mechanism with PSC approval to refund all monies collected since the energy conservation surcharge began in October 2007.

Senate Bill 417**/*****House Bill 608*** ***(both passed)***, emergency legislation, require each electric and gas company to notify affected customers once a year of the energy efficiency and conservation charges imposed and the benefits conferred by publication on each company's web site and inclusion with billing information, such as a bill insert or bill message. By February 1, 2009, and every two years following, PSC, in consultation with MEA, must report to the General Assembly on the status of energy efficiency and conservation programs and services and a recommendation on the appropriate funding levels for these programs.

Common Carriers

Paid intrastate transportation services for the use of the general public typically require a motor carrier permit issued by PSC, except for governmental transportation authorities, certain school transit services and similar vanpool arrangements, and separately licensed taxicab services. The presence of a large university with its own internal transportation system may as a practical matter interfere with the development of local municipal fee-based transportation

systems. In order to accommodate the needs of College Park residents for access to the shuttle system of the University of Maryland, College Park, ***Senate Bill 31***/***House Bill 340*** ***(both passed)*** allow the university to open its shuttle system to the public on a paid basis without obtaining a motor carrier permit, for a three-year trial period. The bills require a report on this pilot program to the General Assembly.

Insurance Other Than Health

Maryland Insurance Commissioner

Adoption of Regulations During Emergency

In light of harm to consumers resulting from emergencies and disasters both locally and nationally, the Maryland Insurance Administration (MIA) has determined that the Maryland Insurance Commissioner needs additional flexibility in an emergency to ensure that consumers are protected. ***House Bill 277*** ***(Ch. 63)*** requires the Commissioner to adopt regulations that may be applied when the Governor has declared a state of emergency or the President of the United States has issued a major disaster or emergency declaration. To activate a regulation, the Commissioner must issue a bulletin in the manner specified in the Act.

The regulations may address (1) the submission of claims or proof of loss; (2) grace periods for payment of premiums and performance of other duties by insureds; (3) temporary postponement of cancellations, nonrenewals, premium increases, or policy modifications; (4) procedures for obtaining nonelective health care services; (5) time restrictions for filling or refilling prescription drugs; (6) timeframes applicable to an action by the Commissioner; and (7) any other activity necessary to protect the residents of the State.

Regulation of Injured Workers' Insurance Fund

The Injured Workers' Insurance Fund (IWIF) administers workers' compensation for the State and provides workers' compensation insurance to firms unable to procure insurance in the private market. IWIF only writes policies in Maryland and is a major insurer with almost one-third of the market share. Chapter 567 of 2000 and Chapter 22 of 2003 extended specific regulations to IWIF, primarily provisions of the Insurance Article regulating examinations, risk-based capital standards, assets and liabilities, reserves, reinsurance, and impaired entities. However, the Maryland Insurance Commissioner was prohibited from taking any action (such as a corrective order) to enforce any of the provisions governing IWIF.

Senate Bill 679 ***(passed***) subjects IWIF to additional regulation by the Commissioner. With the exception of rate making, rating, and rate review, IWIF is subject to examination and enforcement by the Commissioner in the same manner as other property and casualty insurers.

The bill also requires MIA to study the impact of subjecting IWIF to the provisions of law regarding rate making, rating, and rate review that are enforced by MIA for other property and casualty insurers. The study is required to include (1) an analysis of whether IWIF's current

rate making practices produce actuarially sound rates; (2) a determination of the cost impact to IWIF if required to file rates with a rating organization; and (3) a comparison of the experience rating plan used by IWIF for small employers as compared to the experience rating plan established by a rating organization for small employers. MIA also is required to identify other provisions of law relating to consumer protections and financial soundness that are enforced by MIA and are applicable to other property and casualty insurers but are not applicable to IWIF. MIA is required to seek input for the study from specified stakeholders and is required to report its findings and recommendations on how rates should be established for IWIF to the Senate Finance Committee and the House Economic Matters Committee on or before December 1, 2008.

Insurance Fraud

In the past, the Insurance Fraud Division of the Maryland Insurance Administration has been unable to prosecute perpetrators of insurance fraud because these individuals had not been given notice that certain activity is criminal. In insurance fraud cases, prosecutions are strengthened significantly by the ability to show that an individual was already aware of what constitutes insurance fraud, as well as the possible penalties, when the individual completed the insurance application, filed claim forms, and endorsed the claim payment instrument.

House Bill 404 ***(passed)*** requires insurers to include a fraud disclosure statement on all applications for insurance and all claim forms that informs the consumer that it is a crime to commit insurance fraud. The requirement does not apply to (1) reinsurance applications or claim forms; or (2) the uniform claims forms for reimbursement of hospital services or health care practitioners services. The bill specifies that the lack of the required statement does not constitute a defense in any legal action. All insurers must comply with the requirement by April 1, 2009.

Insurance Producers

Licensing Requirements

Chapter 731 of 2001 incorporated provisions of the Model Producer Licensing Act adopted by the National Association of Insurance Commissioners (NAIC) into Maryland's agent and broker licensing provisions, as required by the federal Financial Services Modernization Act of 1999 (Gramm-Leach-Bliley). As part of its efforts to comply with Gramm-Leach-Bliley, NAIC established a goal of uniform educational requirements for resident insurance producer licenses.

House Bill 1589 ***(passed)*** includes a number of provisions from the NAIC model law on producer licensing. The bill authorizes the Maryland Insurance Commissioner to waive specified requirements for an insurance producer license applicant if the applicant has certain professional designations. The bill also increases continuing education requirements for insurance producers from 16 to 24 hours every 2-year renewal period, with exceptions for (1) title insurance producers, who will continue to be required to receive 16 hours of continuing

education; and (2) insurance producers who have held licenses for 25 or more consecutive years, who are required to receive no more than 8 hours. Of the required hours of continuing education per renewal period, at least 3 hours must relate directly to ethics. Finally, the bill staggers renewals of insurance producer licenses every 2 years based on the licensee's birth month.

Life and Health Insurance Examinations

***Senate Bill 701*/*House Bill 1100* (both passed)** require the Commissioner (or the Commissioner's designee), by April 1 of each year, to prepare and publish a report regarding the life and health insurance producer examinations administered during the preceding calendar year. The report must include information on (1) the total number of examinees; (2) the percentage and number of examinees who passed the examination; (3) the mean and standard deviation of scaled scores; and (4) the correct answer rate and correlation rate for each test question and each test form. Information must be presented for all examinees combined and separately by race or ethnicity, gender, race or ethnicity within gender, educational level, and native language. The bills terminate at the end of September 30, 2011.

Property and Casualty Insurance

Omnibus Coastal Property Insurance Reform Act

In recent years, a number of large insurance companies have decided to stop offering property insurance in coastal areas due to an increased risk of hurricane damage linked to rising ocean temperatures. A number of insurance companies, including Allstate, Liberty Mutual, Nationwide Mutual, and State Farm, have decided to stop offering property insurance in Mid-Atlantic coastal areas, including many counties in Maryland. On February 11, 2008, the Maryland Insurance Commissioner announced a decision accepting Allstate's move to refuse to issue new homeowners' insurance policies in specific coastal areas, holding that the company's decision did not violate existing State law.

As a result of the actions of certain insurance companies, the General Assembly enacted Chapter 486 of 2007 to create the Task Force on the Availability and Affordability of Property Insurance in Coastal Areas. The task force was charged with examining methods to ensure the continued availability and affordability of property insurance in coastal areas of Maryland. The task force's final report concluded that while it does not believe there is currently an issue of either availability or affordability of property insurance in the coastal areas of Maryland, it wants to make sure this situation remains that way and that the market place remains stable.

***House Bill 1353* (passed)** makes numerous changes to the law governing property insurance in coastal areas of the State, as discussed in the task force's final report. Under the bill, an insurer may not adopt an underwriting standard that requires a deductible that exceeds 5 percent of the "Coverage A – Dwelling Limit" of the policy in the case of a hurricane or other storm unless the Commissioner has approved the underwriting standard. If an insurer has adopted a percentage underwriting standard, the deductible may be applicable only beginning at the time that the National Hurricane Center of the National Weather Service issues a hurricane warning for any part of the State where the insured's home is located and ending 24 hours after

termination of the warning. The insurer is required to provide a policyholder with an annual statement explaining the manner in which the deductible is applied.

The bill also requires an insurer to offer at least one actuarially justified premium discount on a policy of homeowner's insurance to a policyholder who submits proof of improvements made to the insured premises as a means of mitigating loss from a hurricane or other storm. Qualifying improvements include (1) hurricane shutters; (2) secondary water barriers; and (3) reinforced roof coverings. The improvements must be inspected by a contractor licensed by the Department of Labor, Licensing, and Regulation, and an insurer must be allowed to inspect the improvements.

Under the bill, insurers that use a catastrophic risk planning model or other model in setting rates or refusing to issue or renew homeowner's insurance because of the geographic location of the risk must file a description of the specific model with the Commissioner and make arrangements to explain the model to the Commissioner. Insurers must notify the Commissioner of any changes to the model. This information is deemed proprietary and confidential information under State law.

In addition, the bill establishes procedures for insurers to implement plans of material reduction for the orderly reduction in coverage provided by homeowner's insurance policies. A "material reduction" is defined as a reduction of homeowner's insurance policies in force for an insurer on a statewide basis by 3 percent or more due to cancellations or nonrenewals solely because the subject of the risk or the insured's address is located in a certain geographic area. The bill requires an insurer to file with the Commissioner a plan for orderly reduction at least 60 days before implementing a plan of material reduction.

Finally, the bill requires the Department of Housing and Community Development to review current statewide building codes and develop enhanced codes for coastal regions of the State that promote disaster-resistant construction in these regions. The department has to report its findings and recommendations to the Senate Finance Committee and the House Economic Matters Committee on or before October 1, 2010.

Homeowner's Insurance

Coverage for Loss from Water or Sewer Backup: An insurer that issues or delivers a homeowner's insurance policy must offer to provide coverage for loss that is caused by or results from water that backs up through sewers or drains and is not caused by the negligence of the insured. The Maryland Insurance Administration (MIA) has adopted and enforced the position that this mandatory offer of water backup damage coverage must be provided by insurers at the time of both policy renewal and initial application.

To codify this practice, ***House Bill 405*** ***(Ch. 72)*** specifies that an insurer issuing, selling, or delivering homeowner's insurance policies in the State must offer the insured in writing the opportunity to purchase coverage for sewer or drain water backup damage at the time of initial policy application and at each renewal. If an application or renewal is made by telephone, the insurer is in compliance with the Act's requirements if the insurer sends the offer to the applicant

or insured by certificate of mailing within seven calendar days after the date of application or renewal. If an application or renewal is made using the Internet, the insurer is in compliance if the insurer provides the offer to the applicant or insured prior to submission of the application or renewal.

Coverage for Additional Living Expenses: Coverage for additional living expenses (ALE) in the case of the loss of a home is generally assumed by a purchaser of a homeowner's insurance policy to provide coverage until the home has been rebuilt. However, ALE coverage varies from insurer to insurer and may not always cover the insured until the home has been rebuilt.

House Bill 859 (Ch. 95) provides a uniform minimum standard for ALE coverage. The Act prohibits a policy of homeowner's, fire, farmowner's, or dwelling insurance from containing a clause that purports to limit coverage for additional living expenses incurred by an insured as a result of a covered loss to a period of time that is less than 12 months. Any such clause is void and unenforceable. In addition, the Act authorizes the Commissioner to require that an insurer provide coverage for additional living expenses under a policy for up to 24 months if the Commissioner finds that the covered property remains uninhabitable due to a delay in repair or replacement caused by the insurer or factors beyond the control of the insured.

Transfers of Policyholders Between Insurers

House Bill 1581 (Ch. 117) provides that, with respect to private passenger motor vehicle insurance and homeowners' insurance, the transfer of policyholders among affiliates within the same insurance holding company system is classified as a renewal if (1) the policyholder's premium does not increase; and (2) the policyholder does not experience a reduction in coverage. With respect to policies of personal insurance and private passenger motor vehicle liability insurance, the issuance by an insurer of a new policy to replace an expiring policy issued by that insurer is a renewal – as is the issuance of a new policy to replace an expiring policy issued by another admitted insurer within the same insurance holding company system, subject to the same two conditions that apply to transfers. If a policyholder is being transferred between affiliate insurers in the same insurance holding company system, the Act requires the insurer to send a notice disclosing the transfer instead of sending a notice of cancellation or nonrenewal.

Notice of Cancellation During Underwriting Period

Chapter 580 of 2006 authorized the cancellation of policies or binders of specified property and casualty insurance during a 45-day underwriting period. Although other cancellation notices for property and casualty insurance must be sent by certificate of mail, the 2006 law did not specify the required method of notice for cancellations during an underwriting period. The practice of MIA, however, is to require insurers to send the notices via certificate of mail.

House Bill 750 (Ch. 88) codifies the practice of MIA and requires insurers to send notices of policy or binder cancellation by certificate of mail. Certificate of mail is the least expensive method that provides a record of the date of mailing. A record of mailing is important

to MIA when a consumer complaint triggers an investigation regarding insurer compliance with State law. Records of mailings also assist MIA in monitoring insurer practices relating to cancellations.

Maryland Automobile Insurance Fund

Senate Bill 603*/*House Bill 32* (both failed)** would have permitted the Maryland Automobile Insurance Fund (MAIF) to accept premiums on an installment basis. As amended by the Senate Finance Committee, ***Senate Bill 603 would have (1) required the Maryland Insurance Commissioner to make a determination as to whether the MAIF surplus is excessive and submit reports on or before October 1, 2008, and October 1, 2011, or two years following the inception of the offering of an installment plan; (2) authorized the Commissioner, as the Commissioner determines necessary, to determine whether the MAIF surplus is excessive and make recommendations for potential distributions of any excess surplus; and (3) authorized MAIF to accept premiums on an installment basis only on 12-month personal lines policies, subject to the requirements established by the bill, including a minimum 25 percent down payment of the total premium and a maximum of six installments. MAIF, as well as insurance producers, would have been required to disclose to MAIF applicants and insureds the payment options available to the applicants and insureds. Further, the bill would have required the premium finance companies to return to the MAIF insured, within 15 days of cancellation of a MAIF policy, any unearned premium and finance charges, calculated by the actuarial method.

Title Insurance

Commission to Study the Title Insurance Industry in Maryland

Title insurance regulation and the title insurance industry have come under heightened scrutiny, due in large part to a significant rise in property foreclosure rates in many areas, including Maryland. Much of the concern regarding title insurance stems from cases in which title insurers have used illegal sales tactics. While property purchasers are free to choose their own title insurance provider, in most cases purchasers defer to their real estate agent or mortgage lender. This has led to situations in which title insurers have sometimes provided kickbacks to these decision makers or developed other conflicts of interest.

***Senate Bill 61*/*House Bill 600* (both passed)** establish a Commission to Study the Title Insurance Industry in Maryland staffed jointly by the Department of Labor, Licensing, and Regulation and the Maryland Insurance Administration, to make recommendations for changes to laws relating to the title insurance industry.

To develop its recommendations, the commission is required to (1) review State laws relating to the title insurance industry; (2) review the mechanisms available to enforce State laws relating to the title insurance industry; (3) identify title insurance industry issues that affect consumers in Maryland; (4) examine the rate-setting factors for title insurance premiums; (5) examine how rates and services in a title plant state compare to those in Maryland; (6) identify ways to improve consumer education about the title insurance industry; (7) study

whether mechanics' liens on properties scheduled for settlement have an impact on the timeliness of settlements or on title insurance premium rates; (8) review the time limits, subsequent to closing, for the issuance of title insurance policies; (9) study affiliated business arrangements among businesses involved with the settlement of real estate transactions to determine the impact of these arrangements on title insurance premium rates; and (10) study any other issue with significant impact on the title insurance industry.

The commission is required to report on its findings and recommendations to the Governor and the General Assembly by December 15, 2009.

Surety Insurance

A surety insurer that is removed by the District Court from the list of insurers eligible to post bonds with the court because of failure to resolve or satisfy one or more bail bond forfeitures is subject to penalties under the Insurance Article. These penalties include suspension or revocation of the insurer's certificate of authority, as well as a fine of between $100 and $125,000. The Maryland Insurance Commissioner also may order a certificate holder to make restitution to any person who has suffered financial injury because of the violation. ***Senate Bill 571/House Bill 915*** ***(both passed)*** extend these penalties to surety insurers that are precluded or removed by a circuit court from the list of insurers eligible to post bonds with any circuit court due to failure to resolve or satisfy one or more bail bond forfeiture judgments.

Horse Racing and Gaming

Horse Racing

Payment of Taxes

A recent legislative audit of the Maryland Racing Commission determined that pari-mutuel taxes were not being paid by mile thoroughbred licensees within the required statutory timeframe of three days after each racing day. ***Senate Bill 179*** ***(Ch. 22)*** addresses this issue by extending the time within which a mile thoroughbred licensee must pay specified pari-mutuel racing taxes to the Racing Commission to seven days after each racing day. The State tax on wagers is 0.32 percent imposed on the pari-mutuel handle for each racing day.

Maryland Standardbred Race Fund

Senate Bill 197 ***(passed)*** repeals the requirement that a race funded by the Maryland Standardbred Race Fund be canceled if there are fewer than two separate entries.

The Maryland Standardbred Race Fund supports purses for two sets of races, the Maryland Standardbred Fund (or the Foaled Stakes Program) and the Maryland Sire Stakes Program. Only standardbred horses foaled in Maryland may start in races under the Foaled

Stakes Program, and only standardbred horses that are sired by a Maryland stallion may start in races under the Maryland Sire Stakes Program.

Task Force to Study Thoroughbred Horse Racing at Rosecroft Raceway

House Bill 1506 ***(passed)*** establishes a Task Force to Study Thoroughbred Horse Racing at Rosecroft Raceway, which is a track currently conducting harness racing. The eight-member task force is charged with studying the feasibility of conducting thoroughbred horse racing at Rosecroft Raceway, including determining the probable impact of such racing on the community adjacent to the raceway and on the overall horse racing industry in the State, and determining whether State funds would be available to facilitate thoroughbred horse racing at the raceway. The task force is required to report its findings and recommendations to the Governor, the General Assembly, and the County Executive and County Council of Prince George's County on or before December 31, 2008.

Slot Machines

In the 2007 special session, the General Assembly passed legislation that provides for the introduction of a total of 15,000 video lottery terminals at five locations in the State, provided that Marylanders approve an amendment to the State constitution that will be put to a vote at the November 2008 election. The topic of slot machines arose again in the 2008 session in the wake of a proliferation of electronic gaming devices in several counties, pursuant to the Maryland Court of Appeals case *Chesapeake Amusements Inc. v. Riddle,* 363 Md. 16 (2001), in which the court held that an electrically operated machine that dispenses paper pull-tab tickets from a roll of preprinted paper pull-tabs is not a slot machine prohibited under State law.

Senate Bill 959 ***(passed)*** alters the definition of slot machine to include a machine, apparatus, or device that through the "the reading of a game of chance, [or] the delivery of a game of chance" awards money or objects that can be converted into money. The bill excludes from the definition of "slot machine" a machine, apparatus, or device that:

(1) awards the user only free additional games or plays;

(2) awards the user noncash merchandise or noncash prizes of minimal value;

(3) dispenses paper pull-tab tip jar tickets or paper pull-tab instant bingo tickets that must be opened manually by the user, provided that the machine, apparatus, or device does not read the tickets electronically, alert the user to a winning or losing ticket, or tabulate a player's winnings and losses;

(4) displays facsimiles of bingo cards that users mark and monitor according to numbers called on the premises by an individual where the user is operating the machine and does not permit a user to play more than 54 bingo cards at the same time;

(5) is used by the State Lottery Commission in the operation of the State lottery; or

(6) if the constitutional amendment authorizing video lottery terminals is approved, would qualify as a video lottery terminal.

The bill, however, does allow an entity licensed to offer instant bingo under a commercial bingo license as of July 1, 2007, or certain qualified organizations on their own premises, to continue operating a game of instant bingo in the same manner using electronic machines until July 1, 2009, provided that (1) the machines have been in operation for a one-year period ending December 31, 2007; (2) the entity does not operate more than the number of electronic machines operated as of February 28, 2008; and (3) the conduct of the gaming and operation of the machines is consistent with all other provisions of the Criminal Law Article.

The bill also requires the State Lottery Agency to report to certain legislative committees of the General Assembly about the gaming activities in local jurisdictions and the impact they have on other types of gaming regulated by the State. This report must be submitted on or before December 15, 2008.

State Lottery

Lottery Tickets and Prizes

Senate Bill 180 ***(passed)*** prohibits a licensed agent of the State Lottery Agency from paying a prize winner less than the lawful amount when redeeming lottery tickets and prizes. The bill specifically prohibits an agent from seeking a cashing fee, deceiving a prize winner, purchasing a lottery ticket, or otherwise circumventing the payment of prize winnings.

Economic and Community Development

Economic Development

Economic Development Laws – Code Revision

The new Economic Development Article, ***House Bill 1050*** ***(passed)***, is a product of the continuing nonsubstantive bulk revision of the Annotated Code of Maryland by the Department of Legislative Services. The first revised articles were enacted in 1973 and, to date, 31 other revised articles have become law. The purposes of code revision work are modernization, logical organization, and clarification, not policymaking by way of new law.

House Bill 1050 revises, restates, and recodifies the laws of the State that relate to economic development. The new article is a nonsubstantive revision of the statutes that pertain to the Department of Business and Economic Development (DBED), its component parts and programs, and independent economic development units and programs. This article consists of

two divisions. Division I derives primarily from Article 83A – Department of Business and Economic Development and Article 23 – Miscellaneous Companies. Division II derives primarily from Articles 20 A-D – Tri-County and Regional Councils; Article 41 – Governor – Executive and Administrative Departments; Article 43C – Maryland Health and Higher Educational Facilities Authority; Article 45A – Industrial Development; Article 78D – Baltimore Metropolitan Council; Article 83A – Department of Business and Economic Development; the Financial Institutions Article; and the State Government Article.

The companion bill, ***House Bill 1051 (passed)***, corrects cross-references to the new article in other provisions of the Annotated Code, makes nonsubstantive corrections to the new article, and addresses several matters brought to the attention of the General Assembly by the Economic Development Article Review Committee.

Base Realignment and Closure

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

In 2003, Maryland created the Maryland Military Installation Strategic Planning Council (Chapter 335 of 2003), consisting of 19 representatives of State agencies and federal military installations, to serve as an advocate for military facilities located in Maryland and coordinate State agency planning in response to changes caused by BRAC. After the approval of the 2005 BRAC plans, the State renamed the council the Maryland Military Installation Council (MMIC) and extended the termination date of the council through December 31, 2011 (Chapter 634 of 2006).

The 2005 BRAC plans impact many of the federal military installations in the State, directly resulting in an estimated 19,536 to 20,836 new jobs and placing Maryland among the largest beneficiaries nationally. These changes are expected to be phased in over a five- to six-year period with the bulk of the gains expected at Aberdeen Proving Ground, Andrews Air Force Base, Fort Meade, and the National Naval Medical Center, and most of these jobs are projected to be medical professionals, engineers, and managers. An additional 40,000 or more indirect jobs could be created through contractors and related services. It is further estimated that Maryland will gain approximately 28,000 households by the time the BRAC process is complete.

Chapter 6 of 2007 created a 10-member BRAC Subcabinet in the State government chaired by the Lieutenant Governor. The BRAC Subcabinet held a number of public meetings throughout the State since May 2007 and reviewed the action plans submitted by the nine jurisdictions that will experience the greatest growth as a result of the 2005 BRAC – Anne Arundel, Baltimore, Cecil, Frederick, Harford, Howard, Montgomery, and Prince George's counties and Baltimore City. Based on the local plans, the subcabinet prepared and will implement a statewide plan for legislative and budgetary BRAC priorities. The subcabinet released this comprehensive plan and submitted it to the Governor on November 19, 2007.

Under the coordination of MMIC, State agencies are taking steps to prepare for the significant influx of military personnel, civilian employees, contractors, and families in the affected areas. The Maryland Department of Planning (MDP) conducted a study of the employment and residential growth associated with BRAC-related changes at the affected military installations and the impact of that growth on housing supply and demand and water and sewer, power, fiber optic, transportation, and school systems. The Departments of Education, Transportation, Housing and Community Development, and Environment, among others, have been heavily engaged in BRAC planning and implementation activities.

In addition, the affected jurisdictions have been actively engaged in BRAC preparation efforts. They have been meeting and working with MMIC and the subcabinet, and each has prepared a BRAC action plan. Many counties have established a web site relating to BRAC; created a BRAC office, task force, or implementing commission; and appointed a BRAC director. A number of the counties have also applied for and received federal grants to address BRAC-related issues such as transportation, housing, utilities, services, and education.

Senate Bill 206 ***(passed)*** authorizes the Secretary of Business and Economic Development to designate BRAC Revitalization and Incentive Zones in the State. A local government may apply to have one of these BRAC Zones located within its jurisdiction. Among the factors to be considered by the Secretary in designating a BRAC Zone are the smart-growth and mixed-use characteristics of the area, the area's population density, whether the area is designated as an enterprise zone, the area's transportation options, and the overall State fiscal impact of the designation. Up to six BRAC Zones may be designated each year. The designation process is modeled on that for enterprise zones.

The benefits of a BRAC Zone designation are primarily tax-related financial incentives, including State support of up to 100 percent of the increase in the State property tax of any qualifying property and 50 percent of the local property tax for any increase in the local tax revenues collected on the increased value of qualifying property. These financial incentives are to begin in fiscal 2010 and are limited to $5 million per year. Local jurisdictions and businesses in the BRAC Zone may also receive priority consideration for financial assistance projects in the BRAC Zone from the Department of Business and Economic Development (DBED), MDP, the Department of Housing and Community Development (DHCD), or any other appropriate State program.

One additional benefit developed under ***Senate Bill 206*** is explicit authorization of a payment in lieu of taxes (PILOT) agreement for privately developed facilities in federal military reservations, also known as "federal enclave property." The bill establishes a negotiation process for State, local, federal, and private development interests to engage in to structure a PILOT agreement. Under federal law, in the absence of such an agreement, privately developed facilities in federal military reservations are subject to the full real property tax in effect in the local jurisdiction.

The membership of the legislature's Joint Committee on Base Realignment and Closure, first established under Chapter 6 of the Acts of 2007, increases to 16 as a result of ***Senate Bill 39*/*House Bill 152* (both passed)**.

Tourism, Film, and the Arts

Tourism Promotion: Studies indicate that under recent economic conditions $1 invested by the State into marketing Maryland as a tourism destination brings $28.24 of return on investment. To this end, the Maryland Tourism Development Board in the Department of Business and Economic Development promotes Maryland tourism through various media by administering a program of local matching grants for local tourism development. In addition, many local governments support "destination marketing organizations" which received approximately $1.5 million in fiscal 2008. ***Senate Bill 458* (passed)** requires the Comptroller to calculate the amount in sales tax revenue that is generated by Maryland's tourism industries and to report this amount to the Governor for consideration of inclusion within the annual appropriation for the Tourism Development Board. The bill states the intent of the General Assembly, however, that any year-on-year appropriation increase for the board not exceed $5.0 million. In addition, the bill mandates an appropriation of at least $2.5 million in annual grants to the destination marketing organizations beginning in fiscal 2011.

Baltimore Convention Center: The Baltimore Convention Center hosted 166 events and 545,000 event attendees in fiscal 2007, generating $730.0 million in business for the State and approximately $30.5 million in sales and income tax revenues. However, the Baltimore Convention Center, like convention centers generally, is not a fiscally self-sustaining entity. The convention center's operating deficit is covered by an arrangement under which Baltimore City funds one-third of the necessary support, and the Maryland Stadium Authority contributes two-thirds. ***House Bill 1433* (passed)** extends the duration of this funding arrangement through December 31, 2014, thereby extending the current, significant general fund expenditure of approximately $4.1 million beginning in fiscal 2009.

Arts and Entertainment Districts: ***House Bill 680* (passed)** expands the eligibility criteria for the tax benefits available for qualifying residing artists in Arts and Entertainment Districts. An individual who creates original jewelry, clothing, or clothing design will be classified as an artist under the program.

Life Science and Technology

Maryland currently supports a bioscience industry of 370 firms with $450.0 million in State investment in addition to the $12.2 billion in federal funds. In addition, DBED has identified 36 nanotechnology companies in Maryland. The Maryland Technology Development Corporation (TEDCO) runs the Maryland Technology Incubator Program, a leading source of funding for seed capital and entrepreneurial business assistance. Programs like this have earned TEDCO recognition as the most active early/seed stage investor in the nation for the third year in a row by a national business magazine. ***Senate Bill 735*/*House Bill 1409* (both passed)** establish the Coordinating Emerging Nanobiotechnology Research in Maryland Program (CENTR) and Fund in TEDCO. The CENTR is to provide grants specifically for nanobiotechnology research

projects to support advanced nanobiotechnology research at higher education institutions and promote Maryland as a key location for private-sector firms in the industry. Unless alternative financing is identified, general or special fund expenditures could increase, potentially by $2.5 million to $3.0 million annually, to provide for grants under the program.

Tax Credits

Distressed Counties: Maryland counties that qualify as "distressed" are eligible for targeted assistance under the Maryland Economic Development Assistance Authority and Fund, for waiver of certain insurance premiums under the Maryland Industrial Development Financing Authority, and for the One Maryland tax credits. However, certain criteria used in determining county eligibility for the tax credit have been found not to assess a county's actual need accurately. ***House Bill 408 (passed)*** alters the definition of a "qualified distressed county" by making the historical measuring periods for a county's unemployment rate and per capita personal income more appropriately reflect a county's economic well-being measured over a uniform 24-month period, and by making allowance for 12-month seasonal variations. One Maryland tax credits are typically between $500,000 and $5.0 million in value.

Job Creation Tax Credit: The Job Creation Tax Credit provides a tax credit to businesses that create new jobs in Maryland by expanding or establishing new facilities. In any one year, the credit can be applied against any one of the following taxes: corporate or personal income; insurance premium; and public service franchise. ***House Bill 721 (passed)*** extends this tax credit and the deadline for eligible projects by an additional four years to January 1, 2014.

Alternative Energy Promotion

Jane E. Lawton, a two-term member of the House of Delegates serving District 18 of Montgomery County, passed away on November 29, 2007. Lawton was widely recognized as a vigorous advocate for environmental protection and energy conservation. In tribute to Lawton's work on behalf of energy efficiency and conservation causes, ***Senate Bill 885/ House Bill 1301 (both passed)*** create the Jane E. Lawton Loan Program. This new program merges and consolidates the existing Community Energy Loan Program and Energy Efficiency and Economic Development Loan Program. The program provides low-interest loans to nonprofit organizations, local jurisdictions, and eligible businesses undertaking energy efficiency and conservation projects.

House Bill 1337 (passed) establishes a Maryland Clean Energy Center to promote and assist the development of the clean energy industry in the State. For a more detailed discussion of ***House Bill 1337***, see subpart "Environment" within Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

Other Economic Development Legislation

One concern common to many economic development programs has been the ability of the State to protect its investment when projects go awry. ***House Bill 406 (Ch. 73)*** specifies the rights and strengthens the enforcement capability of DBED in its collection efforts through its

economic assistance lending capacity. The Act also simplifies the transfer of title to projects undertaken by local governments with financial assistance from the Maryland Economic Development Assistance Authority and Fund.

Although new not-for-profit entities have many of the same organizational issues and concerns as other start-ups, they have not historically been eligible for the same sorts of government-sponsored support as for-profit small businesses and minority-owned enterprises. ***House Bill 1214*** ***(passed)*** seeks to provide organizational support for newly formed not-for-profit entities organized for charitable purposes, funded by a $50 surcharge on the articles of incorporation of these types of entities through the Not-For-Profit Development Center Program and Fund under DBED.

Housing

Housing Programs and Standards

The Department of Housing and Community Development (DHCD) operates several different programs to expand housing opportunities in both rental housing and homeownership. This year, several measures were passed to enhance some of these programs.

Maryland Housing Rehabilitation Program: The Maryland Housing Rehabilitation Program provides financing assistance to families of limited income for the acquisition and rehabilitation of single and multifamily housing. To qualify for a loan, the program requires a mortgage or deed of trust as security in the event of a default on the loan. Members of a housing cooperative, however, have been unable to utilize this loan program because they do not acquire a traditional ownership interest when they purchase a home in the housing cooperative but rather acquire a "membership interest" which is a form of a leasehold interest. ***House Bill 74*** ***(passed)*** adds a member of a housing cooperative to those eligible for a loan under this program by allowing the member to use the membership interest as collateral for the loan, if DHCD and the housing cooperative reach an agreement regarding the creation of this security interest.

Disaster Relief Housing Program: In response to the housing problems created by Hurricane Isabel, the General Assembly approved emergency legislation (Chapter 8 of 2004) during the 2004 session that established the Hurricane Isabel Housing Rehabilitation and Renovation Program. This program allowed DHCD to issue loans and provide credit enhancement or interest rate buy downs to qualified borrowers. However, the program terminated on May 31, 2005. ***House Bill 309*** ***(Ch. 66)*** establishes the Disaster Relief Housing Program within DHCD to enable the department to quickly and efficiently assist homeowners in a government-declared disaster area with repairing or replacing their primary residences through below market or zero percent interest rate financing.

Rental Allowance Program: The Rental Allowance Program authorizes the State to provide fixed, flat-rate grant subsidies to counties to assist low-income families who are homeless or have an emergency housing need. The program has also been utilized in the past to provide other forms of emergency housing needs, such as for evacuees afflicted by Hurricane Katrina. ***House Bill 231*** ***(Ch. 60)*** repeals the existing program and adds a similar but expanded

framework of rental assistance programs. The bill indicates that it is the intent of the General Assembly to preserve the existing network of resources and services dedicated to rental assistance.

State Financed Housing Loans: In recent months there has been a slow-down in repayments on State funded housing loans. However, in order to keep pace with the demand for such loans, DHCD requires additional sources of funding. ***House Bill 975 (passed)*** authorizes DHCD and the Community Development Administration in DHCD to sell any mortgage or other obligation that it holds, retain the servicing rights, and charge servicing fees for any obligation it sells. The proceeds from any sale and servicing fees earned may go to the Homeownership, Rental Housing, Partnership Rental Housing, Special Loan, and Workforce Housing funds.

Visitability Standards for New Single-family Housing: In an attempt to make residences more accessible for visitors who are mobility-limited, whether by permanent or temporary disability or illness or by aging, ***Senate Bill 792/House Bill 448 (both failed)*** as introduced would have required DHCD to adopt as a modification to the Maryland Building Performance Standards minimum standards for "visitability" in the design and construction of new single-family dwellings. The measures did not pass but were referred to interim study by the House Environmental Matters Committee.

Affordable Housing

Local Government Authority: Chapter 300 of 2007 authorized counties or municipalities to support, foster, or promote an affordable housing program for individuals or families of low- or moderate-income by specified means, including providing funding or property, supporting payment in lieu of taxes programs, or enacting legislation to restrict prices or require development of affordable housing as part of a subdivision in return for added density. This year, an additional tool was added to this list by ***Senate Bill 281/House Bill 742 (both passed)***. These bills expressly allow a county or municipality to waive or modify building permit or development impact fees and charges that are not mandated under State law for the construction or rehabilitation of lower-income housing units (1) in proportion to the number of lower-income housing units of a development; (2) and that are financed, in whole or in part, by public funding that restricts the rental or sale of the housing units to lower-income residents or are developed by a tax-exempt nonprofit organization that requires the homebuyer to participate in the construction or rehabilitation of the housing unit.

Maryland Affordable Housing Trust: The Maryland Center for Community Development was a statewide organization dedicated to affordable housing. A representative of this organization has been 1 of the 11 voting members of the Board of Trustees of the Maryland Affordable Housing Trust. However, because the center no longer exists, ***House Bill 1513 (passed)*** deletes the obsolete reference and requires the Governor to appoint an additional representative of the public.

Lead Paint in Housing

Although the number of children with elevated blood lead levels in Maryland has decreased significantly over the past dozen years and the number of children tested continues to grow, lead paint still remains a significant health issue in Maryland. ***Senate Bill 718*** ***(passed)*** requires a person acquiring an occupied and affected property to come into compliance with provisions of the Reduction of Lead Risk in Housing laws. ***Senate Bill 557***/***House Bill 589*** ***(both passed)*** require an application form for a contractor's license issued by the Maryland Home Improvement Commission to contain accreditation information for use by the Maryland Department of the Environment. For a more detailed discussion of these bills, see the subpart "Environment" within Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

Workers' Compensation

Compensation for Permanent Partial Disability

Compensation for permanent partial disability is divided into three tiers, depending on the severity of the injury.

- Compensation for a period of less than 75 weeks is generally available for lesser injuries or the loss of a finger or a toe and cannot exceed $114 per week. The maximum benefit is lower for claims arising prior to 2000. Maximum first-tier awards are higher for certain disabilities and for specified public safety employees.

- Compensation for a period equal to or greater than 75 weeks but less than 250 weeks is generally available for the loss of a thumb, partial hearing loss, or disfigurement. These claimants are entitled to compensation equal to two-thirds of the employee's average weekly wage, not to exceed one-third of the State average weekly wage (currently $292).

- Compensation for a period of 250 weeks or more is generally available for the most serious injuries, such as loss of a hand, arm, foot, leg, eye, or total loss of hearing. These claimants are entitled to compensation equal to two-thirds of the employee's average weekly wage, not to exceed 75 percent of the State average weekly wage (currently $658).

House Bill 700 ***(Ch. 85)*** gradually increases the maximum benefit for first-tier claims (less than 75 weeks) for a permanent partial disability occurring on or after January 1, 2009, from $114 to one-sixth of the State average weekly wage (currently $146). The maximum weekly benefit amount would increase on an incremental basis over three calendar years to 14.3 percent of the State average weekly wage in calendar 2009 (about $125), 15.4 percent in calendar 2010 (about $135), and 16.7 percent in calendar 2011 (about $147) and thereafter.

State expenditures to provide the maximum weekly benefits under the bill could increase by $321,750 in fiscal 2009 and $872,115 in fiscal 2013. Local expenditures would also increase

under the bill. For example, Montgomery County expenditures would increase by $357,500 in fiscal 2009 and $969,000 in fiscal 2012, according to data supplied by the county and analyzed by the Department of Legislative Services.

Covered Employment – State Government Volunteer Workers

The law has traditionally provided workers' compensation coverage for State volunteers who volunteer in emergencies, such as volunteer members or trainees of the Maryland Emergency Management Agency. Also, under Chapter 369 of 2006, individuals who are registered with a State agency to volunteer in an emergency (*e.g.*, a doctor who registers with the Department of Health and Mental Hygiene) are covered. Volunteer fire and rescue personnel are entitled to coverage either by the local government for which they volunteer or by the volunteer company.

Prior to January 8, 2008, other volunteer workers employed by units of State government were provided Volunteer Accident Coverage through the State Treasurer's Office. This coverage consisted of $2,500 in accidental injury compensation and $10,000 in accidental death and dismemberment coverage, which was in addition to the employees' protections afforded by the Maryland Tort Claims Act and any personal health insurance carried by the employee. State governmental units were notified that the Treasurer would no longer be providing coverage. The Department of Natural Resources was particularly concerned with this decision due to the number of volunteers it utilizes.

Accordingly, ***House Bill 1400*** ***(passed)*** provides that any volunteer worker for a unit of State government is entitled to limited workers' compensation benefits under the Maryland Workers' Compensation Act. The benefits are limited, under the bill, to medical services and treatment, including medical, surgical, or other treatment, hospital and nursing services, medicine, artificial prosthetic appliances, crutches, and the replacement of eyeglasses or an artificial eye, limb, tooth, or other prosthetic appliance.

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

Lyme disease is a bacterial disease most common in New England and the mid-Atlantic region. It is transmitted by the bite of an infected blacklegged tick and, if left untreated, can spread to the joints, heart, and nervous system. In 2006, there were 1,248 cases of Lyme disease reported in Maryland, or 22.6 cases per 100,000 residents. At the time, it was the seventh highest Lyme disease infection rate in the country and more than three times the national average.

Under current law, a paid law enforcement officer 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. No time limit is placed on this presumption.

House Bill 933 ***(Ch. 98)*** extends that presumption to park police officers of the Maryland-National Capital Park and Planning Commission (M-NCPPC) by providing that a park police officer who suffers from Lyme disease is presumed to have an occupational disease that was suffered in the line of duty, and compensable under workers' compensation law, if the park police officer was not suffering from Lyme disease prior to being stationed in an outdoor wooded environment. The presumption provided to these M-NCPPC officers would apply for up to three years after the last date that an officer is regularly assigned to a position in an outdoor wooded environment. The provisions of ***House Bill 933*** terminate on September 30, 2015.

Prince George's County Correctional Officers

House Bill 1015 ***(Ch. 109)*** adds Prince George's County correctional officers to the list of public safety officers eligible for enhanced benefits for a compensable permanent partial disability. Correctional officers awarded claims of fewer than 75 weeks would instead be compensated at the rate for awards of 75 to 250 weeks. The rate for awards of fewer than 75 weeks is currently $114 per week (although this rate is increased as discussed above). Under the bill, Prince George's County, which is self-insured for workers' compensation, must pay a correctional officer two-thirds of the correctional officer's average weekly wage, not to exceed one-third of the State average weekly wage ($292 in 2008). Chapter 434 of 2007 made Montgomery County correctional officers eligible for identical enhanced workers' compensation benefits for permanent partial disabilities of fewer than 75 weeks.

Allegany County – Students in Unpaid Work-based Learning Experiences

Employers who provide unpaid work-based learning experiences to public or nonpublic school students must secure workers' compensation coverage for those students. However, the local school board may choose to provide coverage for its participating students. In that event, the participating employers are required to reimburse the local school board the lesser of the cost of the coverage or $250. The Cecil County Board of Education is currently the only local school board authorized to waive the requirement that participating employers reimburse the local school board.

Senate Bill 88 ***(passed)*** authorizes the Allegany County Board of Education to also waive the requirement that the board be reimbursed by a participating employer for providing workers' compensation coverage for students placed in unpaid work-based learning experiences with the participating employer.

Injured Workers' Insurance Fund – Regulation by the Maryland Insurance Commissioner

The Injured Workers' Insurance Fund (IWIF) administers workers' compensation for the State and provides workers' compensation insurance to firms that are financially unable to procure insurance in the private market. First established as the State Accident Fund under the State Industrial Accident Commission, IWIF became an independent agency and adopted its

current name in 1990. IWIF is the exclusive residual workers' compensation insurer in the State and cannot decline businesses seeking coverage. IWIF is a major insurer in the State, with almost one-third of the market share. Chapter 567 of 2000 placed IWIF under the oversight of the Maryland Insurance Administration for examinations and certain other provisions; however, it curbed the Insurance Commissioner's authority to take any action (such as a corrective order) and continued the practice of not subjecting IWIF to rate review by the Commissioner.

Senate Bill 679 ***(passed)*** subjects IWIF to the Commissioner's enforcement powers for all provisions that govern IWIF, except that any order of the Commissioner may not include a requirement that IWIF increase rates. The Commissioner may examine or review IWIF's compliance with policy forms and provisions and unfair trade practices and other prohibited practices; but the Commissioner continues to not have authority to examine or review IWIF's rates. For a further discussion, see the subpart "Insurance" under this Part H – Business and Economic Issues of this *90 Day Report*.

Unemployment Insurance

State Collection of Federal Unemployment Insurance Tax

Under the Federal Unemployment Tax Act (FUTA), the Internal Revenue Service is authorized to collect a federal employer tax used to fund state workforce agencies. The tax is paid by employers annually to cover:

- the cost of administering all states' Unemployment Insurance and Job Service programs;
- one-half of the cost of extended unemployment benefits; and
- the cost of maintaining a fund from which states may, if necessary, borrow money.

The FUTA tax rate is 6.2 percent of taxable wages, which is based on the first $7,000 paid in wages to each employee during a calendar year. Employers who pay the state employment tax in a timely manner receive an offset credit of up to 5.4 percent, thus paying 0.8 percent of taxable wages. In Maryland, the FUTA tax provides for 100 percent of the administrative costs for the State's Unemployment Insurance and Employment Service programs.

Currently, there are no federal initiatives to authorize a pilot program granting states the authority to collect the FUTA tax. However, the federal government has proposed such a pilot program, and the Department of Labor, Licensing, and Regulation (DLLR), in anticipation of such a program, introduced a departmental bill under which the State of Maryland would have the authority to collect the tax. The State would be entitled to a minimum of 75 percent of the total amount of FUTA taxes if authorized to collect it.

House Bill 416 ***(Ch. 74)*** authorizes the State's Department of Labor, Licensing, and Regulation to directly collect from employers the FUTA tax if the U.S. Department of Labor authorizes or directs the State to collect the tax. Funds derived by the State from the collection of taxes, estimated at $26.3 million in fiscal 2009 and $35 million annually thereafter, should the federal government authorize such a collection, may only be used for programs administered by the State's Division of Unemployment Insurance and the Office of Employment Services. Any agreement reached by the Department of Labor, Licensing, and Regulation and the federal government must be submitted to the Joint Committee on Unemployment Insurance Oversight for review. This law will expire on September 30, 2013.

Eligibility – Voluntary Quit to Follow a Military Spouse

Under current law, an individual who quits employment to accompany a spouse to a new location is subject to the maximum disqualification before being eligible to receive benefits – that disqualification means the individual must be reemployed and earn wages of at least 15 times the weekly benefit amount before being eligible for unemployment insurance. Once the individual has satisfied this wage earned requirement, the individual would be eligible for unemployment insurance if the individual is laid off from the subsequent job. However, other individuals who quit for valid circumstances (defined as a circumstance of such compelling nature that the individual has no reasonable alternative to leaving employment) are subject to a lesser disqualification, a 5- to 10-week waiting period, before being eligible to receive benefits.

House Bill 749 ***(passed)*** provides that an individual is eligible for unemployment insurance benefits if the individual voluntarily quits employment to follow a spouse (as a valid circumstance) if:

- the individual's spouse serves in the U.S. military *or* is a civilian employee of the military or of a federal agency involved in military operations; and

- the employer of the individual's spouse requires the spouse's mandatory transfer to a new location.

The bill also requires the Department of Labor, Licensing, and Regulation to report to the Senate Finance Committee and the House Economic Matters Committee by June 1, 2009, on the implementation of this legislation, including the number of claims filed, the estimated fiscal impact of those claims, and other issues related to the enforcement of the legislation. DLLR estimates that the legislation will result in approximately $1 million in benefits annually – those benefits will be paid from the Unemployment Insurance Trust Fund. The benefits will not be charged to the employer's rating record and will not directly affect the employer's taxes.

Appeals of Claims Decisions – Lower Appeals Division

House Bill 432 ***(passed)*** codifies the current administrative practice for appeals to unemployment insurance claims within the Department of Labor, Licensing, and Regulation (DLLR). A first level of review is created in the Lower Appeals Division, which hears and

decides appeals of unemployment insurance determinations. The Secretary of Labor, Licensing, and Regulation must appoint a chief hearing examiner in the professional service as head of the division. Under current law, the division's hearing examiners are appointed by the Secretary, subject to approval by the Board of Appeals. Under the bill, the division is a separate and independent entity from the Board of Appeals, thus the chief hearing examiner appoints the hearing examiners and other personnel.

Under current law (and unaffected by the bill) a decision of the division may be further appealed to the second level of review, the Board of Appeals, also within DLLR. In certain cases, the Secretary must directly refer claims to the Board of Appeals. Those cases involve labor disputes, multiple claims, or difficult issues of fact or law.

Lawyers – Payment of Unemployment Insurance Contributions

The Maryland Bar created the Client Protection Fund to reimburse claimants for losses caused by theft by members of the Maryland Bar, acting either as attorneys or a fiduciary for a client's funds. About 33,000 lawyers pay an annual fee to support the fund. ***Senate Bill 493 (passed)*** repeals a requirement enacted in 2007 that the fund verify through the Comptroller's Office that a lawyer has paid or entered into an accepted payment plan for all undisputed taxes and unemployment insurance contributions. That verification was required to certify that a lawyer had paid the annual fee.

In its place, this legislation requires that the fund provide the Comptroller with a list of lawyers who have paid annual fees to the fund each year; the Comptroller may then refer a lawyer to the Bar Counsel if the individual does not make payment or payment arrangements on the undisputed past due tax and unemployment insurance contribution amounts. For a further discussion, see the subpart "Miscellaneous Taxes" under Part B – Taxes of this *90 Day Report*.

Labor and Industry

Use of Paid Leave for Family Illness

Since 1999, Maryland law has required an employer that provides paid leave to an employee following the birth of an employee's child to also provide the same benefit to an employee after the adoption of a child. This law is applicable to a unit of State or local government, with the exception of units that employ individuals subject to the State Personnel Management System leave policy. Currently, there are no other requirements regarding the use of paid leave by private-sector employees.

The Federal Family Medical Leave Act of 1993 (FMLA) generally applies to an entity engaged in commerce that employs more than 50 employees; public agencies are considered covered employers irrespective of the number of individuals employed by the agency.

Current FMLA provisions require covered employers to provide eligible employees with up to 12 work weeks of unpaid leave during a 12-month period for:

- the birth and care of an employee's newborn child;
- the adoption or placement of a child with an employee for foster care;
- to care for an immediate family member (spouse, child, or parent) with a serious health condition; or
- medical leave when the employee is unable to work due to a serious health condition.

House Bill 40 ***(passed)*** requires a private-sector employer that employs 15 or more individuals and provides paid leave to an employee under either a collective bargaining agreement or an employment policy to also allow an employee to use earned paid leave to care for a child, spouse, or parent with an illness. The employee may only use the paid leave that the employee has earned. If an employer offers more than one type of paid leave to an employee, the employee may elect the type and amount of leave with pay to use for caring for the sick family member. Employers are prohibited from discriminating against or threatening an employee who exercises rights under the bill or files a complaint against the employer for a violation of the provisions of the bill. ***House Bill 40*** does not apply to private-sector employers that do not provide paid leave to an employee; leave that is granted under the federal Family Medical Leave Act of 1993 is exempted from the provisions of this measure.

Employee Data – Reporting Employee Racial and Gender Classification

The Commissioner of Labor and Industry is currently authorized to require employers, including State and local government, to maintain records of the wages and job classification of employees and other conditions of employment under the State's Equal Pay for Equal Work law. A 2006 report of the Equal Pay Commission, created by Chapter 3 of the 2004 special session, recommended that statewide wage data reporting system be created and that a State agency be assigned to enforce equal pay requirements. ***House Bill 1156*** ***(Ch. 114)*** expands the type of employee data that an employer may need to maintain. Specifically, the bill authorizes the commissioner to require that employers maintain a record on the racial classification and gender of each employee. Under the measure, the commissioner may analyze employee records on wages, job classification, racial classification, gender, and other conditions of employment maintained by the employer in accordance with the commissioner's authority for the purpose of studying pay disparity issues. The commissioner must report to the General Assembly by October 1, 2013, on the pay disparity analysis conducted under the provisions of the Act; and on December 31, 2013, the provisions of the Act will terminate.

Anne Arundel County Correctional Officers – Polygraph Examinations

With certain specified exceptions, an employer is prohibited from requiring, as a condition of employment, prospective employment, or continued employment, that an individual

submit to or take a lie detector or similar test. Specified exceptions include an individual who applies for employment or is employed as a correctional officer of the Baltimore City Jail and local detention centers in Baltimore, Cecil, Charles, Frederick, Harford, and St. Mary's counties. Also exempt is any correctional officer, or other person in a capacity that involves direct personal contact with an inmate, in the Washington County and Calvert County detention centers. ***House Bill 287 (Ch. 64)*** exempts from the lie detection test prohibition an applicant for employment with the Anne Arundel County Department of Detention Facilities as a correctional officer or in any other capacity that involves direct contact with an inmate in the department.

Termination of Employment – Wage Payment for Accrued Leave

An employer is currently required to pay an employee all wages due for work that the employee performed before the termination of employment. The payment is due by the date on which the employee would have been paid had the employment not been terminated. In 2007, in an unpublished decision, the Maryland Court of Special Appeals ruled in *Catapult Technology, LTD v. Paul Wolfe*, No. 997 (2007) that accrued leave constitutes a wage under the Maryland Wage Payment and Collection law and is thus payable to the employee when employment has terminated. In the *Catapult* case, when employer Catapult Technology lost a federal contract, 14 employees resigned without providing the required two weeks notice under Catapult Technology's employee handbook. The Court of Special Appeals held that because the 14 employees accrued leave based on hours worked, the employees were entitled to be paid for the value of their unused leave.

Senate Bill 797 (passed), an emergency bill, requires an employer to provide to an employee at the time of hiring, notice of the leave benefits available to the employee. Further, the bill also exempts an employer from the requirement of paying accrued leave to an employee upon termination of employment if:

- the employer has a written policy limiting compensation of accrued leave to employees;
- the employer notified the employee of the employer's leave benefits; and
- the employee is not entitled to payment for accrued leave at termination under the terms of the employer's written policy.

Additionally, ***Senate Bill 797*** applies retroactively so that an employee whose employment terminated on or after November 1, 2007, is entitled to payment of accrued leave only if the employee is eligible under the terms of the employer's written policy, as communicated to the employee prior to the termination of employment. This provision does not apply to any case for which a final judgment has been rendered and all judicial appeals have been exhausted prior to the effective date of the Act.

Adult Education and Workforce Development Services – Consolidation

On July 1, 2009, Maryland's adult education, literacy services, and correctional institutions' education programs and resources will be consolidated and transferred to the jurisdiction of one State agency, the Department of Labor, Licensing, and Regulation, under the provisions of ***Senate Bill 203*** ***(passed)***. The bill also establishes a Workforce and Adult Education Transition Council to make recommendations, by December 31, 2008, for the integration of these programs. For a further discussion, see the subpart "State Agencies, Offices, and Officials" under Part C – State Government of this *90 Day Report*.

Alcoholic Beverages

Statewide Laws

Underage Drinkers

To help address concerns about underage drinking in the State and its negative impact on teenage health and driving safety, ***Senate Bill 166/House Bill 76*** ***(both passed)*** raise the penalty for knowingly furnishing an alcoholic beverage for consumption to an individual under the age of 21 from $1,000 to $2,500 for a first violation and from $1,500 to $5,000 for a subsequent violation.

Beer

Flavored Malt Beverages: For regulatory and tax purposes, the State Comptroller's Office has treated alcoholic beverages, commonly referred to as "flavored malt beverages" (FMBs) or "alcopops," as though they fit the definition of beer under State law. A March 8, 2008 opinion of the Attorney General, however, concluded that FMBs fall within the State definition of distilled spirits rather than beer. Among its findings, the opinion noted that the flavors of FMBs, which are popular among young people, are derived from added sweeteners rather than from malt and other material used in fermentation and that most FMBs contain very little actual beer base. Overriding this opinion, ***Senate Bill 745*** ***(passed)*** expands the definition of "beer" to include FMBs. As a result, persons will need to possess only a beer license, as opposed to a beer, wine, and liquor license, to sell FMBs. In addition, FMBs are taxed at the 9 cents per gallon rate for beer and not the $1.50 per gallon rate for distilled spirits. The bill applies to beverages that fit the FMB determination of the Alcohol and Tobacco Tax and Trade Bureau of the U.S. Department of the Treasury. Beverages of that nature contain 6 percent or less alcohol by volume, derived primarily from the fermentation of grain, with not more than 49 percent of the volume of the finished product consisting of alcohol derived from flavors and other added nonbeverage ingredients containing alcohol.

Manufacturer and Distributor Agreements: A "successor beer manufacturer" is a beer manufacturer that replaces a beer manufacturer, acquiring the former manufacturer's right to sell, distribute, or import a particular brand of beer. ***Senate Bill 118/House Bill 205*** ***(both passed)***

provide that before a successor beer manufacturer may terminate a distribution agreement and replace a surviving beer distributor with a new beer distributor, the surviving beer distributor and the new beer distributor shall negotiate to determine the fair market value of the affected distribution rights that the new distributor should pay the surviving distributor. If negotiations do not result in an agreement, nonbinding mediation and, as a last result, court action would follow.

Special Brewery Promotional Event Permit: ***House Bill 703*** ***(Ch. 86)*** establishes a Special Brewery Promotional Event Permit for a holder of a Class 5 manufacturer's license. A Class 5 manufacturer may not receive more than four permits in a calendar year, and each single promotional event may not exceed three days. A permit holder may provide samples of beer produced by the permit holder and may sell beer produced by the brewer by the glass at a promotional event held on the premises of the brewery.

Direct Wine Shipment: ***Senate Bill 616/House Bill 1260*** ***(both failed)*** would have established a licensing procedure by which out-of-state wineries and other persons would have been able to ship wine directly to residents in the State.

Local Laws

City of Annapolis

Administrative Action: ***House Bill 1086*** ***(failed)*** would have added the City of Annapolis to the list of jurisdictions in which the granting of probation before judgment to an alcoholic beverages licensee for selling or furnishing alcoholic beverages to an underage individual does not bar the Board of License Commissioners from taking administrative action against the licensee for the violation, such as suspending or revoking the license.

Anne Arundel County

Hotel Licenses: ***Senate Bill 1003*** ***(failed)*** would have created a Class H-EX beer and light wine license (on- and off-sale) and a Class H-EX beer, wine, and liquor license (on-sale only) that would have authorized licensees to sell alcoholic beverages to registered guests.

Baltimore City

Fees and Licenses: Of the bills relating to alcoholic beverages in Baltimore City, ***Senate Bill 584*** ***(passed)*** is the most extensive. Among other features, the bill clarifies the law by reorganizing a key section of the Alcoholic Beverages Law, while raising certain license fees, raising the salaries of the chairman and other members of the city's Board of Liquor License Commissioners, reducing the number of part-time liquor inspectors from 18 to 12, changing the positions and altering the salary grade level for certain board staff, creating new board staff positions, and altering certain provisions regarding the registration of bottle clubs. The bill also prohibits the board from accepting a renewal of a registration of a bottle club without a public hearing if a protest has been filed against the renewal. ***Senate Bill 496*** ***(passed)*** authorizes the

board to issue Class B beer, wine, and liquor licenses to not more than three restaurants in a business planned unit development in Ward 24, Precinct 5 of the 46th Legislative District. ***Senate Bill 18 (failed)*** would have established a beer, wine, and liquor tasting license in Ward 27, Precinct 32 of the 43rd Legislative District.

Calvert County

Fees, Salaries, Protest of License Renewal: ***Senate Bill 55/House Bill 633 (both failed)*** would have raised certain alcoholic beverages license fees and the salaries of the chairman and other members of the Board of License Commissioners and would have created a special beer and wine tasting (BWT) license. The bills also would have required that if a protest is lodged against the renewal of a license, the protest must specify the basis on which the protest is made, and the protest must be filed under oath.

Carroll County

Hours of Sale: Hours of sale on Sundays will begin at 11 a.m. for holders of most licenses, according to ***House Bill 902 (passed)***. Under ***House Bill 899 (Ch. 96)***, the Board of License Commissioners may issue a special Class C beer, wine, and liquor license to the Carroll Arts Center, located in Westminster, so that it may serve alcoholic beverages at its entertainment events.

Reduced Fee: The license fee for a special beer festival is reduced from $200 to $50 under ***Senate Bill 987 (passed)***.

Cecil County

Food Receipts: ***House Bill 382 (passed)*** lowers from 51 to 25 percent the minimum percentage of annual receipts from the sale of food required of a restaurant licensed to sell alcoholic beverages.

Dorchester County

License Privileges, Number of Licenses, and Penalties: ***Senate Bill 154/House Bill 545 (both passed)*** repeal the off-sale privilege of Class B beer and light wine licenses on or after July 1, 2008. Currently authorized licensees can maintain the privilege throughout the term of the license and may renew the license. The bills also authorize the Board of License Commissioners to (1) limit the number of additional Class A beer and wine licenses that it issues; and (2) issue a special license of any class for an event conducted by a not-for-profit club, society, association, or organization in accordance with certain application requirements. Finally, the bills establish penalties for certain violations of requirements for catered events and alter the hours of sale for certain licenses.

Harford County

Cafe License: A Class B Cafe beer and wine license for on- and off-sales is created by ***Senate Bill 63/House Bill 428 (both passed)***. The bills prohibit the Liquor Control Board from issuing more than five cafe licenses and require the board to set a maximum and a minimum seating capacity for each cafe license. The bills also allow a licensee to hold an on-premises wine tasting event every day of the year. However, a cafe license may not be used for off-premises catering.

BDR License: ***Senate Bill 62/House Bill 437 (both passed)*** eliminate the Class BDR (deluxe restaurant) beer, wine, and liquor license and increase the number of Class B (restaurant) licenses that may be issued to an individual from two to nine. The bills also define when an indirect ownership interest in a license is presumed to exist.

Howard County

Employment of Hearing Board Members: ***House Bill 163 (Ch. 46)*** prohibits a member of the Appointed Alcoholic Beverage Hearing Board from being employed by the county government. The board conducts hearings and renders decisions on cases involving alcoholic beverage licensees in the county. The board consists of five members, one from each council district appointed by the county executive from a list of persons provided by the county council.

Garrett County

License for Hotels, Motels, or Inns: Hotels, motels, or inns that are equipped with at least 10 bedrooms, a lobby, and a restaurant with a seating capacity for at least 20 persons will qualify for a Class B beer and light wine license under ***Senate Bill 221 (passed)***. The license may be issued with or without a catering option.

Sunday Sales: Whether Sunday sales will be allowed to expand in the county will be determined at the November 2008 election. ***Senate Bill 292/House Bill 276 (both passed)*** authorize Sunday sales of specified alcoholic beverages in those election districts in which voters approve a local referendum in favor of the sales. Currently, Sunday sales are allowed only in election districts 11 and 15, where voters approved them in a November 1996 referendum.

Kent County

Wineries: Wineries will be able to sell their product at retail to visitors under ***House Bill 5 (passed)***. The bill adds the county to the list of counties in which a Class A light wine license may be issued to a holder of Class 3 manufacturer's license or a Class 4 manufacturer's license.

Montgomery County

Items for Sale in Dispensaries: County retail dispensaries will be allowed to sell not only alcoholic beverages but also items commonly associated with alcoholic beverages, such as bottle openers, corkscrews, drink mixes, and lime juice, under ***House Bill 827 (Ch. 92)***. However, the sale of snack foods and soft drinks at dispensaries is prohibited.

Restaurant License Requirements: ***House Bill 828 (Ch. 93)*** repeals capital investment and seating capacity requirements for a licensee's additional Class B beer, wine, and liquor (on-sale) restaurant license for certain premises.

Performing Arts Facility License: ***House Bill 823 (passed)*** eases the minimum capacity requirement for a Class B-BWL (performing arts facility) license. Under the bill, the facility must be able to hold only 1,500 persons, not 2,000 persons.

Golf Course Licenses: Certain public golf courses in the county are under the jurisdiction of the County Revenue Authority. To streamline the administrative process, ***House Bill 1225 (Ch. 115)*** designates the executive director or designee of the authority as the holder of alcoholic beverages licenses issued for the golf courses, replacing the director or deputy director of the county Parks Department of the Maryland-National Capital Park and Planning Commission.

Prince George's County

Licenses for the National Harbor Project: Several bills were introduced this session as a result of the opening of the $2 billion National Harbor Project, a major waterfront entertainment retail complex located along the Potomac River in the county. When fully developed, the 300-acre project will encompass 10 acres of meeting space and will include numerous hotels and restaurants along with retail and residential development.

Senate Bill 626/House Bill 1479 (both passed) create a Class B-CC (convention center) beer, wine, and liquor license designed for the recently opened hotel built by the Gaylord National Resort and Convention Center in the National Harbor Project. The annual license fee is $20,000. The hours during which alcoholic beverages may be served are from 6 a.m. until 3 a.m. the next morning, seven days a week.

The legislation intended to create a variety of licenses for use in other locations within the National Harbor, however, was unsuccessful. ***Senate Bill 837/House Bill 1478 (both failed)*** would have licensed bars and restaurants. The bills would have created a Class B (entertainment venue) beer, wine, and liquor license for use by an establishment that provides comedy, dancing, music, theater, or similar art, but not movies or entertainment prohibited by county law and a Class A (waterfront plaza) beer and wine license that would have the effect of allowing patrons to consume beer and wine anywhere within an entertainment district within the project that the Board of License Commissioners approves.

The bills also would have established a wine festival license and would have authorized the board to issue or approve the transfer of a Class A, B, or D beer and wine license or beer, wine, and liquor license to a supermarket or grocery store within the waterfront entertainment retail complex.

Keg Sales: A person licensed to sell beer in kegs at retail is required to provide each purchaser with a registration form that affixes to the keg. ***Senate Bill 9 (passed)*** requires in Prince George's County only the keg licensee, and not the purchaser, to complete the registration form. Included in the form must be the purchaser's name, the date of purchase, and the address of the purchaser as shown on the identification card produced or, if the person provides a U.S. military identification card, the address that the purchaser provides. The purchaser shall sign the form, and the keg licensee shall record on a copy that the licensee retains the purchaser's identification number and the date the purchaser's identification was issued.

Other Licenses: Several bills created or amended other alcoholic beverages licenses. ***House Bill 1021 (Ch. 110)*** creates a Class B (TP) beer, wine, and liquor theme park license, designed for the Six Flags America theme park in Mitchellville. The license entitles the licensee to sell beer, wine, and liquor by the drink within the theme park. ***House Bill 1013 (passed)*** allows up to four Class B-DD (development district) licenses for restaurants within the area of the Greenbelt Metro Station. ***House Bill 1013*** also increases the annual license fee of a Class BH (hotel) license from $3,850 to $5,000. ***House Bill 1020 (failed)*** would have authorized a Class A light wine license to be issued to the holder of a Class 4 manufacturer's license (limited winery). In addition to specifying the annual salary of each inspector, ***House Bill 1031 (failed)*** would have provided, as amended on the Senate floor, for the total number of restaurant beer, wine, and liquor licenses that a newly merged entity could hold in order to keep the restaurant owned by the entity operational as to their sales of alcoholic beverages.

Appeal of Order to Close: ***Senate Bill 128 (failed)*** would have specified that in an appeal from a decision of the Board of License Commissioners, the court may not stay an order of the board to close a place a business.

Drive-through Purchase Facilities: ***Senate Bill 130 (failed)*** would have prohibited the Board of License Commissioners from issuing a new alcoholic beverages license on or after July 1, 2008, for use in a drive-through purchase facility in which alcoholic beverages are to be sold and dispensed through a window or door to a purchaser in or on a motor vehicle.

Compensation and Salaries: ***House Bill 1016 (passed)*** specifies that in fiscal 2008 only, the county council must, on the submission of a request by the Board of License Commissioners, pay the board attorney up to $53,500, as requested by the board. This payment is in addition to the annual salary of the attorney that is in effect. The bill repeals a provision allowing the board to pay legal fees that the board approved but did not pay in prior fiscal years. ***House Bill 1031 (failed)*** would have fixed the annual salary of liquor inspectors at $10,900.

St. Mary's County

Maximum Fine: ***House Bill 331*** ***(failed)*** would have raised the maximum fine for any violation of county alcoholic beverages laws to $1,000.

Somerset County

Death of Licensee: ***House Bill 173*** ***(Ch. 50)*** adds the county to the list of counties that, on the death of certain alcoholic beverages licensees, automatically issue a license under certain circumstances to the surviving spouse, the surviving partners for the benefit of the partnership, or the senior surviving officer for the benefit of the corporation.

Licenses, Fees, and Fines: ***House Bill 198*** ***(Ch. 52)*** authorizes a holder of a Class D beer and light wine license to sell beer and wine for both on- and off-sale consumption. The bill also sets the fee for a special beer; beer and light wine; or beer, wine, and liquor license at $63 for each license day. Finally, the bill raises to $4,000 the maximum fine the Board of License Commissioners may impose on a licensee for any violation that is cause for suspension.

Washington County

Licenses: Three types of licenses are created by ***House Bill 1087*** ***(passed)*** – a caterer's license, a stadium (on-sale) beer and light wine license for the owner of a professional team franchise, and a sidewalk cafe license that entitles the holder to sell and serve alcoholic beverages in an area on the sidewalk directly in front of the licensed establishment.

Annual Audit: ***House Bill 634*** ***(Ch. 81)*** requires the Board of License Commissioners to engage an independent certified public accounting firm to conduct an audit to express an opinion on the fair presentation of the financial statements of the board.

Wicomico County

Licenses: ***Senate Bill 157/House Bill 203*** ***(both passed)*** authorize the holder of a Class 6 pub-brewery license to sell malt beverages for off-premises consumption in sealed refillable containers. The bills also authorize the issuance of a Class 7 micro-brewery (on- and off-sale) license and create a Class B special wine license for the sale of wine for consumption off the premises. A special Class C beer; beer and wine; or beer, wine, and liquor license also created by the bills is designed for use by fire departments in the county. Finally, the bills allow the issuance of one Class 6 pub-brewery license or one Class 7 micro-brewery license, but not both, to a person that holds not more than three Class B beer, wine, and liquor licenses. The extra license may be used only at a location in an enterprise zone in the City of Salisbury.

Worcester County

Fine for Late Renewals: ***House Bill 171*** ***(Ch. 49)*** specifies that the Board of License Commissioners may receive late applications for license renewals during April and fine the licensee up to $50 for each day the application is late.

Service of Notice of Charges: ***House Bill 170*** ***(Ch. 48)*** requires that a notice of charges of complaint in measures affecting licenses be given to the licensee or an employee by personal service or by any other method of service of notice that conforms to the Maryland Rules of Court.