Part H
Business and Economic Issues

Business Occupations

State Commission of Real Estate Appraisers and Home Inspectors

The State Commission of Real Estate Appraisers and Home Inspectors licenses and issues certificates to real estate appraisers and home inspectors, and is otherwise responsible for regulating the real estate appraisal and home inspection industries. Chapter 594 of 1990 established the commission (formerly the State Commission of Real Estate Appraisers) to administer a real estate appraiser licensing and certification program that complies with the federal Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA). As of June 2010, there were roughly 3,600 licensed or certified real estate appraisers and about 850 home inspectors operating in Maryland.

Special Funding and Regulation of Real Estate Appraisal Management Companies

In July 2010, the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) became law. The Dodd-Frank Act amended FIRREA and established specific requirements for the regulation of appraisal management companies (AMCs) by the states. The Dodd-Frank Act specifies that states must implement an AMC regulatory structure within 36 months of the issuance of final regulations implementing the Act's requirements related to AMCs. Final regulations have not been issued but may be promulgated in 2011. Once the deadline has passed, unregulated AMCs are prohibited from performing services involving federally related transactions.

***Senate Bill 658*/*House Bill 1181* (both passed)** establish the State Commission of Real Estate Appraisers and Home Inspectors as a special fund entity and grant the commission the authority to set appropriate fees to approximate the costs of regulating the real estate appraisal and home inspection industries. The bills also require AMCs to register with the commission in order to offer appraisal management services in the State. The bills establish extensive regulatory requirements pertaining to the provision of appraisal management services in the State.

Significant provisions of the bills include (1) altering the membership of the commission; (2) requiring the commission to publish the fee schedule set by the commission; (3) specifying information required for registration; (4) providing that a registration is valid for one year; (5) requiring an applicant to designate an individual to serve as a controlling person that will be the main contact for all communication between the commission and AMC; (6) specifying what constitutes unprofessional conduct; (7) requiring AMC to maintain detailed records of service requests and each appraiser that performs an appraisal for AMC; (8) requiring AMC to ensure real estate appraisal services are provided independently and free from inappropriate influence and coercion; (9) requiring AMC to inform the commission when AMC has a reasonable basis to believe that an appraiser has violated applicable laws or engaged in unethical or unprofessional conduct and the conduct is likely to affect the value assigned to consumer's principal dwellings; (10) requiring AMC to disclose AMC's registration number on any instrument utilized by AMC to procure appraisal services in the State; and (11) authorizing the commission to reprimand a registrant, suspend or revoke a registration, or impose a penalty for each violation of the bill's provisions.

Home Inspectors – Recordkeeping and Continuing Professional Competency Requirements

Recordkeeping Requirements*:** ***Senate Bill 143 (Ch. 30) establishes recordkeeping requirements for home inspectors licensed by the commission. A licensed home inspector is required to retain, for five years, a copy of (1) every contract the licensee enters into; (2) each home inspection report the licensee prepares or signs; and (3) all supporting data that the licensee assembles or formulates to prepare a home inspection report. If, within the five-year recordkeeping period, a home inspection conducted by a licensee is involved in litigation, the pertinent documents must be retained for an additional five-year period beginning on the date of the litigation's final disposition. All required records must be made available to the commission upon request.

Continuing Professional Competency Requirements*:** Under current law, an applicant for licensure as a home inspector must complete 72 hours of approved training that, at a minimum, requires successful completion of the National Home Inspector Examination. ***Senate Bill 147 (passed) requires the commission to establish, by regulation, continuing professional competency standards for licensed home inspectors. The bill specifies that home inspectors must complete up to 30 educational hours during every two-year renewal cycle to demonstrate continuing professional competency. The requirements are phased in for expiring licenses until October 1, 2014, and do not apply to the first renewal of a license.

State Real Estate Commission

The State Real Estate Commission protects the health, safety, and welfare of the public through its regulatory activities in regard to real estate transactions. The commission licenses all real estate brokers, associate brokers, and salespersons; processes complaints against licensees; and administers the Real Estate Guaranty Fund (which compensates consumers who suffer

financial loss as a result of licensee misconduct). Approximately 44,500 individuals are licensed by the commission.

Reinstatement of Licenses and Inactive Status

Senate Bill 285 (passed) reduces the timeframe from four to three years within which a licensee of the commission may apply for reinstatement of an inactive license or reactivation of an expired license without having to retake the commission's licensing examination. The bill specifies that a licensee may renew a license that is on inactive status only if the licensee complies with the commission's continuing education requirements. The bill applies only to licensees who place their licenses on inactive status on or after October 1, 2011.

Intracompany Agents

Chapter 670 of 2010 established requirements for the provision of real estate services through teams of licensed real estate agents. Under Chapter 670, only a real estate broker may designate two members of a team as intracompany agents for the seller and the buyer in the same transaction if the buyer and seller have been advised in writing that the agents are part of the same team and may have a financial interest in the outcome of the transaction. ***House Bill 1049 (Ch. 153)*** specifies that a designee of a real estate broker, in addition to the real estate broker, may designate two members of a real estate sales team as intracompany agents for the seller and the buyer in the same transaction under certain circumstances. However, a designee of a real estate broker who designates intracompany agents may not be a member of that real estate sales team.

State Board of Architects

The State Board of Architects regulates the practice of architecture in Maryland. The purpose of the board is to safeguard life, health, public safety, and property and to promote the public welfare by regulating persons who practice architecture in the State. As of June 2010, there were about 5,550 architects and 710 firms licensed and permitted, respectively, by the board.

Sunset Extension and Program Evaluation

Senate Bill 91*/*House Bill 67 (both passed) implement the recommendations of the 2010 preliminary sunset evaluation conducted by the Department of Legislative Services (DLS) and extend the termination date for the board by 10 years to July 1, 2023. These recommendations were adopted at the December 21, 2010 meeting of the Legislative Policy Committee (LPC). The bills require an evaluation of the board by July 1, 2022.

The bills also specify that the board, in conjunction with the other four design boards, must submit a report to specified committees of the General Assembly. (The five design boards include the State Board of Examiners of Landscape Architects, the State Board of Certified Interior Designers, the State Board for Professional Engineers, the State Board for Professional Land Surveyors, and the State Board of Architects.) The bills require the chairs of the design

boards to submit a report on the sufficiency of the balance in the State Occupational and Professional Licensing Design Boards' Fund. The report must specifically address the benefits of a fee increase in order to ensure that the collective revenue for the design boards covers total expenditures.

Retired License Status

Chapter 397 of 2003 required board licensees to meet continuing education requirements prior to license renewal. The Department of Labor, Licensing, and Regulation (DLLR) advises that many experienced architects in the State have expressed interest in retiring their licenses. The concept of retired or emeritus status is common in a regulatory model that includes a continuing education or continuing professional competency requirement as a condition of licensure renewal. Thus, ***Senate Bill 283*** ***(Ch. 50)*** specifies that the board may issue a retired status license to an experienced architect under certain circumstances, including having been a licensed architect for at least 25 years. Under the Act, the holder of a retired status license may use the designation of "Architect Emeritus" but may not engage in the practice of architecture.

State Board of Examiners of Landscape Architects: Applicants for Licensure – Educational and Experience Requirements

The State Board of Examiners of Landscape Architects safeguards public welfare, health, and property by regulating persons who practice landscape architecture in the State. Landscape architects draw on a number of fields – such as engineering, architecture, art, planning, environmental science, and computerized design – to provide land beautification, environmental impact assessments, grading, and limited drainage system design. Although landscape architecture does not include the design of structures that are normally designed by licensed architects or engineers, landscape architectural services are often provided in coordination with these services on several types of projects. Landscape architects are involved in the planning of such sites as office plazas, public squares, parks, and thoroughfares.

To become a licensed landscape architect in Maryland, an applicant must meet the educational and experience requirements to the satisfaction of the board. An applicant must then pass the Landscape Architect Registration Examination (LARE), a nationally administered examination. ***Senate Bill 293*** ***(passed)*** alters the educational and experience requirements that must be met by an individual seeking licensure with the board by establishing four distinct standards that an individual can meet in order to be eligible to take LARE and become licensed by the board.

State Board for Professional Engineers

Engineering is the discipline, art, and profession of acquiring and applying technical, scientific, and mathematical knowledge to design and implement materials, structures, machines, devices, systems, and processes that safely realize a desired objective or invention. The State Board for Professional Engineers regulates the practice of engineering to safeguard life, health, and property. The major functions of the board include determining whether applicants qualify

for licenses and certificates, issuing licenses and certificates, administering examinations, investigating complaints about professional engineers, and enforcing the Maryland Professional Engineers Act.

Sunset Extension and Program Evaluation

***Senate Bill 94*/*House Bill 69* (both passed)** implement the recommendations of the 2010 preliminary sunset evaluation conducted by DLS and extend the termination date for the board by 10 years to July 1, 2023. These recommendations were adopted at the December 21, 2010 LPC meeting. The bills require an evaluation of the board by July 1, 2022.

The bills also include a related reporting requirement that addresses, among other things, transitioning the board's examination administration to a private contractor; establishing and implementing continuing professional competency requirements; establishing firm permits or certificates of authorization with uniform requirements for all five design boards; implementing the new structural engineering exam; and instituting computer-based testing and establishing more rigorous educational requirements for licensure.

Increase in Membership and Practice Specialties

***Senate Bill 728*/*House Bill 1135* (both passed)** increase the membership of the board by one member, from seven to eight. The bills specify that the additional member must be an engineer appointed without regard to specific professional practice who must represent other designations of professional engineering. The Maryland Society of Professional Engineers must submit a list of qualified individuals to fill the additional board member position.

Examinations

***Senate Bill 290* (passed)** eliminates references to the method of delivery and duration of examinations that individuals must pass in order to be licensed by the board. The National Council of Examiners for Engineering and Surveying (NCEES) develops, administers, and scores examinations used for engineering and surveying licensure in all 50 states. According to DLLR, NCEES is likely to transition to a computer-based testing system. This change, when it occurs, will affect both the timeframe within which an applicant has to complete the examinations and the method of taking the examinations. The bill anticipates the upcoming computer-based delivery of examinations by striking references to "written" examinations and also to the length of the examinations ("8-hour"). Otherwise, the board lacks the proper statutory authority to administer a computer-based exam for professional engineers.

State Board of Public Accountancy

The State Board of Public Accountancy regulates and licenses certified public accountants (CPAs) and issues permits to business entities that provide accountancy services. As of June 2010, there were about 19,900 licensed CPAs and about 730 firms with CPA permits in the State.

Educational Requirements for Examination and Licensure

Most states require 150 semester hours of applicable course work in order to become a licensed CPA; however, many of these states – including Delaware, Massachusetts, New Jersey, New York, Pennsylvania, and Virginia – allow an applicant to take the CPA exam after completing only 120 semester hours. ***Senate Bill 287*** ***(passed)*** specifies that a person may take the Uniform Certified Public Accountant Examination after completing 120 semester hours of college level course work and earning a baccalaureate degree. Even so, a person who passes the exam must still hold a baccalaureate degree in accounting, or an equivalent field, and must complete 150 semester hours of course work before being qualified for licensure with the board.

Preparation of a Compilation of Financial Statements

Senate Bill 370/House Bill 328 ***(both passed)*** establish, clarify, and modify the definitions of services that constitute the practice of certified public accountancy. The bills also identify the conditions under which a nonlicensed individual may prepare a compilation and require the board to specify, by regulation, standard language for a disclosure statement regarding exemption from peer review requirements under specified circumstances. Compilation is defined as a presentation of information in the form of a financial statement that is performed in accordance with the Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants.

State Board of Master Electricians – Sunset Extension and Program Evaluation

The State Board of Master Electricians shares licensing authority with county governments, all but two of which have a licensing program for master electricians. Counties with local licensing laws are required to establish licensing qualifications comparable to those required by the board. In the two jurisdictions that do not have local licensure, Garrett and Allegany counties, an electrician must have a State license to provide electrical services as a master electrician or be a representative of another person who engages in the business of providing electrical services. Otherwise, the State master electrician's license is a passport rather than a performance license as it does not grant a licensee the right to provide electrical services in most jurisdictions. Instead, it merely facilitates the process of obtaining a local license needed to conduct electrical work in a specific jurisdiction or in Delaware or Virginia, with which the State has reciprocity agreements.

In the full sunset evaluation of the board, DLS found that many jurisdictions do not report some or all formal disciplinary action to the board, which is required by Chapter 163 of 2002. Most jurisdictions also do not report annual complaint information to the board, as required, or to other jurisdictions. The evaluation also found that most other states, including Delaware and Virginia, require some type of continuing education for electricians, but Maryland does not. Even so, seven counties require some continuing education. ***Senate Bill 235/House Bill 361*** ***(both passed)*** extend the termination date for the board by 10 years to July 1, 2023, and require evaluation of the board by July 1, 2022. The bills require individuals licensed with the board to

meet continuing education requirements as a condition of license renewal. The board must adopt the specific continuing education requirements for licensed electricians by regulation. The bills also require the board to submit a report to specified committees of the General Assembly that addresses whether or not local jurisdictions are meeting the reporting requirements established by Chapter 163 of 2002; the implementation of continuing education requirements for master electricians; DLLR's findings on the appropriate membership for the board, including whether it remains feasible to have three consumer member positions; and whether to limit the number of employees that may work under a qualified license.

State Board of Pilots – Limited Licenses to Provide Pilotage

Senate Bill 294 ***(passed)*** changes references to the categories of limited licenses issued by the State Board of Pilots to make them consistent with other references to the license categories in State law. The categories of limited licenses issued by the board are based on vessel drafts; limited license categories of 32 feet, 36 feet, and 40 feet replace the references to categories of 28 feet, 34 feet, and 37 feet, respectively, to reflect changes due to legislation passed in the 2010 session. Chapter 125 of 2010 altered the categories of limited licenses issued by the State Board of Pilots by adjusting four sections of State law related to the limited license categories. However, two additional sections that should have been changed were overlooked; the bill brings those sections into conformity with the other four sections of law.

Other Issues Related to Business Occupations

Lawyers: Bar Admission Requirement – Exception for Rent Escrow Proceedings

Senate Bill 457/***House Bill 653*** ***(Chs. 66 and 67)*** authorize any individual to represent a landlord, or specified law students or employees of nonprofit organizations to represent a tenant, in a rent escrow proceeding in the District Court of Maryland without having been admitted to the Maryland Bar.

Employment for Military Spouses

Senate Bill 687/***House Bill 998*** ***(both passed)*** require the Adjutant General of the Maryland Military Department or the Adjutant General's designee to assist the spouse of a member of the military who resides in the State or is transferred to the State in finding employment in Maryland upon request. The assistance provided by the Adjutant General or the Adjutant General's designee may include providing information relating to business occupations in the State that allow licensure by reciprocity; the informational form developed by the Maryland State Department of Education that lists and explains the various paths that can be taken in order to obtain tenure and certification as a teacher in the State; or information relating to health occupations in the State that permit licensure by reciprocity.

Business Regulation

Home Construction and Improvement

Maryland Home Improvement Commission

Home improvement contractors, subcontractors, and salespersons are required to be licensed by the Maryland Home Improvement Commission. Even so, within this industry, unlicensed practice is common. Also, although home improvement projects range from small repairs and handiwork to large-scale room additions and renovations, nothing in law limits the size of a project that a licensed contractor may undertake. Commission investigators respond to and attempt to resolve consumer complaints; staff also attempts to raise awareness of fraudulent practices and combats fraud and substandard industry practices by assisting in the prosecution of cases brought against unlicensed contractors. If informal attempts to resolve a complaint are unsuccessful and attempts to engage the parties in alternative dispute resolution fail, homeowners typically file a claim to obtain restitution from the Home Improvement Guaranty Fund, which was established to compensate homeowners for the "actual loss" due to a licensed home improvement contractor. The Guaranty Fund is maintained through assessments charged to licensed home improvement contractors at the time of their original licensure and when they renew their licenses. Losses due to actions of unlicensed individuals are not eligible for restitution from the Guaranty Fund.

***Senate Bill 236*/*House Bill 362* (both passed)** implement recommendations from the 2010 full sunset evaluation conducted by the Department of Legislative Services (DLS). The bills extend the termination date of the Maryland Home Improvement Commission by nearly 10 years – from October 1, 2012, to July 1, 2022 – and require evaluation of the commission by July 1, 2021.

The bills give the commission the authority to issue civil citations to individuals who fail to comply with State home improvement laws. The commission may establish, by regulation, a schedule of violations and associated fines. One-half of the fine revenue collected through the civil citation program is deposited into the general fund of the State, and the other half is deposited into a separate account within the Home Improvement Guaranty Fund and earmarked for expenses related to use of expert witnesses in disputed Guaranty Fund claims between a homeowner and licensed contractor.

In addition to the current statutory requirements for home improvement contracts, the bills require contractors to include a notice on all home improvement contracts specifying that consumer protections are available through the commission and advising the consumer of the right to purchase a performance bond for additional protection against actual loss caused by a home improvement contractor. In addition, the bills require all home improvement contracts to display the commission's website address – in addition to the commission's phone number. The bills also require the commission to publish, on its website, consumer education materials that describe the protections available through the commission, including the availability of compensation from the Guaranty Fund. The bills require the commission to develop a

searchable website that includes a listing of licensed contractors and information relating to any final disciplinary action taken by the commission against a licensee.

The bills also alter criminal penalties for unlicensed work because, for a first offense, criminal penalties for unlicensed practice have been less severe than the penalties for other violations of the Maryland Home Improvement Law. To make the penalties consistent, the bill increases the maximum time an individual may be imprisoned for acting without a license from 30 days to up to six months.

Because the commission's licensing fees have not been increased for 20 years, the bills minimally increase initial and renewal licensing fees (by $25 each) for contractors, subcontractors, and salespersons. The bills also establish a $20 processing fee for all initial applications.

Senate Bill 236/House Bill 362 include extensive reporting requirements. The commission is required to submit a report in the event that the balance of the Guaranty Fund is projected to fall below $250,000. The commission must report to the General Assembly within 30 days of any such projection and detail actions it is taking to restore the balance of the fund to a sustainable level. The bills also require, by October 1, 2012, that the commission report about several recommendations from the sunset evaluation, including a strategy for the implementation of multiple licensing levels for contractors; a summary of efforts taken to reduce the investigation and processing times for claims referred to the Office of Administrative Hearings; an analysis of the advisability of the institution of a performance bond requirement for all licensees and, if advisable, in what amounts and triggered by what contract price; a plan for facilitating better communication between licensees and consumers relating to contract performance completion dates; data regarding the number of Guaranty Fund claims settled through mediation; and any changes in the number of Guaranty Fund claims filed and any changes in the average time to resolve a claim.

Finally, the bills extend the date by which firms and companies that offer mold remediation services must be licensed by the commission. Chapter 537 of 2008 required licensure by June 1, 2010; however, funding to implement the requirement has not been provided. Thus, the licensing requirement is delayed to July 1, 2013, with corresponding changes to the mold remediation program's separate evaluation (July 1, 2018) and termination provisions (July 1, 2019).

Home Builders

The Home Builder Registration Act requires a person to register and obtain a home builder's registration number in order to act as a home builder. In a November 2010 decision, the Maryland Court of Appeals held that a real estate developer who entered into a contract with a buyer to provide a new home was not required to be registered as a home builder because the contract specified that a third party – a registered home builder – was responsible for constructing the home. As a result, ***Senate Bill 256/House Bill 1041*** ***(Chs. 43 and 44)*** specify that the definition of a "home builder" includes a person that enters into a contract with a consumer under which the person agrees to provide the consumer with a new home. The bills

further clarify that a home builder does not include a real estate developer who does not undertake home construction or enter into contracts with consumers to construct homes or a buyer's agent, as defined in statute, when representing a prospective buyer in the purchase of a new home.

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

***Senate Bill 92*/*House Bill 68* (both passed)** implement the recommendations of the 2010 preliminary sunset evaluation conducted by DLS and extend the termination date for the State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration (HVACR) Contractors by 10 years to July 1, 2023. These recommendations were adopted at the December 21, 2010 meeting of the Legislative Policy Committee. The bills also require an evaluation of the board by July 1, 2022. The bills include a related reporting requirement that addresses the feasibility of requiring counties to enforce the State mechanical code; whether the board has adopted a regulation exempting individuals who install thermostats or switches under a public service company's demand response program from licensing requirements; issues arising from allowing unlicensed individuals to perform work related to a public service company's demand response program, if the board has adopted such an exemption; whether the board has identified additional ways of resolving consumer complaints after consulting with other State agencies; and the board's success at filling vacant positions and maintaining geographic representation among board members.

Retail Service Stations – Display of Gas Prices

Retail service stations must advertise the lowest price of both regular and mid-grade gasoline sold at the station in accordance with specific signage requirements. If stations opt to post the price of diesel and other types of gasoline, they must purchase signs that include more than the required two lines to display prices for regular and mid-grade gasoline. However, ***Senate Bill 101* (Ch. 25)** repeals the requirement for retail service stations to post the lowest price of mid-grade gasoline. The Act also clarifies that the signs retail service stations are required to maintain may state the lowest price for any whole measurement unit of diesel and other motor fuel products sold on the premises.

Business Oversight

Dealers and Processors

Junk Dealers and Scrap Metal Processors: Chapters 198 and 199 of 2010 modified the definition of junk and scrap metal and altered recordkeeping requirements for junk dealers and scrap metal processors that operate in the State. Chapters 198 and 199 applied to all junk dealers and scrap metal processors, including those operating in jurisdictions that are generally exempted from statewide licensing and recordkeeping requirements, but did not require dealers in those jurisdictions to be licensed. Dealers and processors in generally exempted jurisdictions were also not subject to provisions that prohibited certain actions.

At the request of the Department of State Police, ***House Bill 203*** ***(Ch. 110)*** subjects 11 jurisdictions (Baltimore City and Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Dorchester, Kent, Somerset, Washington, and Worcester counties) to the same licensing requirements and regulatory provisions that apply to junk dealers and scrap metal processors in the other 13 counties of the State, thereby ensuring uniformity statewide. The Act also clarifies that licensed secondhand precious metal object dealers and pawnbrokers are not subject to provisions of law relating to junk dealers or scrap metal processors.

Secondhand Precious Metal Object Dealers: Secondhand precious metal object industry trends in recent years have sparked both activity in the industry and enforcement by the Department of Labor, Licensing, and Regulation (DLLR). Between 2005 and January 2011, the price of gold increased from about $500 per ounce to about $1,350 per ounce. Over this same period, the number of licensed secondhand precious metal object dealers and pawnbrokers increased from about 260 to about 590. Therefore, at the request of DLLR, ***House Bill 195*** ***(passed)*** increases the initial fee required for licensure as a secondhand precious metal object dealer or pawnbroker from $75 to $300. The bill also increases the biennial renewal fee from $75 to $265. Initial and renewal licensing fees have not been changed since they were set at $75 in 1998, when the price of gold had dropped to about $300 an ounce and the number of licensees correspondingly dropped to about 260, where it stayed for several years. The fee increases are expected to cover the costs associated with regulating a higher volume of licensees and the loss of federal grant funding that has been used for enforcement.

House Bill 1143 ***(passed)*** specifies that the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act does not apply to the transactions of a retail jeweler with a fixed Maryland business address when the dealer accumulates precious metal objects in the course of performing repairs, remountings, fabrications, or custom orders. The bill requires dealers to ensure that any items that must be tagged with a transaction number must remain tagged for the entire period that the item is stored in the dealer's inventory. The bill also requires primary law enforcement units to adopt procedures that allow a dealer to amend required records that have been submitted to the law enforcement agency.

Senate Bill 950/House Bill 1116 ***(both passed)*** increase the length of the holding period for precious metal objects acquired by licensed secondhand precious metal object dealers in Prince George's County only from 18 to 30 days. The current 18-day holding period still applies, however, to a precious metal object that a dealer licensed in Prince George's County acquired in a pawn transaction. Further, the current holding period still applies to a precious metal object that an individual seeks to redeem by presenting the original ticket issued as part of the pawn transaction.

Office of the Commissioner of Financial Regulation and the State Collection Agency Licensing Board

The State Collection Agency Licensing Board regulates debt collection agencies; issues, suspends, and revokes licenses; reprimands licensees; receives and investigates written consumer complaints; and holds hearing on alleged violations of the Maryland Consumer Debt Collection

Act (MCDCA). For decades, Maryland residents have relied upon MCDCA for protection against creditors and collection entities that resort to abusive or harassing debt collection practices. Maryland statute defines a collection agency as a third party that collects or attempts to collect consumer debt or sells a system used to collect a consumer debt. Most entities that collect their own debt are not considered collection agencies and are, therefore, not regulated by the board. However, a third-party purchaser of a consumer debt must be licensed if the purchaser attempts to collect a consumer debt through civil litigation.

Senate Bill 103/House Bill 358 (both passed) implement the recommendations of the 2010 full evaluation conducted by DLS by extending the termination dates for the Office of the Commissioner of Financial Regulation and the State Collection Agency Licensing Board by 10 years to July 1, 2022, requiring evaluation of both the commissioner's office and the board by July 1, 2021, and eliminating the Banking Board. The bills also require the commissioner's office to implement and report on a risk-based mortgage lender licensee examination schedule. The State Collection Agency Licensing Board and the Attorney General's Office are required to monitor whether the Maryland Judiciary has determined if the Maryland Rules should be amended to strengthen protections for defendants in consumer debt collection cases and report any of the Judiciary's findings and recommendations.

State Amusement Ride Safety Advisory Board

The State Amusement Ride Safety Advisory Board consists of nine members appointed by the Governor with the advice and consent of the Senate. One member must be a mechanical engineer, one must represent owners of carnivals, one must represent the State fair and county fairs, two must represent owners of amusement parks, and four must be consumers. ***House Bill 108 (Ch. 99)*** requires that one member of the board represent amusement ride rental operators. To maintain the current level of board membership, the bill reduces the number of consumer members from four to three. The bill also requires that the composition of the board reflect the racial and gender composition of the State.

Local Regulations

Business License Fees in Baltimore County

Senate Bill 876/House Bill 1242 (both passed) alter licensing fees for certain types of businesses that operate in Baltimore County. For Baltimore County only, the bills eliminate the $10 fee for a billiard table license; increase the fee for a resident construction license from $15 to $40; increase the nonresident construction license fee from $50 to $60; change the fee for a garage license from a variable fee based on square feet to a fixed $6 per 100 square feet; increase the fee for a laundry and dry cleaner's license from between $15 and $100 depending on the number of employees to between $40 and $250; establish a $40 fee for a plumber's license; increase the fee for a restaurant license from $10 to $50; increase the fee for a trader's license from between $15 and $800 depending on the value of stock-in-trade to between $20 and $1,600; and increase additional fees for a chain store license from between $5 and $150 depending on the number of stores to between $12 and $375.

Used Car Dealers in Baltimore City

Under current law, in Howard, Montgomery, and Prince George's counties, a new or used automobile dealer may operate on a Sunday. In Anne Arundel County, a dealer may sell or show new or used trailers, mobile homes, or motorcycles but not other motor vehicles. Motorcycle sales are also allowed on Sundays in Worcester County. ***Senate Bill 125*/*House Bill 624* *(both passed)*** allow used car dealers in Baltimore City to conduct business on Sunday, instead of Saturday, if the dealer notifies the Maryland Motor Vehicle Administration in advance.

Public Service Companies

While electric generation and supply were among the most prominent issues brought to the General Assembly during the 2011 session, telephone and transportation bills also garnered attention from the legislature.

Electricity

Service Quality and Reliability

During the summer of 2010 and in the following winter season, several severe weather events resulted in extended electric service outages for customers in the Pepco service territory. Customers in the Baltimore Gas & Electric service territories also experienced extended winter storm outages. Although the Public Service Commission (PSC) initiated proceedings to investigate the storm outages and the utilities' responses (Case 9256 and RM43), State policymakers conducted their own hearings to examine what happened and what corrective measures were available or advisable. As a result, many bills were introduced during the 2011 legislative session seeking to improve service quality and reliability and induce utilities to improve performance.

Senate Bill 692/House Bill 391* *(both passed) are administration-backed emergency bills that require PSC to adopt regulations by July 1, 2012, implementing service quality and reliability standards for the delivery of electricity to retail customers by electric companies. The bills establish a State goal that each electric company provide high levels of service quality and reliability in a cost-effective manner and that each electric company be held accountable if it fails to deliver reliable service. The bills specify requirements for the regulations and require PSC to convene a stakeholder workgroup to provide recommendations regarding the regulations. Electric companies must submit annual performance reports and PSC must evaluate compliance. The regulations must include service quality and reliability standards, including standards relating to (1) service interruptions; (2) downed wire response; (3) customer communications; (4) vegetation management; (5) periodic equipment inspections; and (6) annual reliability reporting.

On or before July 1, 2013, and July 1 of each year thereafter, PSC must determine whether each electric company has met the service quality and reliability standards. The

legislation requires PSC to take corrective action, including imposition of civil penalties, against electric companies, other than electric cooperatives, that fail to meet any or all of the applicable service quality and reliability standards. On or before February 1 of each year, each electric company is required to submit to PSC a performance report that summarizes the actual electric service reliability results for the preceding year.

The bills also increase the amount of a civil penalty that PSC may impose for a violation of a direction, ruling, order, or rule of PSC from $10,000 to $25,000 per day and increase the penalty for a safety violation from $500 to $25,000 per day. Electric companies may not recover the cost of civil penalties from ratepayers.

PSC is required to study and report on or before January 1, 2012, on issues relating to electrical surges, restoration plans, and suspension of decoupling during extended service disruptions.

Offshore Wind Generators

***Senate Bill 861*/*House Bill 1054* (both failed)** were Administration bills that would have required PSC to order the State's four investor-owned electric companies to enter into a long-term power purchase agreement with one or more qualifying offshore wind generators. Under the bills, PSC would have issued a request for proposals and approve contracts awarded to an offshore wind generator for between 400 and 600 megawatts of nameplate capacity for a period of at least 20 years. The bills would have required PSC to establish a nonbypassable surcharge or other mechanism to ensure costs or savings associated with a power purchase agreement are shared equitably among all customers across all distribution territories, with some exceptions. Due to concerns about the increased cost of power-purchase agreements with offshore wind generators, the bills were held for further study in the legislative interim.

Renewable Energy Portfolio Standards

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

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

Chapter 120 of 2007 revised Maryland's RPS to include a solar carve-out, requiring that at least 0.005% of electricity in 2008 be from solar generation increasing to at least 2.0% in 2022. The Act also increased total Tier 1 requirements as a result of the added solar component. Chapters 125 and 126 of 2008 amended Maryland's RPS by increasing the percentage requirements of the Tier 1 RPS to equal 20% in 2022 and beyond. Chapters 135 and 136 of 2008 included poultry-to-energy as a source eligible to meet the Tier 1 RPS.

Chapter 494 of 2010 increased the solar RPS percentages and the ACP payment amounts for the solar RPS from 2011 through 2016, accelerating the ramp-up of the solar RPS obligation and increasing the incentive for the installation of solar capacity. To meet the 2% solar obligation in 2022 with SRECs, the installed solar capacity in the State will need to increase from roughly 27 MW or less at the end of 2010 to an estimated 1,300 MW in 2022.

Waste-to-energy

Senate Bill 690 ***(passed)*** alters RPS to designate energy from waste-to-energy as a Tier 1 renewable source rather than Tier 2 renewable source. The bill also adds refuse-derived fuel as a Tier 1 renewable source. Refuse-derived fuel, not currently a Tier 2 renewable source, is created from municipal solid waste by finely shredding the material before combustion. A waste-to-energy or refuse-derived fuel facility must be connected with the electric distribution grid serving Maryland in order to be eligible for inclusion in meeting Tier 1 RPS. A waste-to-energy or refuse-derived fuel facility is eligible for inclusion in meeting Tier 1 RPS regardless of when the facility was placed in service. The bill provides a significant monetary incentive, in the form of Tier 1 RECs, to the owners of existing waste-to-energy facilities, future planned waste-to-energy and refuse-derived fuel facilities. These facilities, an alternative to land filling trash, must comply with clean air standards.

Solar Water Heating

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

Senate Bill 717*/*House Bill 933 ***(both passed)*** are Administration-supported bills that establish solar water heating systems as a Tier 1 renewable source eligible to meet the Tier 1 solar portion of RPS. An owner of a solar water heating system installed on or after June 1, 2011, may receive solar renewable energy credits (SRECs) equal to the amount of electricity saved by using a solar water heating system. The bills specify how SRECs from a solar water heating system are calculated, establish metering requirements for commercial customers, and establish a maximum limit on the number of SRECs that a residential solar water heating system may generate in any one year. Granting ownership of SRECs to an owner of a solar water heating system significantly reduces installation costs and provides a meaningful benefit to both households and small businesses that purchase these energy conservation systems.

House Bill 306 ***(passed)*** reestablishes the Task Force on Solar Hot Water Systems in Prince George's County. The task force must develop a business plan to achieve substantial use of solar hot water systems over a relatively short period of time in a way that saves money for Prince George's County residents and businesses and that reduces carbon emissions. In addition to developing a business plan, the task force must study and report to specified legislative committees and units of county government on several matters relating to the practical deployment of solar hot water systems, incentives, and market structures. The bill also specifies intent that, to the extent possible, the same individuals be appointed to the task force as those appointed to the Task Force on Solar Hot Water Systems in Prince George's County established under Chapter 649 of 2010, which terminated December 31, 2010.

Net Energy Metering

Net energy metering is the measurement of the difference between the electricity that is supplied by an electric company and the electricity that is generated by an eligible customer-generator and fed back to the electric company over the eligible customer-generator's billing period. An "eligible customer-generator" is a customer that owns and operates, or leases and operates, a biomass, solar, fuel cell, wind, or micro combined heat and power (micro-CHP) electric generating facility located on the customer's premises or contiguous property; interconnected and operated in parallel with an electric company's transmission and distribution facilities; and intended primarily to offset all or part of the customer's own electricity requirements. The generating capacity of an eligible customer-generator for net metering may not exceed two megawatts.

Chapters 437 and 438 of 2010 altered the net energy metering program by changing the way an eligible customer-generator may accrue credits from excess generation from a kilowatt-hour (kWh) basis to a dollar basis and established the conditions under which an electric company must provide payment to an eligible customer-generator for excess generation. The Acts also required PSC to (1) establish a technical working group to address issues relating to the pricing mechanisms for different hours and seasons, meter aggregation, and the transfer of generation credits or aggregation of generation among separate accounts; and (2) adopt implementing regulations. PSC adopted regulations that would require generation credits to be valued based on PJM's locational marginal pricing mechanism, even though the acknowledged result would decrease the value of credits for most net-metered generation other than summer-peak solar generation.

Senate Bill 380/House Bill 860 ***(both passed)*** are Administration-supported member bills that alter the net energy metering program by changing the way most eligible customer-generators may accrue credits from excess generation from a dollar basis back to a kilowatt-hour basis. Eligible customer-generators may accrue net excess generation for a 12-month accrual period and electric companies must carry forward net excess generation until the customer's electricity consumption eliminates the net excess generation or the 12-month accrual period expires.

The bills repeal existing provisions that govern payment for excess generation and establish new rates and payment conditions for a customer's net excess generation at the end of the 12-month accrual period. The dollar value of net excess generation must be equal to the average generation or commodity rate that the eligible customer-generator would have been charged over the 12-month accrual period, multiplied by the number of kWh of net excess generation. For customers served by an electricity supplier, the dollar value is equal to the generation or commodity rate that the customer would have been charged, multiplied by the number of kWh of net excess generation. The legislation also repeals the authority of PSC to require the use of a dual meter for certain customer-generators and related provisions, alters a reporting deadline for PSC, and establishes a monthly payment option for customers of certain electric cooperatives.

***Senate Bill 271* (Ch. 47)** expands the sources of generation that are eligible for net energy metering to include a closed conduit hydroelectric generating facility. A closed conduit hydroelectric facility must generate electricity within existing piping or limited adjacent piping of a potable water supply system; be owned by a municipality or public water authority; and be designed to produce less energy than is consumed to operate the water supply system. An example of a closed conduit hydroelectric generating facility is the equipment the City of Frostburg plans to install. The city obtains its water supply from Piney Dam and pumps the water from the reservoir to the top of Big Savage Mountain. The water then flows downhill to the city through two water mains, into which the city plans on installing generators to recapture this energy.

Other Electricity Issues

Customer Education and Customer Choice

***Senate Bill 244*/*House Bill 597* (both passed)** require PSC to take certain actions to increase awareness about competitive electric supply options. PSC must host and regularly update a customer choice education page on its website and must work with local media outlets to develop and air public service announcements publicizing customer choice. PSC must recover associated costs through the annual assessment on public service companies. By July 1, 2011, PSC must convene a workgroup of interested parties to advise PSC on improvements to the PSC website information and on additional methods of consumer education that can effectively supplement the bills' requirements.

Certificate of Public Convenience and Necessity

State law specifies that an *electric company* must be granted a certificate of public convenience and necessity (CPCN) from PSC before beginning construction of an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts or exercise a right of condemnation with the construction.

In January 2010, PSC received an application for a CPCN from a person seeking to construct a transmission line connecting an out-of-state wind generating facility to a Maryland substation. Through docketed Case No. 9222, PSC determined that an out-of-state generating

station could not obtain a CPCN to construct the Maryland portion of an overhead transmission line. Additionally, PSC determined that State law does not allow a nonelectric company to obtain a CPCN for a transmission line.

***Senate Bill 691*/*House Bill 590* (Chs. 83 and 84)** specify that a person must obtain a CPCN from PSC to construct a qualified generator lead line. A "qualified generator lead line" is an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts and would allow an out-of-state Tier 1 or Tier 2 renewable source to interconnect with a portion of the electric system in Maryland that is owned by an electric company. A person may not apply for a CPCN to construct a qualified generator lead line unless the person offered the electric company that owns the portion of the grid to which the qualified generator lead line would interconnect the right of first refusal to construct the qualified generator lead line.

Electric Vehicle Charging Program

***Senate Bill 179*/*House Bill 164* (both passed)** are Administration bills that require PSC to establish by regulation or order, by June 30, 2013, a pilot program for electric customers to recharge electric vehicles during off-peak hours. PSC must make every effort to involve at least two electric companies in the pilot program, and an electric company may request to participate. The pilot program must include incentives for residential, commercial, and governmental customers to recharge electric vehicles. The incentives should increase the efficiency and reliability of the electric distribution system and lower electricity uses at times of high demand. The incentives may include time-of-day pricing; credits on distribution charges; rebates on the cost of charging systems; demand response programs; or other incentives approved by PSC. PSC must report to the Governor and the General Assembly on the experience of the pilot program and its findings by February 1, 2015.

Telephone Service

The Code of Maryland Regulations (COMAR 20.45.04.11) requires telephone companies to publish an alphabetical directory once a year. The directory must include each customer, except public telephones and numbers unlisted at the customer's request. The telephone company must provide each customer with a copy of the directory or directories covering the customer's calling area. Additional copies must be made available on request and a copy must be filed with PSC.

***Senate Bill 718*/*House Bill 529* (both passed)** allow a telephone company to require its customers to opt in to receiving a copy of a telephone directory (other than advertisement-based business directions), as long as the telephone company provides notice as to how a customer may request a print telephone directory. The notice must (1) include a toll-free telephone number a customer may call to request a print telephone directory; (2) be included in each customer's bill at least once each year and placed on the company's website; and (3) be included in bold red print on the front cover and the table of contents page of any print advertisement-based business directory distributed on behalf of the telephone company through September 30, 2016. If a customer requests a print telephone directory, the telephone company must deliver the directory

to the customer at no cost to the customer. PSC must review complaints received from residential customers who have indicated that they have not received a print telephone directory and determine whether the legislation's notification requirement is adequate for various customer groups. PSC must report its findings to the standing committees with jurisdiction by October 1, 2013.

Transportation

PSC regulates motor carriers and issues permits. With certain exceptions, a motor carrier permit issued by PSC is required for a passenger motor vehicle used in the transportation of persons for hire. Among others, permitting exceptions include:

- motor vehicles used exclusively for the transportation of pupils to and from public or private schools;
- public transportation systems for Allegany, Frederick, and Washington counties; and
- public transportation for hire authorized to operate on the boardwalk in Ocean City.

For motor carriers operating in Montgomery and Prince George's counties, authority to operate must be granted by the Washington Metropolitan Area Transit Commission (WMATC). A motor carrier operating solely in the area of WMATC authority need not obtain a motor carrier permit from PSC.

Senate Bill 402 ***(passed)*** exempts a local public transportation system of a county or municipal corporation, or a motor vehicle used by a privately owned transportation company exclusively to provide transportation system services under a contract with the governing body of a county, municipal corporation, or with a unit of State government, from the requirement to obtain a motor carrier permit from PSC. A vehicle owned by a privately owned transportation company that is not used exclusively to provide transportation services under a contract with a county, municipal corporation, or unit of State government, must still obtain a motor carrier permit from PSC.

Chapters 346 and 347 of 2008 exempted the University of Maryland, College Park (UMCP) shuttle bus service from the requirement to have a motor carrier permit as long as the service is extended to residents of the City of College Park. The exemption expires on June 30, 2011. ***House Bill 1005*** ***(passed)*** extends the termination date of the exemption to June 30, 2014. Further, the bill also authorizes UMCP to enter into an agreement to provide transportation services on the UMCP shuttle bus to residents of any municipality where the shuttle bus operates. The Department of Transportation in the University of Maryland, College Park is required to report on specified information to the standing committees with jurisdiction by January 1, 2013.

Insurance (Other Than Health)

Property and Casualty Insurance

Certificates of Insurance and Certificate of Insurance Forms

Senate Bill 656*/*House Bill 982 ***(both passed)*** prohibit a person from requiring an insurer or insurance producer to prepare or issue, or a policyholder to provide, a certificate of insurance that contains false or misleading information relating to the policy of insurance referenced in the certificate. A person is prohibited from preparing or issuing a certificate of insurance that the person knows contains false or misleading information or that purports to amend, alter, or extend the coverage provided by the policy of insurance referenced in the certificate. In addition, a person may not prepare, issue, or require, either in addition to or in lieu of a certificate of insurance, an opinion letter or other document that is inconsistent with the provisions of the bills.

The bills define a "certificate of insurance" as any document or instrument, however titled or described, that is prepared or issued by an insurer or insurance producer as evidence of property insurance or casualty insurance coverage. A certificate of insurance does not include a policy of insurance or an insurance binder. The bills do not apply to a statement, summary, or evidence of property insurance required by a lender that holds a loan secured by a mortgage, a lien, a deed of trust, or any other security interest in real or personal property as security for the loan. A certificate of insurance is not a policy of insurance and does not amend, alter, or extend the coverage provided by the policy referenced in the certificate or confer on the certificate holder any new or additional coverage not provided by the policy.

A certificate of insurance or any other document prepared, issued, or required in violation of ***Senate Bill 656*/*House Bill 982*** is void and unenforceable. The Maryland Insurance Commissioner may examine and investigate the activities of any person the Commissioner reasonably believes has been or is engaged in an act or practice prohibited by the bills. Finally, the bills require the Commissioner to study the impact of requiring a certificate of insurance to be in a form that must be filed with and approved by the Commissioner before use and to report the findings by December 1, 2011. The study must include a review of states with similar requirements.

Delivery of Notices by Electronic Means

Senate Bill 571/House Bill 763 ***(both passed)*** authorize an insurer to deliver by electronic means any notice to a party (an applicant, insured, or policyholder) related to cancellations, nonrenewals, premium increases, or reductions in coverage if (1) the party has affirmatively consented to that method of delivery and has not withdrawn the consent; (2) the process used to obtain consent meets the requirements of the Maryland Uniform Electronic Transactions Act; and (3) the party is provided, before giving consent, with a clear and conspicuous statement informing the party of specified rights and other information about the scope of the party's consent. Delivery of a notice in accordance with the provisions of the bills must be considered equivalent to any delivery method, including first-class mail, certified mail,

certificate of mail, or certificate of mailing, required under Title 27, Subtitle 6 (Cancellations, Nonrenewals, Premium Increases, and Reductions in Coverage) of the Insurance Article.

The bills define "delivered by electronic means" to include (1) delivery to an electronic mail address at which a party has consented to receive notice; and (2) posting on an electronic network, together with separate notice to a party directed to the electronic mail address at which the party has consented to receive notice of the posting.

Withdrawal of a party's consent is effective within a reasonable period of time after the insurer receives the withdrawal and does not affect the legal effectiveness, validity, or enforceability of an electronic notice provided to the party before the withdrawal of consent is effective. Furthermore, the legal effectiveness, validity, or enforceability of a contract or policy of insurance may not be denied solely because of the failure to obtain the party's appropriate electronic consent or confirmation of consent.

The bills do not apply to an electronic notice delivered before October 1, 2011, to a party who has given consent to receive notice in an electronic form before October 1, 2011. If the party's consent is on file with the insurer before October 1, 2011, the insurer must notify the party of the notices that may be electronically delivered under the bills and the party's right to withdraw the consent to have notices delivered by electronic means.

The bills may not be construed to modify, limit, or supersede the provisions of the federal Electronic Signatures in Global and National Commerce Act relating to the use of an electronic record to provide or make available information that is required to be provided or made available in writing to a party.

Homeowner's Insurance

Model Information – People's Insurance Counsel: If an insurer uses a catastrophic risk planning model or other model in setting homeowner's insurance rates or refusing to issue or renew homeowner's insurance because of the geographic location of the risk, the insurer must (1) file with the Maryland Insurance Commissioner a description of the specific model used; and (2) make arrangements for the vendor of the model to explain to the Commissioner the data used in the model and the manner in which the output is obtained. The information contained in the filings is proprietary and confidential commercial information protected under the State Government Article.

House Bill 1082 ***(Ch. 154***), requires an insurer that uses a catastrophic risk planning model or other model to set homeowner's insurance rates or refuse to issue or renew a homeowner's policy because of the geographic location of the risk to make arrangements for the vendor of the model to explain to the People's Insurance Counsel the data used in the model and the manner in which the output is obtained. The People's Insurance Counsel must maintain the confidentiality of any proprietary and confidential commercial information it has obtained.

Victims of Crimes of Violence – Discrimination Prohibited: Under Maryland law, an insurer or insurance producer may not (1) refuse to underwrite or require special conditions,

facts, or situations as a condition to its acceptance of a particular insurance risk or class of risk for a reason based on race, color, creed, sex, or blindness of an applicant or policyholder or for any arbitrary, capricious, or unfairly discriminatory reason; or (2) refuse to underwrite a particular insurance risk or class of risk except for reasons reasonably related to the insurer's economic and business purposes. Furthermore, an insurer offering policies of life insurance or health insurance is prohibited from discriminating against a person based on the person's status as a victim of domestic violence.

Senate Bill 317*/*House Bill 647 ***(both passed)*** expands these protections against discrimination by prohibiting an insurer, based solely on information about an individual's status as a victim of a crime of violence, from (1) canceling, refusing to underwrite or renew, or refusing to issue a policy of homeowner's insurance; (2) refusing to pay a claim under a policy of homeowner's insurance; or (3) for a policy of homeowner's insurance, increasing a premium, adding a surcharge, applying a rating factor, retiering a policy, removing a discount, or taking any other adverse underwriting or rating action. Additionally, if a policy of homeowner's insurance excludes property coverage for intentional acts, an insurer may not deny payment for a loss to a victim who (1) is an innocent coinsured; (2) did not commit, cause to be committed, or direct the crime of violence leading to the loss; and (3) cooperates in any criminal investigation and, if undertaken, any prosecution of the perpetrator. In the event of a violation, the Maryland Insurance Commissioner may order the insurer to accept the risk or business.

Payment to an innocent coinsured may be limited to the amount of the loss up to the homeowner's insurance policy limits, less any applicable deductible and coinsurance and any payment to a secured party. An insurer has the right of subrogation against the perpetrator of the crime of violence that led to the loss and may exclude any property owned solely by the perpetrator from coverage under the homeowner's insurance policy.

For purposes of the bills, a "victim" is defined as a policyholder or claimant who suffers personal injury, death, or property loss as a result of a crime of violence; and a "crime of violence" is defined as any of the acts specified in § 14-101 of the Criminal Law Article.

Motor Vehicle Insurance

Generally, an insurer or insurance producer may not cancel or refuse to underwrite or renew a particular insurance risk or class of risk except by the application of standards that are reasonably related to the insurer's economic and business purposes. Therefore, if an insured files a protest against an insurer's adverse decision to cancel or refuse to renew a policy based on a behavior of the injured, the insurer must introduce statistical proof that continuing to insure the insured will materially adversely affect the insurer's bottom line.

Maryland insurance law, however, establishes a number of standards that are reasonably related to an insurer's economic and business purposes and which do not require statistical validation. For private passenger motor vehicle insurance, these standards include conviction of the named insured or covered driver of an offense relating to driving or attempting to drive any vehicle while (1) under the influence of alcohol or under the influence of alcohol *per se*;

(2) impaired by drugs, or a combination of drugs and alcohol; or (3) impaired by a controlled dangerous substance.

***Senate Bill 885* (Ch. 89)** expands the listing of standards by authorizing insurers to cancel or refuse to underwrite or renew a particular insurance risk or class of risk if the insured is convicted of a violation relating to driving or attempting to drive any vehicle while impaired by alcohol.

Surplus Lines Insurance

In 2010, the U.S. Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, which includes the Nonadmitted and Reinsurance Reform Act of 2010 (NRRA). NRRA, which takes effect July 21, 2011, requires states to pass legislation before this date in order to avoid any conflicts with federal law.

According to the National Association of Professional Surplus Lines Offices, NRRA simplifies regulatory compliance obligations and premium tax payments for surplus lines brokers involved in multistate transactions by allowing only the insured's home state to collect premium taxes and license a surplus lines broker. NRRA allows states to enter into a compact to share the premium taxes. NRRA defines "home state," with respect to an insured, as the insured's principal place of business or principal residence or, if 100% of the insured risk is located out of the state with the principal place of business or principal residence, the state with the greatest percentage of the insured's taxable premium for that insurance contract.

NRRA also allows surplus lines brokers to place insurance on behalf of commercial purchasers meeting specified requirements without having to first perform a diligent search requirement, and creates national eligibility requirements to be used in every state.

***Senate Bill 694*/*House Bill 959* (both passed)** amend the Maryland Surplus Lines Insurance Law to comply with NRRA. In accordance with NRRA, for policies effective on or after July 21, 2011, the placement and regulation of nonadmitted insurance is subject to the statutory and regulatory requirements solely of the insured's home state. For policies effective on or after July 21, 2011, Maryland may only collect premium receipts tax payments and reports for nonadmitted insurance if Maryland is the home state of an insured. The bills clarify that, for policies effective before July 21, 2011, the premium tax receipts must be computed according to the portion of property, risk, or exposures located or to be performed in the State. Maryland collects approximately $12 million annually in premium tax on surplus lines insurance.

If a surplus lines broker is used, the surplus lines broker must (1) provide the Maryland Insurance Commissioner with a report, on a form that the Commissioner prescribes, on the business subject to tax during the period since the last report; and (2) pay the total amount of tax as stated in the report. If a surplus lines broker is not used, for policies effective on or after July 21, 2011, an insured must (1) provide the Commissioner with a report, on a form that the Commissioner prescribes, on the business subject to tax during the period since the last report; and (2) pay the total amount of tax as stated in the report. For policies effective before

July 21, 2011, an insured must file the report within 60 days after the date that the insurance was procured.

The bills prohibit the Commissioner from approving a nonadmitted insurer as a surplus lines insurer unless the insurer is authorized in its domiciliary jurisdiction to write the type of insurance it seeks to write. A nonadmitted insurer must also have the necessary capital and surplus and file specified information with the Commissioner. A surplus lines broker may not place surplus lines insurance with a nonadmitted insurer that has not been approved by the Commissioner in accordance with these requirements. However, if a foreign nonadmitted insurer has capital and surplus of $4.5 million or greater, the Commissioner may affirmatively find that the nonadmitted insurer is acceptable based on specified findings, including the insurer's reputation, quality of management, and underwriting profit and investment income trends.

The bills also conform the Maryland Surplus Lines Insurance Law's requirements for an exemption from the duty to perform a diligent search before procurement of a surplus lines insurance policy from a nonadmitted insurer to NRRA requirements.

Finally, the bills require the Commissioner to (1) participate in the National Insurance Producer Database maintained by the National Association of Insurance Commissioners; (2) cooperate with other states to adopt and implement uniform requirements for nonadmitted insurance in compliance with NRRA; and (3) study and report to specified legislative committees on what other states are doing to implement the federal law by January 1, 2012.

Life Insurance and Annuities

Life Insurance – Definition and Permitted Riders and Provisions

***Senate Bill 255*/*House Bill 496* (Chs. 41 and 42)** expand the definition of "life insurance" to include granting (1) additional benefits for a second opinion for specified health conditions; and (2) additional benefits that meet specified requirements and provide a lump-sum benefit for a specified disease. The Acts also authorize a life insurance policy to include a rider or supplemental policy provision that operates to safeguard the contract from lapse in the event of involuntary unemployment.

Finally, the Acts require the Maryland Insurance Administration, in consultation with the life insurance industry, to conduct an analysis of the appropriate scope of health insurance products that may be sold in conjunction with a life insurance policy in light of the expanded definition of life insurance, determine any necessary legislative changes, and report its findings by December 1, 2011.

Retained Asset Accounts – Beneficiaries' Bill of Rights

Retained asset accounts offer beneficiaries flexibility by allowing them time to decide what to do with the proceeds of a life insurance policy while earning interest on the proceeds. However, beneficiaries may be able to earn a higher rate of interest by selecting an alternate

method of payout. Additionally, some insurers may charge administrative or maintenance fees for retained asset accounts and, if the account becomes inactive, it could escheat to a state unclaimed property fund.

***Senate Bill 217* (Ch. 38)**, based on the National Conference of Insurance Legislators' Beneficiaries' Bill of Rights model law for retained asset accounts, provides protections for beneficiaries of life insurance policies and immunity contracts who are offered a retained asset account as a settlement option. The Act defines a "retained asset account" as any mechanism whereby the settlement of proceeds payable under a life insurance policy or an annuity contract is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into a checking or draft account, where those proceeds are retained by the insurer in accordance with a supplementary contract.

Under the Act, insurers offering retained asset accounts as the mode of settlement of proceeds payable under a life insurance policy or annuity contract offer at least one other mode of settlement of proceeds and make specified disclosures to the beneficiary, including (1) all the settlement options available under the policy or contract; (2) a recommendation to consult an advisor regarding tax liability and investment options; and (3) an explanation of the features of the retained asset account. An insurer is not required to provide the specified disclosures if (1) the insurer permits the beneficiary to file the claim over the telephone; (2) the insurer does not require the beneficiary to file a death certificate or other paperwork to file the claim for proceeds; and (3) the beneficiary selects payment of a lump-sum check, payable directly to the beneficiary, as the settlement option during the telephone call in which the beneficiary files the claim for proceeds.

A violation of the Act is an unfair trade practice under Title 27 of the Insurance Article. The Act applies to claims for death benefits under individual or group life insurance policies or annuity contracts issued, delivered, or renewed in the State on or after October 1, 2011.

Horse Racing and Gaming

Horse Racing

Distribution of Video Lottery Revenues

In February 2009, the Video Lottery Facility Location Commission (Location Commission) received two proposals for a video lottery terminal (VLT) facility in Anne Arundel County, one for a facility at Laurel Park and the other for a facility adjacent to Arundel Mills Mall. The Location Commission rejected the Laurel Park proposal for failure to pay the required initial license fee and eventually awarded the VLT operation license for the Arundel Mills location. After a local referendum on the Arundel Mills VLT facility passed in November 2010, thus allowing construction on that facility to go forward, Maryland Racing Inc., which encompasses Laurel Park, Pimlico Race Course, and other horse racing interests in the State, submitted a calendar 2011 racing schedule of 47 live thoroughbred racing days to the Maryland

Racing Commission for approval. This proposed number of live racing days was significantly less than the 146 live racing days conducted in calendar 2010.

The Racing Commission rejected Maryland Racing Inc.'s proposal for 47 live racing days in calendar 2011, and a subsequent proposal to run 77 live racing days was also not approved. In order to prevent the potential closure of Laurel Park and the Bowie Race Course Training Center, an agreement was eventually reached between the Administration, the racetrack owners, the Maryland Horse Breeders' Association, and the Maryland Thoroughbred Horsemen's Association to provide financial assistance that would allow for 146 live racing days in calendar 2011. As part of this agreement to subsidize racetrack operations for calendar 2011, the Maryland Economic Development Corporation (MEDCO) will provide $3.6 million and the breeders/horsemen associations will contribute $1.7 million for operating expenses. Revenues from the Racetrack Facility Renewal Account (RFRA) will be used to repay MEDCO for the financial assistance provided for racetrack operations in calendar 2011.

Under current law, 7% of VLT proceeds go to the Purse Dedication Account (PDA) to fund thoroughbred and standardbred purses and bred funds in the State, and 2.5% of VLT proceeds go to RFRA to fund racetrack capital construction and improvement projects. ***House Bill 1039 (passed)*** alters the distributions and uses of PDA and RFRA to provide operating assistance to thoroughbred and standardbred racing licensees in calendar 2012 and 2013. Specifically, Ocean Downs Race Course and Rosecroft Raceway may each receive up to $1.2 million from PDA to support a minimum of 40 live racing days in calendar 2012 only. As a condition of receiving the specified operating assistance, Rosecroft Raceway must rehire workers employed at the racetrack prior to the end of live racing on June 27, 2008, and recognize collective bargaining agreements that were in place June 1, 2008.

Under ***House Bill 1039***, Laurel Park and Pimlico Race Course may receive up to $6.0 million per year in both calendar 2012 and 2013 from RFRA to support a minimum of 146 live racing days in each year. The amounts provided under current law to the Racecourse at Timonium from RFRA for capital construction and improvements are increased through fiscal 2014, and Timonium may use up to $350,000 per year of the amounts provided as operating assistance to support a minimum of seven live racing days each year. In order to receive the specified operating assistance, each thoroughbred racing licensee must submit an application that includes a 12-month business plan and a five-year business plan that highlights the economic challenges facing the facilities along with strategies to address those challenges. Under the bill, a licensee may not be reimbursed for extraordinary expenses including litigation costs, lobbying fees, predevelopment costs, and certain prior-year adjustments and claims.

The bill makes the operating assistance conditional upon the recipients' good-faith effort to resolve a longstanding dispute with respect to simulcasting agreements. As a condition of eligibility for funding, ***House Bill 1039*** requires the respective parties to take affirmative steps to reach a simulcasting agreement that runs through at least December 31, 2013. To the extent an agreement is not reached by July 1, 2011, the parties may consent to mediation to ultimately reach an equitable simulcasting agreement. By October 1, 2011, if mediation proves unsuccessful, the parties must consent to binding arbitration.

In addition, ***House Bill 1039*** grants the State the first right of refusal to purchase the Bowie Race Course Training Center if the facility is no longer required to be operated as a thoroughbred training facility. The bill also gives the City of Bowie the second right of refusal to purchase the Bowie training facility should the State decline to purchase the facility.

House Bill 1039 also creates a Thoroughbred Racing Sustainability Task Force comprised of various industry stakeholders. By December 1, 2011, the task force must develop a plan for the long-term viability of thoroughbred racing in the State based on a minimum of 146 live racing days per calendar year. The Comptroller may not pay out the aforementioned operating assistance for the thoroughbred racetracks for the 2013 racing season until the Governor approves the task force's plan.

Gaming – Video Lottery Terminals

Implementation of Video Lottery Facilities

In February 2009, the Location Commission rejected the single proposal submitted for the Allegany County video lottery operation license for failing to meet the minimum requirements of the VLT law and the request for proposals, including failure to pay the required initial license fee. In January 2010, the Location Commission made several recommendations to the General Assembly related to the Allegany County location with the hope that the location could be made more attractive to potential bidders. In response, the General Assembly enacted Chapter 624 of 2010, which altered several provisions regarding the Allegany County VLT facility location. Subsequent to the enactment of Chapter 624, the Location Commission issued a new RFP for the Allegany County location in July 2010, with proposals due in November 2010. Unfortunately, no proposals were received for the Allegany County location.

In an effort to provide further incentives for potential applicants for the Allegany County location, ***Senate Bill 512 (passed)*** is an emergency bill that makes several changes related to the Allegany County location. The bill increases the Allegany County video lottery operation licensee's share of the proceeds to 50% for the first 10 years of operations and reduces all other revenue distributions, except for the State Lottery Agency, for the same time period. The bill also prohibits the award of a video lottery operation license in Allegany County unless the applicant agrees to purchase the Rocky Gap Lodge and Resort (the lodge). However, the bill allows the purchase price for the lodge to be counted toward the applicant's direct investment requirement of $25 million for each 500 VLTs proposed. The bill also repeals the requirement that VLTs be permanently located in a separate facility from the lodge. However, if VLTs are permanently located in the lodge and current meeting space is displaced, the licensee must provide for meeting space that is accessible from the lodge within three years.

Senate Bill 512 also reduces the maximum number of VLTs for the Allegany County facility from 1,500 to 1,000, waives the initial license fee for up to 500 VLTs for the Allegany County operation license, and allows all VLT facilities to extend operating hours from 2:00 a.m. until 4:00 a.m. on the weekends. Further, the bill clarifies that all VLTs, associated equipment and software are exempt from personal property tax. Lastly, the bill allows an eligible fund

manager receiving funds from the Small, Minority, and Women-Owned Businesses Account to use a portion of those funds for administrative and related fees.

Video Lottery Operation Licensees – Noninterference

Senate Bill 373/House Bill 868 (both passed) are emergency bills that prohibit a video lottery operation licensee from directly or indirectly interfering with the implementation or establishment of a video lottery facility by any other licensee or applicant. Under the bills, the State Lottery Commission is required to adopt regulations, to the fullest extent allowed by the First Amendment of the U.S. Constitution, to implement the legislation. The regulations must include provisions that expressly prohibit certain actions related to State or local governmental approvals for the establishment of a video lottery facility.

Minority Business Participation Requirements – Sunset Extension

Under current law, for the construction and procurement related to the operation of video lottery terminals, an applicant for a video lottery operation license or a licensee must, at a minimum, meet the same requirements of a designated unit of State government for minority business participation. The State's Minority Business Enterprise (MBE) Program establishes a goal that at least 25% of the total dollar value of each agency's procurement contracts be awarded to MBEs. The minority business participation requirements with respect to video lottery operation licensees terminate as of July 1, 2011. ***Senate Bill 638 (passed)*** extends these requirements until July 1, 2018.

Local Gaming

Slot Machines for Eligible Eastern Shore Nonprofit Organizations

House Bill 39 (passed) adds Worcester County to the list of Eastern Shore counties in which eligible nonprofit fraternal, religious, and war veterans' organizations may own and operate up to five slot machines at its principal meeting hall. With respect to any eligible organization operating slot machines on the Eastern Shore, at least half of the gross proceeds must go to charity, and the remainder to further the organization's purposes. The bill also requires that the Comptroller's Office regulate slot machines operated by eligible organizations located in Eastern Shore counties. These regulations may require the auditing of the annual reports submitted to the Comptroller's Office. Under the bill, the Comptroller may not initiate any audit or specified reporting requirements until July 1, 2012. The Comptroller sets the annual fee for the licensure of slot machines so that the total proceeds equal administrative costs.

Economic Development

Job Creation

Invest Maryland Program

***House Bill 173* (passed)** creates a State-supported venture capital program and also increases funding for the Enterprise Fund and Maryland Small Business Development Financing Authority (MSBDFA) within the Department of Business and Economic Development (DBED). The bill establishes a Maryland Venture Fund Authority within DBED to raise capital through the issuance of tax credits in order to invest the capital within the State through venture firms.

Raising Capital and Issuance of Tax Credits: Insurance companies pay taxes based on policyholder premiums rather than corporate profits. The Maryland Venture Fund Authority established by the bill will solicit cash or designated capital from insurance companies through a competitive process overseen by an independent third party. In exchange for the cash received from the insurance companies, DBED will issue tax credit certificates. In order to make a qualified bid for tax credit certificates, an insurance company must request a minimum of $1 million in tax credits and supply a bid of no less than 70% of the requested dollar amount of tax credits. The program will provide investment funds of approximately $70 million. DBED is authorized to award a maximum of $100 million in tax credits, which may be claimed over five years beginning in tax year 2014. Additionally, the bill allows for general funds to be used to replace tax credits if general fund revenue estimates increase for fiscal 2012.

Allocation of Capital: The cash or designated capital received from insurance companies is to be deposited into the Enterprise Fund within DBED in three annual equal installments beginning on June 1, 2012. The capital deposited in the Enterprise Fund must be allocated as follows: 67% to one or more venture firms to fund the making of qualified investments based on criteria set forth in the program and 33% to the Enterprise Fund. The capital allocated to the Enterprise Fund must be divided as follows: $250,000 to the Rural Maryland Council for its operational expenses; 75% of the remaining capital to fund the making of investments in qualified businesses in accordance with the existing policies and procedures of the Enterprise Fund; and 25% of the remaining capital to the Financing Authority Equity Participation Investment Program to be invested in qualified businesses in accordance with the policies and procedures of the Financing Authority.

Maryland Venture Fund Authority: The bill establishes a nine-member Maryland Venture Fund Authority (MVFA) within DBED. Members serve staggered four-year terms, and the Governor shall appoint a chairperson. Seven members are appointed by the Governor with the advice and consent of the Senate, one member is appointed by the Senate President, and one member is appointed by the Speaker of the House. Members of the authority may not receive compensation but are entitled to reimbursement for expenses. The members cannot have a financial interest in businesses participating in the program and the members are required to file a public disclosure of financial interests in accordance with Maryland public ethics law.

The bill requires the members of the board to have specified experience. For example, at least four members of the board must have experience working with companies that have raised investment capital within the venture capital industry. Additionally, one of these four members must have experience in higher education research and development and technology transfer projects. The bill also requires at least one board member to have experience in owning a small business and in raising venture capital investments as a business executive. Additionally, the bill mandates that at least one member of the board be a resident of a rural county in the State.

Selection of Venture Firms and Required Investments: MVFA's responsibilities include providing advice and consulting with DBED on program administration. Subject to the approval of DBED, MVFA (1) is required to contract with an independent party to conduct the tax credit bidding process and to evaluate venture firm applicants; and (2) may enter into written agreements in order to implement the program. The independent third party is required to evaluate the applications submitted by venture firms and recommend to MVFA which venture firms should receive designated capital.

On receiving this recommendation, MVFA will select which venture firms receive designated capital and ensure these firms make required investments. In selecting venture firms, MVFA is required to consider factors including the management structure and investment strategy of the venture firm, the reputation of the venture firm, the venture firm's commitment to making investments in the State, and the venture firm's history of creating jobs through investment. The venture firms must make investments in qualified businesses once approved.

At the time of the first investment, a business must (1) have its principal business operations in the State; (2) agree to use the investment primarily to establish or support business operations in the State; (3) have no more than 250 employees; and (4) not be primarily engaged in retail sales; real estate development; the business of insurance, banking, or lending; or professional services by accountants, attorneys, or physicians.

A business certified as an eligible business retains eligibility for additional investments under the program if it no longer meets eligibility requirements. These follow-on investments are qualified investments under the program unless the business no longer retains its principal business operations in the State and the investment was made by the Enterprise Fund or MSBDFA.

Administration of the Program and Required Reports: DBED is required to administer the program and must allocate designated capital received under the program and issue tax credit certificates consistent with the bidding process developed by the independent party under contract with MVFA. DBED is also required to enter into a contract with each venture firm receiving designated capital providing for the transfer of the capital; secure the commitments of tax credit purchasers; submit specified information about designated capital and tax credits to the Maryland Insurance Administration; certify venture firms; and beginning in 2013, report annually to the Governor and the Senate Budget and Taxation Committee and the House Ways and Means Committee on the implementation of the program.

DBED may purchase insurance or make other financial arrangements to ensure the availability of designated capital committed by tax credit applicants and adopt regulations to implement the program. If DBED purchases insurance, DBED must disclose this in the annual report.

The bill details the application process, restricts insurance company involvement with venture firms, and sets up procedures and protections for the investments made as a result of the contribution of State tax credits. In the short-term, the program will provide State revenues due to insurance companies providing designated capital as specified in the bill. In the long-term, the program seeks to create jobs through the investment of the short-term revenue raised by qualified businesses.

For a more detailed discussion of the tax credit implications of this bill, see the subpart "Miscellaneous Taxes" within Part B – Taxes of this *90 Day Report*.

Task Force on Industrial Job Creation in Baltimore County

***Senate Bill 746* (passed)** establishes a Task Force on Industrial Job Creation in Baltimore County. The task force must (1) determine the causes of the loss of employment opportunities in industry, ship building and repair, and businesses that supply industry in Baltimore County; (2) identify current State policies on industrial job creation to determine if the policies are effective; and (3) make recommendations, including legislative and policy proposals, regarding ways the State can encourage new employers to locate in Baltimore County, retain existing Baltimore County employers, encourage employers that have left Baltimore County to return to the county, and encourage employers in Baltimore County to maintain or grow the number of employees they have in the county. The task force must submit a preliminary report by December 31, 2011, and must submit a final report with findings and recommendations by June 1, 2012.

Miscellaneous

Film Production Tax Credit

In response to incentives and cost advantages offered in other countries, a handful of states earlier this decade began offering incentives to attract local film production. In Maryland, Chapter 96 of 2005 established the Film Production Employer Wage Rebate Grant Program. ***Senate Bill 672* (passed)** converts the Film Production Employer Wage Rebate Program into a tax credit program. The value of the subsidy to each qualifying film production entity is equal to 25% of the qualified direct costs of a film production activity and 27% of the qualified direct costs of a television series. DBED can award a maximum of $7.5 million in credits in each fiscal year. If the amount of the tax credit exceeds the total tax liability in the tax year, the entity can claim a refund in the amount of the excess.

A film production entity must notify DBED of its intent to seek the tax credit before the production activity begins. A film production entity is also required to submit an application containing specified information, including the project's estimated total budget and the

anticipated dates for carrying out the major elements of the film production activity. Film production activity is defined as the production of a film or video product that is intended for nationwide commercial distribution and includes products such as feature films, television projects, commercials, corporate films, and music videos.

In order for a film production entity to qualify for the tax credit, the estimated total direct costs incurred in the State must exceed $500,000. Total direct costs are the total costs necessary to carry out the film production activity including employee wages and benefits and other expenses such as set construction and operation, wardrobe and makeup, photography and sound synchronization, lighting, rental of facilities, and food and lodging.

The bill also alters several provisions related to eligibility and program reporting requirements. The bill applies beginning in tax year 2011 and the program terminates July 1, 2014.

Tri-County Council for Western Maryland

The Tri-County Council for Western Maryland is a regional economic development organization representing Allegany, Garrett, and Washington counties in Western Maryland. ***Senate Bill 975/House Bill 1343*** ***(both passed)*** alter the membership and leadership of the Tri-County Council for Western Maryland and increase the number of members from 23 to 26. The bills also define member counties as counties in the region that pay annual dues set by the council.

Arts and Entertainment Districts – Artistic Work

Under Chapter 608 of 2001 an artist who resides and operates a business in an arts and entertainment district is eligible for income and property tax credits. ***Senate Bill 841/ House Bill 1281*** ***(both passed)*** expand the eligibility criteria for the tax benefits available for qualifying residing artists in arts and entertainment districts. The eligibility criteria for an artistic work is expanded from the creation of an original clothing design to the creation of an original design in general.

Designation of a Qualified Distressed County

To qualify as a distressed county, a county must exceed a certain percentage of the State's average unemployment rate or must not exceed a certain percentage of the State's per capita personal income. The designation of a qualified distressed county impacts several State programs including the Maryland Economic Development Assistance Authority and Fund, the Maryland Industrial Development Financing Authority, and the One Maryland Economic Development Tax Credit, as well as the calculation of the percentage of school construction funding provided by the State.

Senate Bill 891 ***(passed)*** extends, from 12 months to 24 months, the time period in which a county can maintain its designation as a qualified distressed county if it no longer meets either the unemployment or personal income criterion specified under the law.

During the current recession, six of seven currently distressed counties do not meet the unemployment criterion. This criterion requires the average rate of unemployment in a county for the more recent 12-month period to be greater than 150% of the average rate of unemployment for the entire State during the same period. The State's unemployment rate has increased to over 7%, thereby narrowing the spread to below 150%. Extending the time period allows the current distressed counties a longer period to retain the benefit of the designation.

Housing and Community Development

Local Government Efforts

Unification of Housing Authorities

Housing authorities undertake, construct, maintain, or operate housing projects so as to provide safe, sanitary, and decent housing for State residents. Under State law, every county and municipal corporation is authorized to establish a housing authority, although many jurisdictions have not exercised this authority. Generally, a housing authority may operate only within the borders of the jurisdiction that operates the authority. There are two housing authorities in Talbot County, the Housing Commission of Talbot County, and the St. Michaels Housing Authority which is a quasi-governmental agency under the Town of Easton government. ***Senate Bill 542/House Bill 228 (both passed)*** authorize the Housing Commission of Talbot County and the St. Michaels Housing Authority to unite by consolidation or merger to form one housing authority. The unification must be initiated by the passage of a substantially similar proposal of unification by the legislative bodies of the Town of Easton and the Town of St. Michaels. If created, the new housing authority may conduct its operations in the area prescribed in the authority's articles of organization. Following approval of the proposals, each municipal corporation must appoint in equal number, between three and five representatives to serve on a commission, which is required to complete a draft of the new authority's articles of organization within a period of six months. The legislative body of each municipal corporation must adopt or reject the articles as a whole and each legislative body must concur in any amendment or change. The commission's appointed custodian of records must file the adopted articles of organization with the Secretary of State. If the Secretary finds that the articles of organization conform to the relevant requirements, the Secretary must issue a certificate of approval, at which time the authority may begin to exercise its powers.

Fee Waivers for Affordable Housing

Chapters 386 and 387 of 2008 authorized local governments 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 in proportion to the number of lower-income housing units of a development. To qualify, the lower-income housing units must be financed, in whole or in part, by public funding with mortgage or other covenants restricting the rental or sale of the housing units to lower-income residents in accordance with specific government program requirements; or developed by a nonprofit organization that has been

exempt from federal taxation for at least three years, and that requires the homebuyer to participate in the construction or rehabilitation of the housing unit. ***Senate Bill 83 (Ch. 23)*** repeals the September 30, 2011 termination date under the 2008 law for these local affordable housing program authorizations, based largely on the October 2010 report of the Department of Housing and Community Development (DHCD) that found that continuing local governments' authority to provide fee waivers for lower-income housing is critical to the ongoing need for affordable housing throughout the State.

Tax Credits

Senate Bill 436 (passed) authorizes a municipality in Prince George's County to establish revitalization districts for the purpose of encouraging redevelopment. For a further discussion of this tax credit, see the subpart "Property Tax" within Part B – Taxes of this *90 Day Report*.

Residential Building Safety and Standards

Fire Safety

House Bill 621 (passed) requires, for fire safety purposes, the owner of a residential high-rise building with rental units to provide reasonable written notice annually to all residents of the building to inform residents who are mobility impaired of their right to request a rental unit on the first five floors of the building if one should become available. The measure defines being "mobility impaired" as unable to carry objects or to move or travel without the use of an assistive device or service animal.

"Green" Buildings

While State law requires DHCD to adopt certain building standards, including standards for energy efficiency or "high-performance," for State buildings and schools, there are no comprehensive "green" building standards with respect to residential structures. ***House Bill 630 (Ch. 135)*** requires DHCD to encourage the construction of new "high-performance homes" which are defined as new residential structures that meet or exceed the current version of either the Silver rating of the International Code Council's 700 National Green Building Standards or the Silver rating of the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design) for Homes Rating System. In addition, ***House Bill 972 (passed)*** authorizes DHCD to adopt by regulation the International Green Construction Code (IGCC). The bill also authorizes local governments to adopt IGCC regardless of whether DHCD adopts IGCC and to adopt amendments to IGCC. IGCC is a new model code, scheduled to have the first edition published in 2012, that addresses green building design and performance and works as an overlay with, rather than an alternative to, existing building codes. For a more detailed discussion of building codes and green construction, see the subpart "Public Safety" under Part E – Crimes, Corrections, and Public Safety of this *90 Day Report*.

Workers' Compensation

Death Benefits for Dependents

Chapters 616 and 617 of 2009 required the Workers' Compensation Commission (WCC) to conduct a study of statutory provisions related to death benefit payments to individuals dependent on a covered employee. ***Senate Bill 212/House Bill 417*** ***(both passed)*** resulted from recommendations of a WCC workgroup which met during the 2009 and 2010 interims to study the inequity of death benefits that was highlighted following the death of two workers in a western Maryland mining accident in 2008. One of the spouses had a part-time job at the time of the accident and, therefore, as partly dependent, her benefits were capped. The other spouse did not work, entitling her to lifetime benefits as wholly dependent. The bills change the calculation of benefits paid by employers or insurers to surviving spouses, children, and other dependents to replace income lost when a person dies due to a work-related accident or occupational disease. Under the bills, benefits are paid to surviving dependent spouses and children proportionally to reflect family income. The bills eliminate the current statutory distinction between wholly and partially dependent spouses and children.

The actual amount of benefits received by the dependents of a covered employee is based on several factors, including the average weekly wage of the deceased and the percentage of the total earnings the deceased person contributed to the family income. The amount of benefits that may be paid to the dependents of a deceased employee cannot exceed the State average weekly wage or two-thirds of the employee's actual average weekly wage. An employee's average weekly wage is based on the employee's salary at the date of (1) disablement (in the case of occupational diseases); or (2) the work-related accident that resulted in the employee's death. In general, surviving dependent spouses and children receive their calculated benefits for a minimum of 5 years and a maximum of up to 12 years (624 weeks).

There are several exceptions, including all dependent benefits terminate on the date the deceased would have reached 70 years of age, if five years of benefits have been paid. Other exceptions affect surviving spouses who remarry, dependents with disabilities, children of deceased recipients of benefits, and children enrolled in approved or accredited academic programs. The bills also provide a cap of $65,000 on benefits provided to dependents who are not spouses or children of the deceased. Further, the bills increase the allowance for funeral benefits from $5,000 to $7,000.

The bills vest WCC with the authority to determine the dependent status of children of an employee, and the bills repeal the provision specifying that persons are not entitled to benefits if they became dependent on the employee after the employee's first compensable disability resulting from an occupational disease.

The bills also exempt certain public safety and emergency personnel employed with a county or municipal corporation. In the event that such an employee dies on the job, or as the result of an occupational disease, benefits paid to the dependents of these employees are based on the death benefit provisions currently set in statute. However, a county or municipal

corporation in the State may elect to subject these employees, and their dependents, to the bills' provisions. To do so a county or municipal corporation must adopt a resolution or ordinance reflecting that election and forward a copy of the ordinance or resolution to WCC. Once WCC has received the resolution or ordinance, all future claims for death benefits involving an employee of that municipal corporation or county are subject to the bills' provisions. A municipal corporation or county may not reverse its election to forgo its exemption to the bills' provisions.

Status of Employees of the Injured Workers' Insurance Fund

Senate Bill 693 (passed)/House Bill 598 ***(Ch. 132***) specifies that employees of the Injured Workers' Insurance Fund (IWIF) are not subject to any State law, regulation, or executive order governing State employee compensation, including furloughs, salary reductions, or any other general fund cost savings measure. The bill clarifies that IWIF's board is responsible for setting compensation rates for IWIF employees and remove a provision of law requiring IWIF's board, to the extent practicable, to set compensation rates for IWIF employees in accordance with the State salary plan. For further discussion, see subpart "Personnel" within Part C – State Government of this *90 Day Report*.

Workers' Compensation Claims – Appeals

Jurisdiction Pending Appeal

Senate Bill 269/House Bill 453 ***(Chs. 45 and 46)*** allow the Workers' Compensation Commission (WCC) to retain jurisdiction pending an appeal to consider a proposed settlement of a claim. Under current law, an employer, covered employee, dependent of a covered employee, or any other interested person aggrieved by a decision of WCC may file an appeal in circuit court, provided the appeal is filed within 30 days of WCC's order. WCC retains jurisdiction pending appeal to consider requests for additional medical treatment and attention or requests for temporary total disability benefits, under certain circumstances. Currently, the circuit court must remand the case back to WCC for settlement approval, and if the settlement is not approved, a new appeal to the circuit court must be filed. These bills expand the jurisdiction of WCC to include approval of a settlement reached in a case that was appealed from WCC to the circuit court.

Venue for Appeal

Senate Bill 568/House Bill 392 ***(both passed)*** modify the venues in which a person may file an order of appeal with the circuit court on a decision by the Workers' Compensation Commission. An appeal is required to be filed with either (1) the circuit court of the county where the covered employee resides; (2) the circuit court of the county where the employer has its principal place of business; or (3) the circuit court of the county where the workplace-related injury occurred. The bills provide clarity, in part due to a recent court of special appeals case illustrating that the current law may not be clear. In the recent case, the court indicated that an

appeal could be filed where the claimant is employed, including where the covered employee regularly conducts business.

Joint Committee on Workers' Compensation

Senate Bill 1 ***(Ch. 5)*** increases the membership of the Joint Committee on Workers' Compensation Benefit and Insurance Oversight from 15 to 16. The additional member is appointed jointly by the President of the Senate and Speaker of the House of Delegates and must be a representative of a self-insured local government entity. Local governments have unique workers' compensation issues, including those relating to public safety employees.

Anne Arundel County – Occupational Disease – Deputy Sheriffs

House Bill 244 ***(passed)*** specifies that an Anne Arundel County deputy sheriff who suffers from heart disease or hypertension resulting in partial or total disability or death is presumed to have an occupational disease that is compensable under workers' compensation law, provided that the condition is more severe than the individual's condition existing prior to employment as a deputy sheriff.

To be eligible for the occupational disease presumption, an Anne Arundel County deputy sheriff employed on or before September 30, 2011, must submit a copy of a baseline medical report on or before December 31, 2011, as a condition of continued employment. An individual hired as a deputy sheriff on or after October 1, 2011, must submit to a medical examination as a condition of employment.

Under the bill, workers' compensation benefits due to an Anne Arundel County deputy sheriff are in addition to any benefits to which the deputy sheriff may be entitled under the county's retirement system. Total payments from both sources may not exceed the deputy sheriff's weekly salary.

Unemployment Insurance

Unemployment Insurance (UI) provides temporary, partial wage replacement benefits to individuals who are unemployed through no fault of their own and who are able to work, available to work, and actively seeking work. An individual performing services for a business in return for compensation in the form of wages is likely covered for UI purposes. Unemployment benefits are funded through Maryland employers' State (UI) taxes. All private business employers and nonprofit employers employing one or more persons, at any time, are subject to the Maryland UI Law. An employer's tax rate is based on the employer's unemployment history and ranges within a certain percentage of the total taxable wages of the employer's employees. The taxes are deposited in the Unemployment Insurance Trust Fund (UITF) and may be used only to pay benefits to eligible unemployed individuals.

Both the federal and state governments have responsibilities for unemployment compensation. The U.S. Department of Labor oversees the UI system, while each state has its

own program that is administered pursuant to state law by state employees. Each state has laws that prescribe the tax structure, qualifying requirements, benefit levels, and disqualification provisions. These laws must, however, conform to broad federal guidelines.

Federally Funded Extended Benefits

Maryland State unemployment benefits are funded through employers' contributions to UITF. Eligible claimants may receive up to 26 weeks of regular UI benefits, which are paid from the State UITF. In addition to State UI benefits, in 2008, federal law established emergency unemployment compensation (EUC) for UI claimants that have exhausted regular UI benefits. Through the American Recovery and Reinvestment Act of 2009 (ARRA) and subsequent actions, federal funding is provided for 47 weeks of UI benefits through EUC in Maryland, for a total of 73 weeks of regular and EUC. In states that have a relatively higher unemployment rate than Maryland, claimants may receive an additional six weeks of EUC. Once EUC is exhausted, in relatively high unemployment rate states, claimants may receive 13 to 20 weeks of benefits through the federally funded extended benefits (EB) program.

The federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 made significant changes to the EB program, allowing relatively lower unemployment rate states like Maryland to qualify. Prior to this Act, the costs of EB are typically shared 50/50 between each state UI trust fund and the federal government. Under the federal Act, the federal government will reimburse states for 100% of EB costs for weeks of unemployment up to January 4, 2012, in most cases. The federal Act permits states to add an additional trigger that would allow eligible workers in states that do not already qualify to receive federally funded EB. ***Senate Bill 882/House Bill 1228 (both passed)*** establish an additional "on" indicator based on the State average rate of total employment to determine if UI claimants are eligible to receive 100% federally funded EB. The State average rate of total employment must be at least 6.5% for eligible claimants to receive 13 weeks of EB, for a total of 86 weeks of regular, EUC, and EB.

EB to be provided under the bills apply to weeks of unemployment beginning after January 2, 2010, and ending four weeks prior to the last week for which 100% federal sharing funding available under ARRA. EB may not be payable based on a State "on" trigger established under the bills for any week of unemployment beginning before October 1, 2011. The bills also establish standards for a "high unemployment period," under which additional weeks of EB payments may be paid to claimants under specified conditions The State average rate of total employment must be at least 8.0% for eligible claimants to receive an additional seven weeks of EB.

Since federal funding cannot be used to reimburse expenses incurred by the State and local governments (who generally reimburse UITF dollar-for-dollar for UI benefits paid to former employees), the bills also establish a special, nonlapsing Extended Benefits Fund to reimburse counties and municipalities for any "net costs" of EB. "Net costs" incurred by a local government means the EB payments that are reimbursed dollar-for-dollar by the local government to UITF, less the estimated income tax revenue payable to that local government in connection with payments to EB recipients. Based on the $1.6 million appropriation, it is the

intent of the General Assembly that counties will be reimbursed at least 60% of their net costs and municipal corporation will be reimbursed at least 80% of their net costs. There is a net benefit to the State since the estimated cost of reimbursing the UITF for benefits paid to former employees is $7 million, but the estimated income tax payable to the State based on an estimated $283 million in benefits paid statewide is over $13 million. The bills express legislative intent that the Governor make a $1.6 million appropriation to that fund in fiscal 2013.

The bills terminate when the "on" trigger no longer applies or when 100% of federal funding for EB is no longer available.

UI Appeals

***House Bill 197* (Ch. 108)**, establishes a 10-day period before a UI appeals decision made by a hearing examiner in the Lower Appeals Division or by the Board of Appeals, both within the Department of Labor, Licensing, and Regulation, becomes final. Under current law, these decisions are final when issued. For instances where an error is made in a decision, the Act allows the hearing examiner or the board to reconsider the decision during the 10-day period before it becomes a final decision.

***Senate Bill 58* (Ch. 12)** removes the requirement that the Board of Appeals pass an order upon a final decision in a judicial proceeding for an appeal. Under current law, an aggrieved party of an UI decision by a hearing examiner may appeal to the Lowers Appeal Division. Further appeals may be made to the board, then to the circuit court, and then to the Court of Special Appeals. Upon a final decision in a judicial proceeding, the board is required to pass an order in accordance with the higher court's decision. The removal of the requirement that the board pass an order upon a final decision in a judicial proceeding will eliminate duplication since currently the board simply issues the same order as the higher court.

Withholding Status

***Senate Bill 60* (Ch. 14)** removes the restriction on the number of times per year a claimant receiving UI benefits may change a previously elected tax withholding status. Current law allows a claimant to change a previously elected tax withholding status once during each benefit year.

Exemption from Coverage – Messenger Service Drivers

Under current regulations, work performed by a messenger service driver is not covered for purposes of UI coverage if that individual is delivering individually addressed mail, messages, documents in paper or magnetic format, supplies, records, parcels, or other objects to the public or commercial establishments on foot, by bicycle, or by motor vehicle. ***Senate Bill 685* (passed)** codifies the regulations and expands qualifications needed to continue to be exempt from covered service. Additionally, the bill expands the items that a messenger service driver may deliver for a messenger services business to include emergency medical supplies, records, parcels, or similar items. However, for the driver to be exempt from covered

service in delivering the expanded items, the messenger service business must provide evidence to the Secretary of Labor, Licensing, and Regulation that the driver is excluded from coverage under the Federal Unemployment Tax Act.

Labor and Industry

Employer Use of Credit Reports

Senate Bill 132/House Bill 87 ***(Chs. 28 and 29)*** limit an employer's ability to use an individual's credit report or credit history to deny employment to a job applicant, discharge an employee, or determine a job applicant's or employee's compensation or terms of employment. An employer may request, or use the credit report or credit history of a job applicant or employee, if the individual has received an offer of employment and the employer has a bona fide, job-related reason, for requesting the information. In addition, only certain positions or types of employment fall under the bona fide purposes established by the Act for requesting or using credit reports or credit histories. Certain types of employment or businesses are exempt from the Act's requirements including financial institutions, and if federal law requires credit report or credit history checks as a condition of employment for a job.

If an employer violates the provisions of the Act, the aggrieved job applicant or employee may file a written complaint with the Commissioner of Labor and Industry. If the commissioner determines that the employer has committed a violation of the Act, the commissioner must try to resolve the matter informally. If the matter cannot be resolved informally, the commissioner may assess a fine against the employer not exceeding $500 for a first offense, or up to $2,500 for any subsequent offenses. Upon failure of the employer to comply with the administrative procedures if a complaint was filed, the bill authorizes the commissioner or the job applicant or employee to bring an action to the circuit court where the employer or job applicant or employee is located.

Health Care Personnel Training Fund

Federal health care reform includes provisions that establish the Health Care Workforce and Planning Grant Program, which is designed to provide a "strong health care workforce" through grants to the states. In order to receive these federal grants, ***House Bill 807*** ***(passed)*** establishes the Health Care Personnel Training Fund. The purpose of the fund is to provide grants to training consortiums that involve labor-management partnerships that train and upgrade the qualifications of health care personnel. The special, nonlapsing fund is administered by the Department of Labor, Licensing, and Regulation and consists only of money received from the federal government and investment earnings of the fund. Any grants from the fund must be made in consultation with the Governor's Workforce investment Board.

Wage and Hour Law – Prohibited Acts of Employers – Adverse Action

The Maryland Wage and Hour Law is the State complement to the federal Fair Labor Standards Act of 1938. State law sets minimum wage and overtime standards that provide a maintenance level consistent with the needs of the population. Under State law, employers are generally required to pay each employee at least $7.25 per hour, which is the federal minimum wage.

Senate Bill 551*/*House Bill 1130* *(both passed) specify that an employer may not take adverse action against an employee who makes a complaint, brings an action, or testifies in an action against the employer for a violation of the State law. A complaint may be made to the employer, whether through the employer's internal grievance process or otherwise, or to the Commissioner of Labor and Industry. Prohibited adverse actions include discharging the employee; demoting the employee; threatening an employee with discharge or demotion; or any other retaliatory action that changes the terms or conditions of employment that would dissuade a reasonable employee from taking any action allowed under State law. Before an employer may be convicted, however, the evidence must demonstrate that the employer had knowledge of the matter for which the prosecution for retaliation is sought.

Wage Payment and Collection – Void Agreements

The Maryland Wage Payment and Collection Law regulates the payment of wages by employers in the State. Under the law employers are required to pay workers the wage promised. In addition, employers must pay wages when due at least once every two weeks or twice a month and pay employees all wages due on termination of employment. In response to an unpublished federal court decision, regarding the payment of overtime by an out-of-state employer to a State resident, ***House Bill 298* *(Ch. 118)*** amends the law by specifying that an agreement between an employer and an employee to work for a pay rate that is less than the wage required by law is void and, therefore, nonbinding. Similar language already exists under the Maryland Wage and Hour Law.

Alcoholic Beverages

Statewide Bills

Direct Wine Shipment

The three-tier system for the manufacturer, distribution, and retail sale of all alcoholic beverages, including wine, that Maryland adopted when Prohibition ended in 1933 has prevented an out-of-state winery to bypass the wholesaler tier and ship its product directly to a Maryland consumer. In 2002, Maryland enacted legislation creating a direct wine seller's permit that allows out-of-state wineries to ship to consumers in Maryland, but that legislation sets out a cumbersome multi-step process and has rarely been used.

In December 2010, responding to legislation that passed in 2009, the State Comptroller submitted a report to the General Assembly on issue of the direct shipment of wine to consumers in Maryland. Following that report, legislation was introduced in the 2011 session to address direct wine shipment. ***Senate Bill 248/House Bill 1175 (both passed)*** repeal the old direct wine seller's permit and replace it with a direct wine shipper's permit.

The bills require that a person obtain a direct wine shipper's permit from the Comptroller's Office before the person may engage in shipping wine directly to a personal consumer in the State.

To qualify for a direct wine shipper's permit the applicant must be (1) a person licensed outside of the State to engage in the manufacture of wine; or (2) a holder of a State-issued Class 3 manufacturer's (winery) license. The bills do not allow retailers, such as stand-alone wine-of-the-month clubs, to obtain a direct wine shipper's permit. Also, the permit allows the direct shipment only of wine – not any other alcoholic beverage.

The direct wine shipper must ensure that all containers of wine shipped directly to a consumer in the State are conspicuously labeled with (1) the name of the direct wine shipper; (2) the name and address of the consumer who is the intended recipient; and (3) the words "Contains Alcohol; Signature of Person at Least 21 Years of Age Required for Delivery." A direct wine shipper must also meet several financial reporting requirements.

A direct wine shipper is prohibited from shipping more than 18 9-liter cases of wine annually to a single delivery address or delivering wine on Sunday to an address in the State.

A shipment from outside the State may not be delivered by the direct wine shipper but instead must be delivered in the State by a holder of a common carrier permit issued by the Comptroller. Also, the shipment must be accompanied by a shipping label that clearly indicates the name of the direct shipper and the name and address of the recipient. To complete delivery of a shipment, the common carrier must require the signature of the consumer or another individual at the address and photo identification demonstrating that the individual is at least 21 years old.

To receive a direct shipment of wine, a personal consumer in the State must be at least 21 years old. In addition, the bill stipulates that a wine shipment may be ordered or purchased through a computer network. A person who receives a wine shipment can only use the wine for personal consumption and not resell it.

The bills specify that a holder of a direct wine shipper's permit may ship wine directly to a consumer in Montgomery County.

Under specified circumstances the holder of a direct wine shipper's permit must post security for the alcoholic beverage tax in an amount of at least $1,000.

The initial issuance fee for the direct wine shipper's permit is $200 and the percent may be renewed each year for a fee of $200. The fee for the common carrier permit is $100.

Finally, the bills require Comptroller to study the effects of the implementation of the bills, including (1) the numbers of holders of direct wine shipper's permits and common carrier permits issued; (2) the volume of wine shipped to Maryland consumers; (3) the revenues and costs to the State associated with direct wine shipment; and (4) the availability of certain imported varieties of wine to Maryland consumers. The Comptroller is required to submit a report of its findings to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee by December 31, 2012.

Brewery Licenses

***Senate Bill 496*/*House Bill 1202* (both passed)** increase from one to six the number of beer samples that the holder of a Class 5 manufacturer's brewery license may provide to a person of legal drinking age who participates in a guided tour and extends this privilege to include a scheduled promotional event or other organized activity at the licensed premises. The bills repeal the annual 144 ounce limit on the amount of beer that may be purchased for off-premises consumption, replacing it with a per tour 288 ounce limit. The bills also repeal a reporting requirement regarding purchases for off-premises consumption. Further, the bills increase from 4 to 12 the yearly number of special brewery promotional event permits that a license holder may be issued, and increase from two ounces to three ounces the limit on the size of samples that may be offered at the event.

Alcoholic Beverages Sales and Use Tax

Senate Bill 994 **(*passed*)** and ***House Bill 1213*** **(*passed*)** both increase the sales and use tax on alcoholic beverages from 6% to 9%. For a further discussion of this issue, see the subpart "Sales Tax" within Part B – Taxes of this *90 Day Report*.

Lottery Operation Licensees

***House Bill 1010* (failed)** would have authorized the State Lottery Agency to award video lottery operation licenses throughout the State to holders of Class B, Class C, or Class D alcoholic beverages licenses. The amendment would have limited the number of newly authorized video lottery terminals (VLTs) to five per licensed location but would not have limited the total number of VLTs that the State Lottery Agency could award. VLT revenue generated from these new licensees was to be distributed in the same manner as the proceeds from State lottery tickets.

Local Laws

Corkage Fee Bills

***Senate Bill 614*/*House Bill 114*, *Senate Bill 276*, *Senate Bill 166*/*House Bill 150*,** and ***House Bill 1098* (all failed)** would have allowed an individual in Baltimore City and Baltimore, Frederick, and Prince George's counties, respectively, in certain licensed restaurants or clubs to consume wine not purchased from or provided by the restaurant or facility if the wine was consumed with a meal and the individual received the approval of the license holder. Under the

bills, the license holder would have been allowed to charge a fee for the privilege up to $25, on which a sales tax was required to be imposed.

Allegany County

Buffet Theatre Licenses: ***House Bill 376*** ***(Ch. 121)*** expands eligibility for a Class B-BT (Buffet Theatre) on-sale beer, light wine, and liquor (BWL) license to include a nonprofit professional theatre that hosts live acoustic-style music or feature films. The Act also removes the requirement that the performance be live.

1-Day Special License: ***Senate Bill 580***/***House Bill 953*** ***(both passed)***, emergency bills, authorize the Board of License Commissioners to issue a 1-day special retail alcoholic beverages license to be used at a bona fide entertainment event in the county. This license may be granted for up to five consecutive days. The county commissioners, on recommendation by the board of license commissioners, must set the license fee amount. The county commissioners must distribute $100 of the license fee to the board of license commissioners and donate the balance to a charitable organization. The license holder, with the approval of the county commissioners, designates the charitable organization to receive the remaining fee revenue. The privileges granted under the license may only be granted on county-owned property and a person must submit an application for a license at least 30 days before the day the license takes effect.

Board of License Commissioners: Appointments to the Board of License Commissioners are made by the Governor for terms of six years. Two members must be of the political party that received the greatest number of votes for the several offices of the county commissioner and the other member must be of the political party with the second highest number of votes. The board currently has only two members. The former board chairman resigned in July 2010, and the vacancy has not yet been filled. Affecting only future appointees, ***Senate Bill 270*** ***(passed)*** requires the Governor to appoint each member of the board with the advice and consent of the central committee of the respective political party of each appointee.

Anne Arundel County

House Bill 1292 ***(passed)*** increases by 20% various license fees for the sale of alcoholic beverages and establishes new classes of licenses. County revenues from license fees are expected to increase by a minimum of $136,400 annually beginning in fiscal 2012, and may further increase due to the new licenses established under the bill.

- *Festival Licenses*: The bill expands the definition of "festival" to include the Benson-Hammond House Strawberry Festival.

- *Wine Tasting Licenses:* The bill establishes a Class WT wine tasting (on-premises) license that authorizes a holder to permit the on-premises consumption of light wine for tasting or sampling purposes only. Quantities may not exceed one ounce from each brand to any one person. The annual license fee is $150 for a holder of a Class BWL

(beer, wine, and liquor) license and $50 for a holder of a Class BW (beer and wine) license.

- *Special Entertainment Licenses:* The bill establishes a special entertainment license that authorizes the holder to allow the playing of more than one television, live music with not more than four musicians, karaoke, and a disc jockey. However, under the bill, the holder of the license may not allow dancing, floor shows, or similar live entertainment.

- *Administrative Fees:* This bill clarifies that any administrative action that requires a hearing, including new licenses, transfers of licenses to third parties, or changing the ownership of a majority interest in a license must be accompanied by an administrative fee of $200.

- *Duplicate Licenses:* Unless otherwise specified, whenever a license issued under the Alcoholic Beverages Article is lost or destroyed, a fee of $1 may be charged for the issuance of a duplicate license. Other jurisdictions (Garrett and Prince George's counties and Baltimore City) charge higher fees which are specified in statute. The bill requires the board of license commissioners to determine the fee for a duplicate license in Anne Arundel County.

Alcoholic Beverage Licenses for the Video Lottery Terminal Facility: Power Plant Entertainment (PPE) Casino Resorts, LLC was awarded a license in December 2009 to operate a 4,750 video lottery terminal (VLT) facility adjacent to Arundel Mills Mall in Anne Arundel County, contingent upon local zoning approval. County officials subsequently approved zoning legislation, but the legislation was petitioned to a local voter referendum at the November 2010 election. Anne Arundel County voters approved the zoning legislation, allowing the VLT facility to go forward. PPE plans to open a 2,000 VLT temporary facility by the end of 2011, with a permanent facility scheduled to open by the end of 2012.

Senate Bill 367 (passed) authorizes the Board of License Commissioners to issue an entertainment facility (EF) license and an entertainment concessionaire (EC) license for the consumption of beer, wine, and liquor in the VLT facility.

Baltimore City

Board of Liquor License Commissioners: ***Senate Bill 613 (passed)*** requires the Office of Legislative Audits (OLA) of the Maryland Department of Legislation Services to conduct a performance audit every three years of the Board of Liquor License Commissioners, prohibits a board commissioner or a board employee from having certain interests in businesses relating to the distribution of alcoholic beverages, and increases the salary of the board's appellate counsel.

The performance audit by OLA must evaluate the effectiveness and efficiency of the management practices of the board and of the economy with which the board uses resources. The performance audit must focus on operations relating to liquor inspections, licensing,

disciplinary procedures, and management oversight. OLA is required to initiate the first such audit by November 1, 2011.

The bill also prohibits a board commissioner or an employee from having any interests in businesses or premises relating to the distribution of alcoholic beverages. A commissioner may not receive any salary or other compensation or any other thing of value from a business engaged in the manufacture, distribution, or sale of alcoholic beverages. The bill specifies that an action of a commissioner or employee of the board is subject to State requirements for open or public meetings.

Finally, ***Senate Bill 613*** requires the board to set for the appellate counsel the same compensation and benefits that are set for the assistant chief inspector (grade 097) or the chief inspector (grade 099), rather than the compensation and benefits set for full-time inspectors.

45th Alcoholic Beverages District: ***Senate Bill 836*** ***(passed)*** authorizes the Board of Liquor License Commissioners to issue a Class C (clubs and organizations) beer, wine, and liquor license in the 45th alcoholic beverages district. The bill also authorizes the holder of a Class A (liquor stores) license to exercise off-sale privileges on two additional Sundays during the calendar year, upon payment of a $75 license fee. Also, the number of times that the board may issue a supplemental Sunday license during any calendar year to a holder of a Class D (taverns) beer, wine, and liquor license is increased from two to four.

Baltimore County

License Fees: ***Senate Bill 875/House Bill 1243*** ***(both passed)*** increase various license fees for the sale of alcoholic beverages in Baltimore County. County revenues from license fees are expected to increase by approximately $350,600 annually beginning in fiscal 2012.

Farmers' Markets: ***House Bill 326*** ***(passed)*** authorizes the Comptroller's Office to issue up to 12 additional winery special event permits in a calendar year to a licensed Class 4 Maryland limited winery for use at farmers' markets in the County listed on the Maryland Department of Agriculture Farmers' Market Directory. A Class 4 Maryland limited winery may not use more than six winery special permits at the same farmers' market in the County in a year. The holder of a winery special event permit is prohibited from selling wine by the glass. A farmers' market administrator or its designee is required to be present during hours when wine is being sold and to be certified by an approved alcohol awareness program.

Expiration of Licenses: ***Senate Bill 997*** ***(passed)***, an emergency bill, authorizes the Board of License Commissioners to extend an alcoholic beverages license for a licensed premise for up to two years without circuit court approval if the business is forced to close because of a casualty loss. According to the U.S. Internal Revenue Service, a casualty loss can result from the damage, destruction, or loss of property from any sudden, unexpected, or unusual event, such as a flood, hurricane, tornado, fire, earthquake, or even volcanic eruption. A casualty does not include normal wear and tear or progressive deterioration.

Caroline County

Alcoholic Beverages Act of 2011: ***Senate Bill 102/House Bill 947*** ***(both passed)*** alter the hours of sale for alcoholic beverages by establishing uniform operating hours of 6 a.m. to 2 a.m., Monday through Sunday, for the following classes of alcoholic beverages licenses: all Class A (liquor stores), Class C (clubs and organizations), and Class D (taverns) licenses; Class B (restaurants) beer; Class B 7-day beer, wine, and liquor; Class GC 7-day (golf course) beer, wine, and liquor; and Class H (restaurants) beer and light wine.

The number of times in a calendar year that a Class BWTS beer and wine (on-premises) tasting or sampling license may be granted to an individual is increased from 12 to 26. The bills also add the requirement that a licensee in the county must have an employee certified by an approved alcohol awareness program to be present during hours in which alcohol may be sold. The training must be repeated every four years. The bills take effect July 1, 2011.

Carroll County

Liquor Tastings: ***Senate Bill 467/House Bill 279*** ***(both passed)*** authorize the Board of License Commissioners to issue a liquor tasting license to a holder of a Class A (liquor stores) beer, wine, and liquor licensee. A liquor tasting license allows the licensee to provide liquor to customers up to a one-half ounce from a single sample and up to five samples in a day at no charge. The annual license fee is $100 and is valid for not more than 52 days a year.

Farmers' Markets: ***Senate Bill 466/House Bill 476*** ***(both passed)*** authorize the Comptroller's Office to issue up to 12 additional winery special event permits in a calendar year to a licensed Class 4 Maryland limited winery for use at farmers' markets in the county listed on the Maryland Department of Agriculture Farmers' Market Directory. The holder of a winery special event permit is prohibited from selling wine by the glass. A farmers' market administrator or its designee is required to be present during hours when wine is being sold and to be certified by an approved alcohol awareness program.

Cecil County

Sunday Sales: ***House Bill 1030*** ***(Ch. 151)*** extends the hours during which certain licensees in Cecil County may sell certain alcoholic beverages on Sunday. Class A (liquor stores), Class B (restaurants), Class BLX (deluxe restaurants), and Class C (clubs and organizations) licensees are authorized to sell alcoholic beverages on Sunday between the hours of 8:00 a.m. and 2:00 a.m. the following day. Class D (taverns) licensees may sell alcoholic beverages on Sunday from 1:00 p.m. until 2:00 a.m. the following day. Class EF (entertainment facilities) and Class C licensees are exempt from paying the additional $500 licensing fee to allow Sunday sales.

Charles County

House Bill 1274 ***(passed)*** converts the Charles County Class B-Stadium (Baseball Stadium) on-sale beer and light wine licensing into an on-sale beer, wine, and liquor license. A

patron may consume and carry beer and wine anywhere on the stadium premises; however, a patron may consume liquor only in the enclosed stadium dining area or bar and may not carry liquor out of these areas.

Dorchester County

Dorchester County Liquor Act of 2011: ***Senate Bill 541/House Bill 973*** ***(both passed)*** remove an obsolete residency requirement for voters who sign a petition to support an application for an alcoholic beverages license in Dorchester County. The bills also repeal language restricting Class B (restaurants) or Class C (clubs and organizations) licensees in Dorchester County from selling alcoholic beverages from a bar or a counter on Sundays.

Frederick County

Farmers' Markets: ***Senate Bill 821/House Bill 479*** ***(both passed)*** authorize the Comptroller's Office to issue up to 12 additional winery special event permits in a calendar year to a licensed Class 4 Maryland limited winery for use at farmers' markets in the county listed on the Maryland Department of Agriculture Farmers' Market Directory. The holder of a winery special event permit is prohibited from selling wine by the glass. A farmers' market administrator or its designee is required to be present during hours when wine is being sold and to be certified by an approved alcohol awareness program.

Beer, Wine, and Liquor Tasting: ***House Bill 1218*** ***(passed)*** authorizes the Board of License Commissioners to issue a beer, wine, and liquor tasting (BWLT) license to the holder of a Class A (liquor stores) beer, wine, and liquor license. A BWLT license allows the licensee to provide samples of up to one-half ounce of liquor from a given brand and up to 1.5 ounces from all brands by any one person in a single day for tasting. The limitations on the consumption of beer and wine allowed under beer and wine tasting licenses apply. The board may set the annual fee for the BWLT license.

Harford County

Senate Bill 926 ***(Ch. 92)*** establishes a Class CCFA (continuing care facility for the aged) beer, wine, and liquor license. The CCFA license may be issued to a not-for-profit continuing care for the aged facility that provides continuing care as defined by the Human Services Article; is licensed as a "related institution" under the Health General Article; and is certified by the Maryland Department of Aging. The CCFA license authorizes the holder to sell beer, wine, and liquor on the premises, for consumption only on the licensed premises, and during the hours and days specified in current law for the county. The licensee is exempt from restrictions that prohibit sale of alcoholic beverages from a location within 300 feet of any church or other place of worship or within 1,000 feet of any public school building.

Senate Bill 9 ***(Ch. 6)***, an emergency bill, creates a special Class C-3 (on-sale) beer, wine, and liquor license to be issued to miscellaneous organizations or clubs that hold a Class C-3 organization or club license. The special Class C-3 license authorizes the holder to sell or provide beer, wine, and liquor for on-premises consumption by nonmembers of the organization

or club who have leased an area of the licensed premises and attend the event. The annual license fee is based on the number of events each year and ranges from $250 for 10 events to $850 for 60 events per year. Under the bill, the county liquor control board may not issue more than one license to an organization or club in any license year and the total number of days authorized for events held under a single license may not exceed 60 in any license year.

Howard County

Beer, Wine, and Tasting: ***House Bill 245*** ***(passed)*** creates a beer, wine, and liquor tasting license (BWLT). A BWLT license may only be issued to a holder of a Class A beer, wine, and liquor license (BWL). The annual license fee is $100. The bill also increases, from 14% to 15.5%, the maximum alcohol content of wine that may be served under a beer and wine tasting (BWT) license.

Montgomery County

Town of Kensington: ***House Bill 535*** ***(passed)*** authorizes the Board of License Commissioners to issue a maximum of three Class A (liquor stores) (off-sale) beer and light wine licenses for use in specified commercial areas within the Town of Kensington. The annual license fee is $250.

Under this bill, a Class A beer and light wine license authorizes the holder to sell beer or light wine for off-premises consumption seven days a week, from 10 a.m. to 8 p.m. daily. A holder of a Class A beer and light wine license may not (1) sell single bottles or cans of beer; (2) sell refrigerated products; or (3) on a side, door, or window of the building of the licensed premises, place a sign or other display that advertises alcoholic beverages in a publicly visible location.

Beer and Wine Sampling and Tasting: ***House Bill 542*** ***(passed)*** creates a beer and wine sampling or tasting (BWST) license that may be issued to a holder of a Class A (liquor stores) license. The BWST license authorizes the sampling or tasting of alcoholic beverages only on the licensed premises of the Class A license holder. The annual license fee is $200.

Under the bill, a holder of a BWST license may allow a single individual to sample or taste not more than:

- 1 ounce from a single brand of wine;
- 4 ounces from all brands of wine in a single day;
- 3 ounces from a single brand of beer; and
- 12 ounces from all brands of beer in a single day.

House Bill 542 also expands the list of alcoholic beverages licenses that may be issued in the City of Takoma Park to include a BWST license. The bill also specifies that existing prohibitions relating to the consumption of alcoholic beverages not purchased on the licensed premises and the issuance of more than one license for the same premises do not restrict use of the BWST license.

Special Culinary School License: House Bill 543 (passed) establishes a special culinary school license for use on the premises of a private culinary educational institution that (1) is accredited by a nationally recognized accrediting association; (2) is approved by the Maryland Higher Education Commission; and (3) holds a private educational institution license issued by Montgomery County. The annual license fee is $400.

The license authorizes the holder to:

- in connection with a wine tasting course offered by the license holder, allow the consumption of wine by individuals who are at least 21 years old and are registered in the wine tasting course; and

- in connection with a culinary or confectionary course offered by the license holder, allow the consumption of beer and wine by individuals who are registered in the course.

Burtonsville Town Square and Hillandale Shopping Center: House Bill 545 (passed) authorizes the Board of License Commissioners to approve applications for alcoholic beverages licenses for restaurant establishments in the Burtonsville Town Square Shopping Center and the Hillandale Shopping Center if certain conditions are met. The licenses will authorize the holder to keep for sale and sell alcoholic beverages for on-premises consumption only.

Under this bill, the board must vote unanimously to approve license applications. Also, the issuance of the license must not adversely affect nearby schools, churches, youth centers, or the nearest residential community. Although the bill exempts restaurants in these shopping centers from the proximity limitations to schools, places of worship, and youth centers as specified in statute, the restaurants must otherwise meet any statutory requirements for the license requested.

Prince George's County

Development District Licenses: House Bill 1095 (passed) authorizes the Prince George's County Board of License Commissioners to issue up to six Class B-DD (Development District) licenses to restaurants located within the area of Ritchie Station Marketplace. The bill increases, from four to six, the number of Class B-DD licenses that may be issued to a qualified restaurant located within the Capital Plaza commercial area or within the area of Greenbelt Station and Ritchie Station Marketplace. In addition, for each Class B-DD license issued anywhere in the county, the bill authorizes a Class B-DD license holder to obtain one other Class B license, if all other requirements for a Class B license are met. The second license is subject, however, to keeping the development district restaurant open. A

license holder has six months from the closure of the development district restaurant to reopen that restaurant before the second license terminates.

Entertainment Permits: Chapter 684 of 2010 authorized the Prince George's County Board of License Commissioners to issue a special entertainment permit to the holder of any Class B (restaurants and hotels) (on-sale) license. Under that law, to obtain the permit, the holder must first submit to the board evidence of a security plan for the licensed establishment to prevent the premises from posing a threat to the peace and safety of the surrounding area. ***House Bill 1119 (passed)*** provides that an alcoholic beverages license holder in Prince George's County does not need an entertainment permit if the board determines that the licensee's principal business is to provide family entertainment or if the licensee holds one of several licenses that, under the bill, are specifically exempt from the requirement, such as a country inn, an educational conference facility, and a theme park. The bill takes effect July 1, 2011.

St. Mary's County

Beer Festival License: ***House Bill 996 (passed)*** authorizes the Alcoholic Beverage Board to issue a special beer festival (BF) license. The board must approve one weekend annually for the beer festival that does not conflict with the dates for the Sotterley Wine Festival; approve a festival location in Historic St. Mary's City; and ensure that the festival's primary focuses are promotion of Maryland beer and tourism in Historic St. Mary's City. The license fee is $15.

Washington County

Micro-breweries: ***Senate Bill 296/House Bill 404 (both passed)*** add the county to the list of jurisdictions authorizing a Class 7 micro-brewery license. The micro-brewery license in the county may be issued to a holder of a Class B (restaurants) beer, wine, and liquor (on-sale) license for use on the premises of a restaurant or to a holder of a Class D (taverns) alcoholic beverages license so long as it is used on the same premises of the existing Class D license in the county. For a micro-brewery with a Class D license, the hours and days for consumer sales are established by the Class D license.

Criminal History Records: ***Senate Bill 297/House Bill 405 (both passed)*** require the Board of License Commissioners to apply to the Criminal Justice Information System Central Repository for a State and national criminal history records check for each applicant for a new alcoholic beverages license or a person who applies to transfer an existing license.

Wine Festival License: ***Senate Bill 391 (Ch. 62)*** authorizes the Board of License Commissioners to issue a special wine festival (WF) license. The license authorizes a licensee to display and sell wine at the Washington County Wine Festival for consumption on or off the premises for the days and hours designated for the festival. The license fee is $20.

Wicomico County

Pub-breweries and Micro-breweries: ***Senate Bill 917*** ***(passed)*** increases, from three to five, the number of Class B (restaurants) beer, wine, and liquor licenses in the county that a person may hold and still remain eligible for a Class 6 pub-brewery license or a Class 7 micro-brewery license. The bill also allows a holder of a Class A (liquor store) alcoholic beverages license to hold a Class 7 micro-brewery license and up to five Class B beer, wine, and liquor licenses in the county despite the general prohibition against business entities having a financial interest in the premises upon or in which any alcoholic beverage is sold at retail or in any business conducted by any licensee.

Worcester County

Department of Liquor Control: Following an investigation by the comptroller that found the Liquor Control Board for Worcester County had engaged in price discrimination and below cost sales, ***Senate Bill 906*** ***(passed)*** abolishes the Liquor Control Board, which is not an official part of county government but rather is a nonprofit organization that is the exclusive wholesaler of hard liquor in the county. The liquor control board also operates six liquor marts that sell wine and hard liquor in the county. ***Senate Bill 906*** replaces the liquor control board with the Worcester County Department of Liquor Control. The Department of Liquor Control is designated as a unit of the county government with the powers of a liquor control board. The bill authorizes an alcoholic beverages licensee in the county, beginning on May 1, 2016, to elect to purchase wine and liquor from a licensed wholesaler in addition to or instead of from the department of liquor control by providing written notice to the department. The bill repeals the minimum price for specified merchandise that the department must charge to licensees.

Micro-brewery Licenses in the Town of Berlin: There are currently 13 Class 7 micro-brewery licenses issued in the State; however, none are currently located in Worcester County. ***Senate Bill 905/House Bill 1334*** ***(both passed)*** authorize the holder of a Class D (taverns) beer (off-sale) alcoholic beverages license to be granted a Class 7 micro-brewery alcoholic beverages license, so long as the Class 7 micro-brewery license is used on the premises of an existing Class D beer (off-sale) license located in the Town of Berlin in Worcester County. The bills also specify that off-sale privileges granted to a Class 7 micro-brewery license issued in the Town of Berlin are the same as a Class D beer license issued in Worcester County.