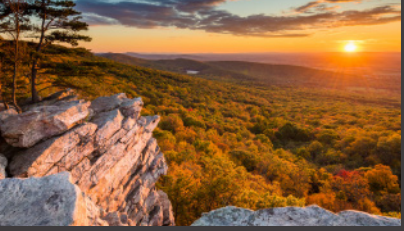
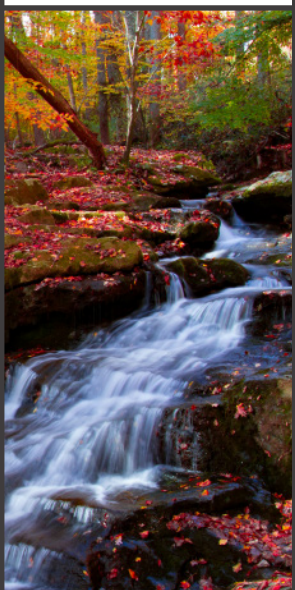




LEGISLATIVE
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VOLUME VII

BUSINESS REGULATION
IN MARYLAND



Business Regulation in Maryland

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Volume VII
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For further information concerning this document contact:

Library and Information Services
Office of Policy Analysis
Department of Legislative Services
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Foreword

The State of Maryland has approximately 110,000 firms that employ nearly 2.2 million workers in the private sector. With some of these firms having more than one physical location, there are approximately 139,000 business establishments in the State. In addition to the private sector, approximately 516,000 workers are employed by federal, State, and local governments.

This handbook describes the regulation of business in Maryland and provides information that may be helpful for businesses. The handbook covers regulations that are common to all businesses (*e.g.*, occupational safety) as well as those that are unique to the various industry groups operating in the State.

This is the seventh of nine volumes of the 2022 Legislative Handbook Series prepared prior to the start of the General Assembly term by the staff of the Office of Policy Analysis, Department of Legislative Services. This volume was a combined effort under the general direction and review of Tiffany Clark and Nathan McCurdy. The material was researched and written by Tyler Allard, Jeremy Baker, Duane Bond, Thomas Elder, Alexis Foxworth, Donavan Ham, Ryan Hollen, Kelvin Lucas, Darragh Moriarty, Kelly Norton, Eric Pierce, David Smulski, Theresa Tuszynski, Benjamin Voight, and Erica White. Subject matter review of certain chapters was provided by Elizabeth Allison, Jennifer Chasse, Richard Duncan, Crystal Lemieux, Kelvin Lucas, April Morton, Eric Pierce, Erika Schissler, Robert Smith, and Erica White. Additional review was provided by Richard Duncan, Stephen Ross, and Ryan Bishop. The manuscript was prepared by Marcia Alvarado and Annie Leveling.

This handbook is based in large measure on materials prepared by various State departments and agencies. Their assistance is greatly appreciated. The Department of Legislative Services trusts that this volume will be of use to all persons interested in business regulation in the State.

Victoria L. Gruber
Executive Director
Department of Legislative Services
Maryland General Assembly

Ryan Bishop
Director, Office of Policy Analysis
Department of Legislative Services
Maryland General Assembly

Annapolis, Maryland
November 2022

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Introduction

The Economic Climate in Maryland

Overview

The nation and Maryland experienced a sharp but brief contraction in the first few months of the COVID-19 pandemic in 2020. Although no sector of the economy was spared, the hardest hit industries were those that deliver in-person services like retail trade, restaurants, bars, hotels, hair salons, theaters, etc., which combined accounted for about 24% of Maryland employment in 2019. These sectors experienced job losses of 20% to 50% between February and April of 2020.

The United States economic growth since April 2020 has been generally steady despite continuing waves of the pandemic. Overall, Maryland's recovery has also been steady but slower than the nation as a whole. Expectations for ongoing recovery from the pandemic recession are holding, but new challenges could change the short-term economic trajectory. Inflation has accelerated due to strong consumer demand, ongoing supply chain problems related to the pandemic, and sharp increases in energy prices due in part to the Russian invasion of Ukraine in February 2022. The Federal Reserve has begun increasing interest rates to slow demand and mortgage rates have jumped to levels not seen since 2008. The impact of these factors on the economy is uncertain and the risk of a new recession has increased.

U.S. Covid Pandemic Recession Was Deep, but Brief

The outbreak of the COVID-19 pandemic in early 2020 threw the U.S. economy into a deep but relatively brief contraction. With business and consumers sharply cutting spending and most states around the country imposing some level of closures to slow the virus spread, U.S. inflation-adjusted gross domestic product (GDP) fell 10.1% between the fourth quarter of calendar 2019 and the second quarter of calendar 2020. At that point, growth resumed, and GDP exceeded the pre-pandemic level by the second quarter of calendar 2021.

Employment contracted sharply at the start of the pandemic but, unlike GDP, it has yet to fully recover. U.S. employment fell by 22.4 million jobs, or 14.4%, between February and April of 2020 while the unemployment rate rose from 3.5% to 14.7%. From that nadir, job growth progressed at a steady pace throughout the remainder of 2020 continuing into 2021 and 2022 despite multiple waves of the pandemic. By May 2022, the U.S. economy had recovered all but 822,000 of the jobs lost at the beginning of the pandemic (0.5%) and the unemployment rate was down to 3.6%.

Tracking employment, wage income fell by 10.3% between February and April 2020 but total personal income increased 10.3% as federal fiscal support in the form of expanded unemployment insurance benefits, stimulus checks, and aid for small businesses cushioned total income. With the recovering economy, wage growth resumed and even managed a small

1.3% increase in calendar 2020. Wage income increased 9.5% in calendar 2021, the result of economic recovery but also in relation to the depressed level in the initial year of the pandemic. U.S. wage growth in the first five months of 2022 was even stronger at 11.8%, reflecting comparisons to the initial months of 2021 before vaccines were widely available and the tight labor market. Total personal income, however, fell 0.2% in the first five months of 2022 as the federal government had instituted a final round of stimulus checks in the early months of 2021.

A number of factors combined over 2021-2022 to cause inflation to accelerate, undercutting wage growth. First and foremost was the pandemic. The highly uncertain situation at the beginning of the pandemic resulted not only in large layoffs but also significant production cutbacks by businesses. The more rapid than expected economic recovery, especially with the availability of vaccines in 2021, resulted in businesses scrambling to meet demand. Significant federal fiscal support plus continued wage growth allowed consumer spending to rise quickly, but the pandemic also shifted the composition of spending. The decades long trend of services accounting for an ever-growing share of spending reversed in 2020-2021 as consumers stayed away from the largely in-person service sector. This sudden shift in spending toward goods was difficult for businesses to meet. At the same time, multiple waves of the pandemic hitting different parts of the world at different times disrupted global supply chains, a significant issue as the goods sector of the U.S. economy is heavily import dependent. These factors were exacerbated by the Russian invasion of Ukraine in February 2022, which sent both oil and food prices sharply higher.

The result was that while total U.S. wages grew 9.5% in 2021, inflation as measured by the Consumer Price Index (CPI) was 4.7%, the highest annual growth since 1989. The average wage per worker (total wages divided by employment) was up 6.6% in 2021, but just 1.8% when adjusted for inflation. In the first five months of 2022, the average inflation-adjusted wage per worker was down 1.1%.

Pandemic Recession in Maryland Resulted in Bigger Decline in Employment than U.S. and Virginia

In Maryland, the impact of the pandemic-induced recession was similar to the country as a whole. Maryland's inflation-adjusted gross state product (GSP) fell 9.8% between the fourth quarter of calendar 2019 and the second quarter of calendar 2020. Unlike the national economy, Maryland GSP as of the first quarter of 2022 had not returned to its pre-pandemic level, falling short by 0.9%.

The labor market in Maryland was slowing even before the pandemic began. Employment growth decelerated from 1.1% in 2017 to 0.7% in 2019, the lowest in the post-Great Recession/pre-pandemic period (**Exhibit I.1**). In fact, the unemployment rate bottomed out in May 2019 (3.1%) and steadily rose over the rest of that year. At the beginning of the pandemic in February 2020, the unemployment rate in Maryland was 4.2%, the highest level since December 2016.

Exhibit I.1
Economic Growth 2017-2022
Year-over-year Percent Change

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022Q1</u>	<u>Jan-May 2022</u>
Employment (Payroll)							
Maryland	1.1%	0.9%	0.7%	-6.8%	2.5%	3.2%	3.1%
Virginia	1.1%	1.3%	1.2%	-5.0%	2.2%	2.7%	2.9%
United States	1.6%	1.6%	1.3%	-5.8%	2.8%	4.6%	4.6%
Personal Income							
Maryland	3.3%	2.9%	2.5%	6.1%	5.6%	-3.8%	N/A
Virginia	3.9%	3.7%	3.6%	5.9%	6.3%	-1.9%	N/A
United States	4.7%	5.1%	4.1%	6.5%	7.5%	-2.8%	-0.2%
Wage and Salary Income							
Maryland	3.6%	3.5%	3.7%	1.7%	7.3%	6.9%	N/A
Virginia	4.2%	4.0%	4.5%	2.6%	7.2%	10.6%	N/A
United States	4.7%	5.0%	4.8%	1.3%	9.5%	12.2%	11.8%

Source: Employment data is from the Bureau of Labor Statistics, U.S. Department of Labor. Personal income data is from the Bureau of Economic Analysis, U.S. Department of Commerce.

Between February and April of 2020, the State saw employment fall by 402,800 jobs, or almost 14.5%, while the unemployment rate jumped from 4.2% to 9.5%. On average, for all of 2020 Maryland employment fell 6.8% (189,500 jobs). The decline ranked Maryland thirty-seventh among all the states and was considerably bigger than the 5.0% drop in Virginia. At the end of 2020, Maryland's unemployment rate stood at 6.3%.

The employment decline naturally impacted wages, which fell 2.5% in the second quarter of 2020 on a year-over-year basis, the first decline since the fourth quarter of 2013 when the federal government was shutdown. Despite the decline in wages, total personal income was up 9.5% in the second quarter of 2020 due to the federal fiscal support. Excluding that support, Maryland personal income fell 1.9% in the second quarter.

Wage growth resumed in the second half of 2020, and for the year as a whole, Maryland wages grew 1.7%. The small increase in wages combined with the substantial decline in employment meant that the average wage (wages divided by employment) was up 9.2%. This reflected the uneven impact of the pandemic recession across sectors of the economy. Although employment fell in every industry in 2020, the declines were concentrated among sectors with below average wages such as retail trade, personal services such as hair salons, and, most substantially, leisure and hospitality where a quarter of jobs were lost between 2019 and 2020. The leisure and hospitality sector includes hotels, restaurants, bars, theaters, casinos, museums, and

various recreational facilities, all of which were directly impacted by pandemic-related closures and the reluctance of consumers to engage in in-person services.

Maryland Economy Grows as Pandemic Continues but Lags U.S.

Employment in Maryland began to recover in May of 2020 and has largely continued to grow each month since. In calendar 2021, employment increased by almost 65,000, or 2.5%. Maryland ranked thirtieth in job growth in 2021, coming in a bit slower than the U.S. as a whole (2.8%). Maryland's growth exceeded Virginia's (2.2%) in 2021 but Virginia had experienced a smaller decline in the first year of the pandemic. As of the end of 2021, Maryland had recouped about 77% of the jobs lost between February and April of 2020 while Virginia had regained 80% and the U.S. 85%.

Maryland's unemployment rate averaged 5.8% for all of 2021, ranking twelfth highest in the country. Maryland had the third smallest decline in the unemployment rate in 2021. Although the rate fell from 5.9% in January to 5.4% by December, it actually increased in the middle part of the year. This was due in part to an increasing labor force as the wide availability of vaccines and low case rates in the summer of 2021 brought people into the job market.

Job growth in 2021 was driven by some of the same sectors that had experienced the biggest losses in 2020. Leisure and hospitality services employment grew by 9.0%, or close to 19,000 jobs. Employment in the retail trade sector was up by almost 12,000 jobs, or 4.7%. By the end of 2021, retail trade had regained about 90% of the jobs lost between February and April of 2020, while leisure and hospitality had recouped 74%.

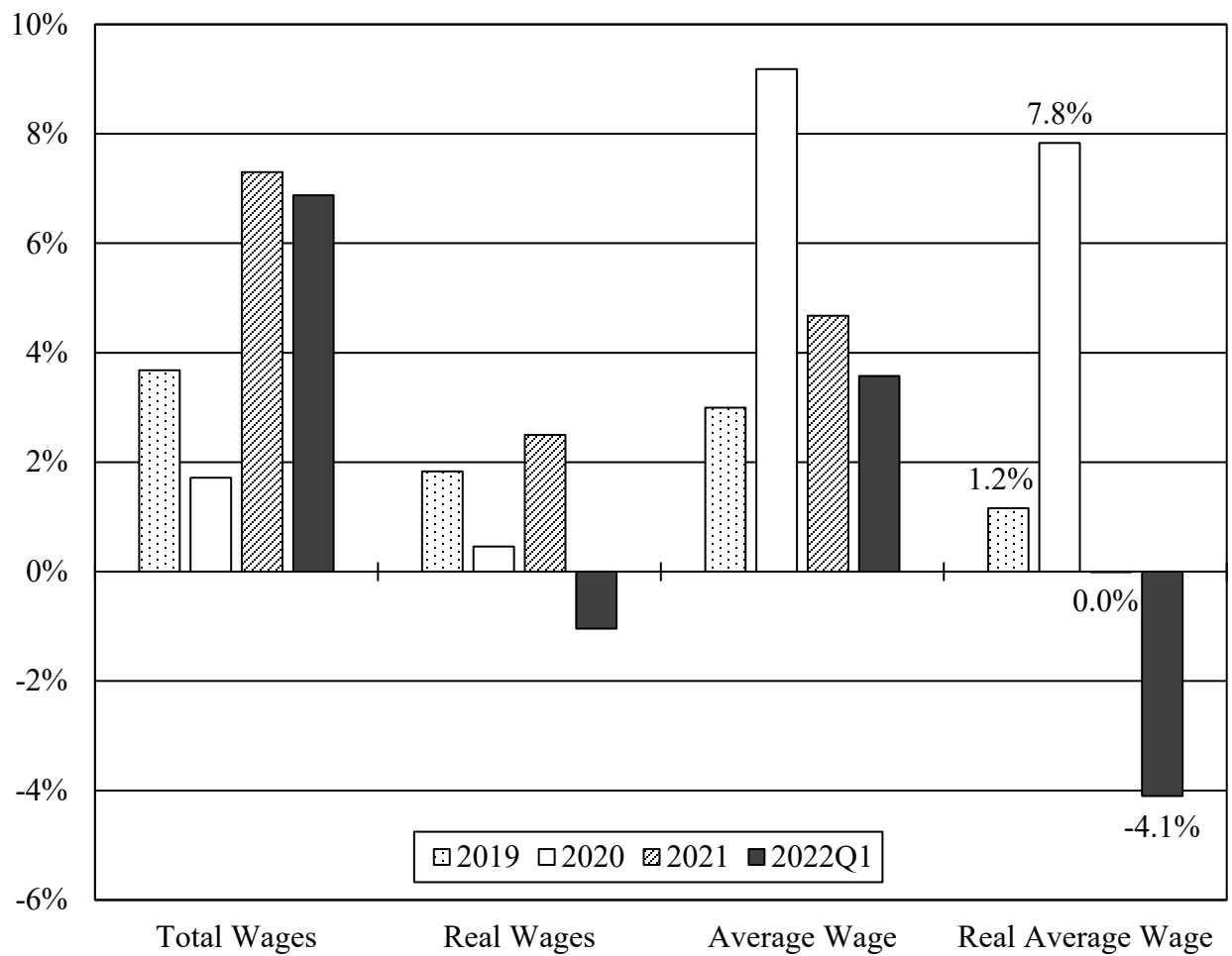
Wages grew strongly in Maryland in 2021, following the pickup in employment. Total aggregate wages were up 7.3%, with growth in every sector of the economy. Not surprisingly, some of the biggest increases were in the industries most impacted by the pandemic in 2020. The overall average wage was up 4.7% in 2021, less than in 2020, but driven by broad-based growth rather than composition issues. Even in sectors that saw strong job growth like the retail trade and leisure and hospitality services, the average wage was up substantially, 7.1% and 6.3%, respectively.

Throughout 2021, inflation also accelerated, negating much of the growth in wages. Inflation is not measured at the state level, only nationally and by metro area. The two metro areas that cover most of Maryland are Washington and Baltimore. CPI for the Washington metro area has seen slower growth than the national average while Baltimore region inflation has been somewhat faster. The U.S. CPI is therefore likely a good measure for inflation in the State overall. Adjusted for inflation growth of 4.7%, Maryland aggregate wages were up 2.5% in 2021 while the average wage was flat (**Exhibit I.2**).

Total personal income was up 5.6% in 2021 (0.9% adjusted for inflation), which reflects continued federal fiscal support, although many of the programs expired during 2021. The American Rescue Plan Act adopted in early 2021 provided an additional round of stimulus checks

and a significant temporary enhancement to the child tax credit. Those changes combined with the continuation of other programs resulted in a larger amount of fiscal support in Maryland’s 2021 personal income (\$20 billion) compared to 2020 (\$18.4 billion). Despite that, adjusting for the federal support lowers the growth of personal income just slightly to 5.5% due to the strong acceleration in wage and business income in 2021.

Exhibit I.2
Nominal and Inflation-Adjusted Wages: Calendar 2019-2022Q1
Year-over-year Percent Change



Note: Average wage is equal to total wages divided by total employment.

Source: Wage data from the Bureau of Economic Analysis, U.S. Department of Commerce. Inflation and employment data from the U.S. Department of Labor.

Initial Data for 2022 Indicates Strong Employment Gains but Wage Growth Running Behind Inflation

In the first five months of 2022, Maryland employment was up 3.1% over the same period in 2021, a time when vaccines were just becoming widely available. Growth was broad-based with only the real estate, private educational services, and health services down on a year-over-year basis. As of May 2022, employment in Maryland was still below the February 2020 level by 68,600, or 2.5%. Maryland is one of 37 states that have not fully recovered the jobs lost during the pandemic recession. In May 2022, Maryland's unemployment rate was 4.0%, down over a percentage point from the end of 2021 and below the level in February 2020. Maryland's rate in May 2022 was fourteenth highest in the country and above the 3.0% rate in Virginia.

Personal income is only available quarterly and as of July only the first quarter data is available for 2022. In Maryland, first quarter 2022 personal income fell 3.8% on a year-over-year basis which reflects the substantial federal fiscal support last year, especially the stimulus checks authorized by the American Rescue Plan Act. Excluding such support, Maryland personal income was up 6.5% in the first three months of 2022.

Maryland wages grew 6.9% in the first quarter of 2022, considerably slower than the 10.6% growth in Virginia and the 12.2% increase nationally. Although Maryland ranked thirty-second among the states for employment growth in the first quarter, the State ranked last for wage growth. The average wage in Maryland grew 3.6% in the first quarter but inflation accelerated sharply with the U.S. CPI rising 8.0% on a year-over-year basis. As a result, real aggregate wages fell 1.0% in the first quarter and the inflation adjusted average wage was down 4.1% (see Exhibit I.2).

Maryland's Employment Sectors

The Maryland nonagricultural labor market in 2021 included approximately 2.6 million jobs. **Exhibit I.3** depicts the percentage of total employment by industry sector in 2021. **Exhibit I.4** shows the year-over-year workforce growth rates by industry sector for 2020, 2021, and the first five months of 2022, which illustrates the impact of the COVID-19 pandemic in 2020 and the ongoing economic recovery.

Government

With the State's proximity to Washington, DC, government accounts for a larger percentage of total employment than it does in other states (19.0% versus 15.1% nationally as of 2021). Although the government is typically an employment stalwart, this sector was still negatively impacted by the pandemic. The sector had an average of 507,400 jobs in 2019, which fell to a low of 486,300 in June 2020. This low point was preceded by the first full month of the pandemic in April 2020. By May 2022, government employment was 515,800, bolstered by eight consecutive months, dating back to October 2021, where monthly employment data exceeded

510,000 jobs. This rebound following the low point brought on by the pandemic in 2020 indicates a return to positive and sustained government employment.

It is important to note that state employment statistics are based on the location of the job, not whether the position is held by a state resident. The data is thus a count of federal jobs located in Maryland and does not capture Maryland federal workers who commute to other states, such as Virginia and the District of Columbia. In addition, the employment statistics do not include the uniformed military nor jobs at classified agencies, such as the National Security Agency. Since the agency is a major employer in Maryland, the importance of the federal government is understated in the employment data.

Between 2019 and 2021, federal government employment in the State grew by roughly 5.0%, or 7,300 jobs. The level of federal government employment through May 2022 has continued this trend. This modest increase was not interrupted by the COVID-19 pandemic. In 2019, federal employment in Maryland totaled 145,500 jobs. In 2020, federal employment increased to 149,300 driven in part by temporary hiring for the decennial census. In 2021, federal employment was 152,800, a 2.3% increase over 2020 despite the loss of the temporary census jobs. In the first five months of 2022, federal employment grew just 0.2%.

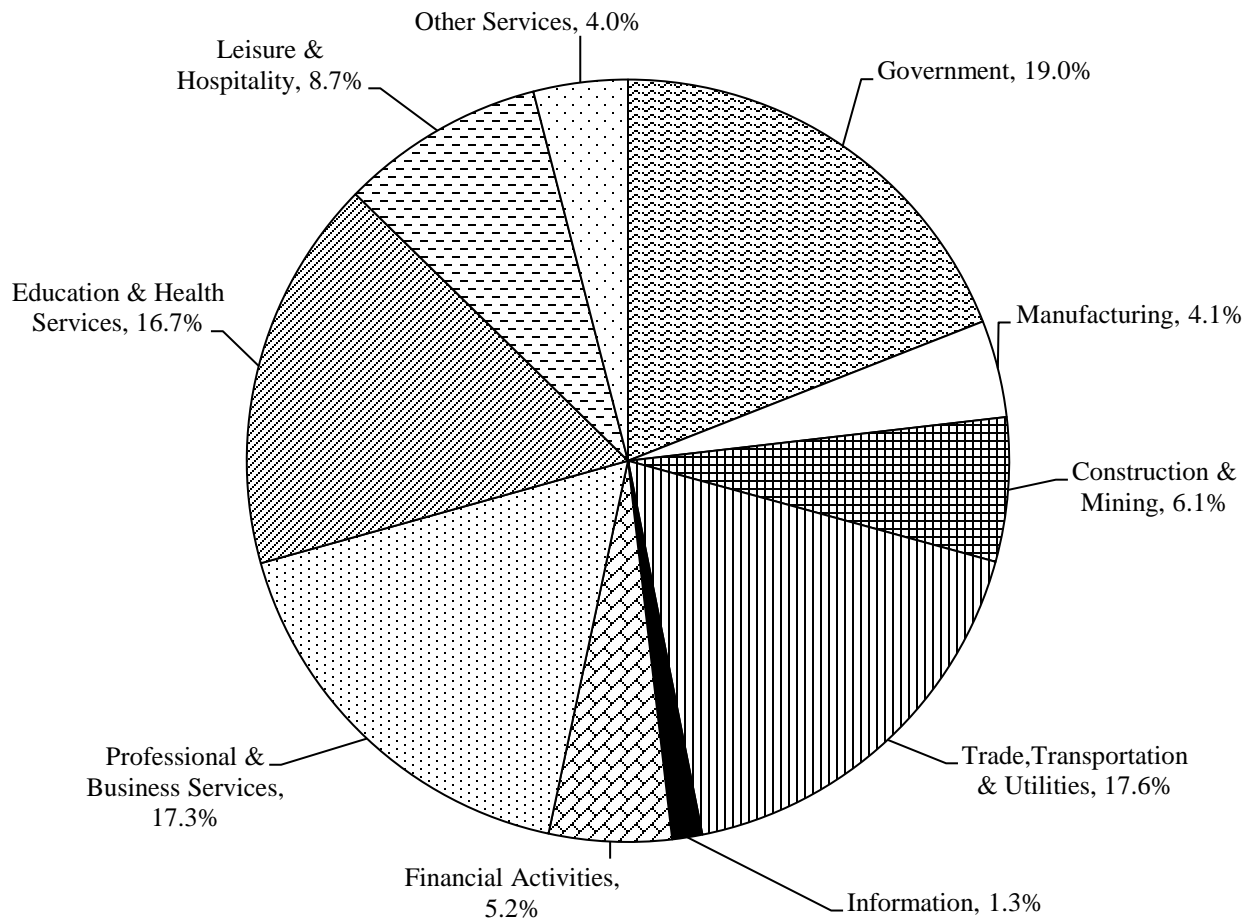
State government job totals remained relatively flat between 2019 and 2021, hovering around 110,500 jobs. In the first five months of 2022, there were 116,100 State government jobs, which was up 3.9% from the same period in 2021 (111,700 jobs). Slightly less than half of State government jobs are at public colleges and universities.

While federal employment attracts a lot of attention, nearly half of all government jobs in Maryland are with local governments. The economic impact of the pandemic was particularly pronounced on local government employment. Seasonally adjusted employment fell to a pandemic low of 229,500 in June 2020, down 10%, or 25,500 jobs, from February 2020. This is compared to 253,800 jobs in June 2019 and 246,300 in May 2022. The difference between June 2020 and May 2022 is 16,800 jobs, or 7.3%. This illustrates the impact that the COVID-19 pandemic has had on all types of employment and the economic recovery that has followed.

Manufacturing

The manufacturing sector has been in a long period of declining employment in Maryland. In 1990, there were 200,000 manufacturing jobs in the State, representing 9.2% of all jobs. By 2021, manufacturing employment had fallen to 109,000, or 4.1% of the total. This trend is not unique to Maryland. Nationally, manufacturing accounted for 8.4% of jobs in 2021, down from 16.2% in 1990. In the three years prior to the pandemic, manufacturing employment in the State rebounded from the post-Great Recession lows, reaching 112,700 jobs in 2019, the highest level since 2011. From 2020 to the first five months of 2022, manufacturing employment has stabilized and hovered around the 2017 employment levels, with average employment of 109,100 during this period.

Exhibit I.3
Maryland Nonagricultural Employment by Industry Sector
Percentage of Total
2021



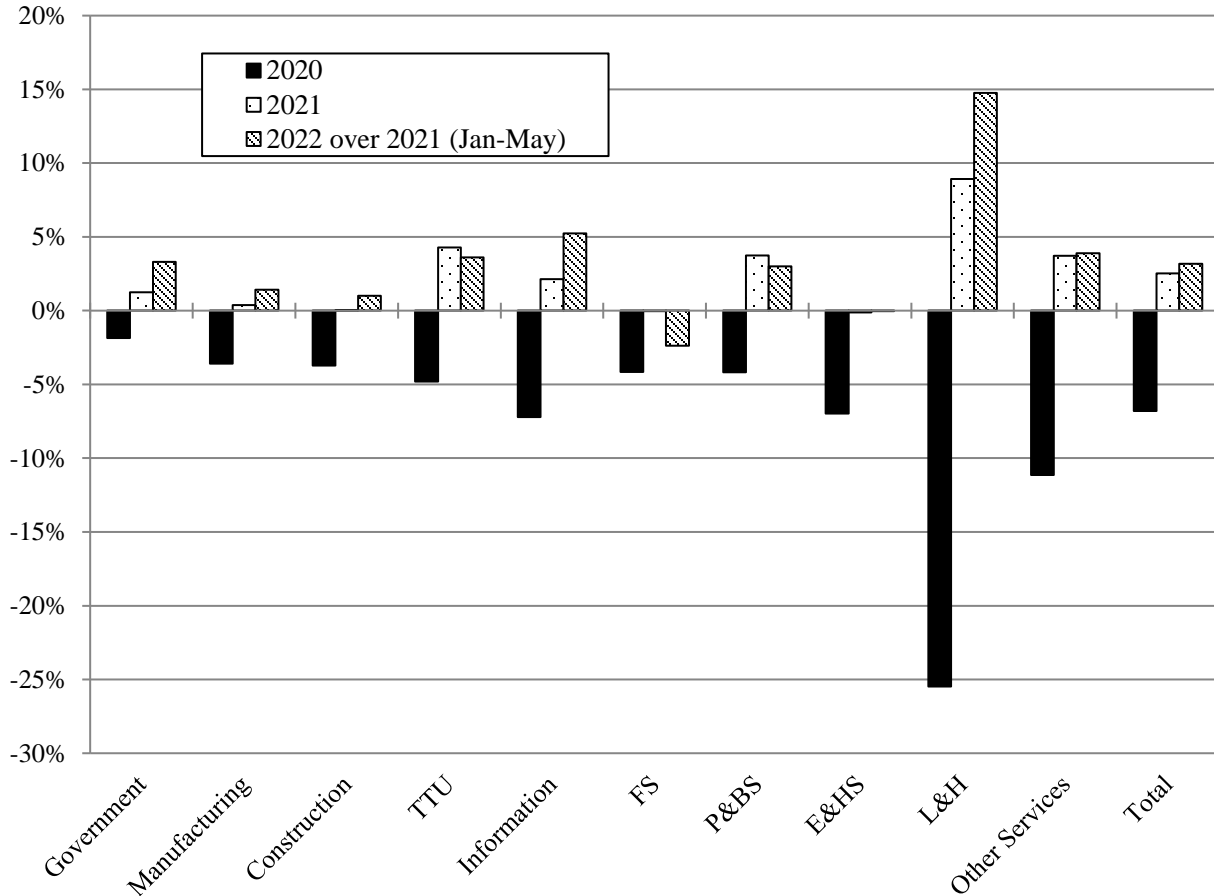
Source: Current Establishment Survey, Bureau of Labor Statistics, U.S. Department of Labor

Construction

Construction was not spared from the wide-reaching impact of the COVID-19 pandemic. Labor shortages, supply chain disruptions, and uncertain economic forecasts caused by COVID-19 were all forces that weighed on the construction industry in Maryland. In 2019, annual construction employment was 167,700. Construction employment fell from more than 168,000 in February 2020 to 152,000 in April 2020, or about 9.5%. Construction employment stabilized in 2021 and has shown signs of slowly recovering in the first half of 2022. From January to

May 2022, construction employment rose to 161,100 jobs. This is an increase of 9,100 construction jobs, or 6.0%, from the low in April 2020.

Exhibit I.4
Maryland Nonagricultural Employment by Industry Sector
Workforce Growth Rates: 2020-2022



E&HS: Education and Health Services
 FS: Financial Services
 L&H: Leisure and Hospitality Services
 P&BS: Professional and Business Services
 TTU: Trade, Transportation, and Utilities

Source: Bureau of Labor Statistics, U.S. Department of Labor (based on non-seasonally adjusted data); Current Establishment Survey

Trade, Transportation, and Utilities

The trade, transportation, and utilities sector is the largest in Maryland's private economy, accounting for 17.6% of total employment in 2021 (466,000 jobs) and 21.8% of private-sector jobs. This sector consists of retail and wholesale trade, utilities, and transportation (which includes couriers and warehousing). Within the sector, the biggest segment by far is retail trade which totaled 267,600 jobs in 2021. Retail trade employment was also the segment that suffered the sharpest decline in 2020 because of the COVID-19 pandemic. In May 2020, retail trade employment fell to 223,500 jobs – a monthly low for the year. That is a loss of 55,000 jobs, or 19.7%, compared to 2019 where annual retail trade employment was 278,500. It is encouraging, however, that 2022 is approaching a return to pre-COVID-19 employment levels. From January to May of 2022, retail trade employment was at 270,700 jobs, which is only a 2.8% decline from 2019 levels.

The utilities subsector is small, with less than 10,000 jobs, and has been slowly declining for years. The transportation/warehousing/courier subsector totaled 94,800 jobs in 2019 and experienced robust growth prior to the pandemic thanks to the expansion of e-commerce and the warehousing needed to support it. As consumers shopped online in the first year of the pandemic, strong growth in warehousing jobs offset declines in transportation. As a result, transportation/warehousing/courier was one of the few sectors to grow in 2020, up 5.4% from 2019, or about 5,100 jobs. The subsector continued to grow in 2021 and the first five months of 2022 as transportation rebounded and warehousing's strong growth continued. Employment in the subsector averaged 109,700 from January to May 2022, up 15.7%, or almost 15,000 jobs, from 2019.

Information

The information sector is the smallest, accounting for just 1.3% of payrolls in 2021. It includes telecommunications companies as well as publishing (including software publishing), broadcasting (television and radio), film, movie theaters, and various Internet and data processing service companies. Employment in the information sector peaked in 2000 at 58,500 jobs and has continued to fall year over year. By 2021, the sector totaled 33,700 jobs with 11,100 in the telecommunications subsector. Unsurprisingly, employment fell during the COVID-19 pandemic. Employment went from 35,800 in February 2020 to 31,800 in May 2020. This was a loss of 4,000 jobs or a decline of 11.1%. The first five months of 2022 have seen an uptick in employment, however, reaching 34,500 jobs as the economy continues to recover.

Financial Services

The interconnected nature of financial services within the broader economy made this sector no exception to the impact of the COVID-19 pandemic. This was particularly noticeable in two segments – the finance and insurance segment and the real estate and rental leasing segment. The finance and insurance segment fell to 31,800 jobs in May 2020. The real estate and rental leasing segment fell to 93,300 in April 2020. These were monthly lows for each segment between

January 2019 and May 2022. As a whole, this sector is still rebounding during the ongoing economic recovery. Financial services employment remains below 2019 levels. For the first five months of 2022, financial services employment was at 134,300 jobs. This is compared to 143,500 in 2019, which is a loss of about 9,200 jobs, or 6.4%. The finance side of the sector has experienced a long-term decline in employment and will likely not return to the pre-pandemic level. Employment in the portion of the sector tied to the housing market, such as mortgage brokers and real estate agents, is unlikely to grow in the short term as mortgage rates have risen substantially.

Professional and Business Services

The professional and business services sector is a broad category that includes two main subsectors: professional and technical services; and administrative and waste services. In 2021, 17.3% of all jobs in Maryland were in this sector compared with 14.5% nationally.

The professional and technical services subsector includes legal, advertising, accounting and architectural firms, computer systems design, and various kinds of management, scientific, and technical consulting services. Employment in the subsector has gradually risen from 258,200 jobs in 2019 to 266,100 jobs in the first five months of 2022. This is an increase of 7,900 jobs, or 3.0%.

The administrative and waste services subsector includes temporary employment companies; travel agencies; and janitorial, landscaping, pest control, and waste management services. Temporary jobs are often the first cut when the economy slows down and employment service companies accounted for almost 30% of the subsector in 2019. Consequently, administrative and waste services employment fell sharply during the pandemic recession. Employment was at a low of 147,100 jobs for the month of April 2020. This was the lowest monthly employment total between January 2019 and May 2022. This contrasts with annual employment of 174,400 in 2019, which is a loss of 27,300 jobs, or 15.7%. These numbers have begun to rebound, with employment at 167,100 jobs in 2021, down only 7,300 jobs, or 4.2%, from 2019 with all of the improvement coming from employment service companies. From January to May 2022, employment rose to 170,500 jobs.

Education and Health Services

The education and health services sector has long been a source of steady growth and stability for Maryland's economy. For the first time in the history of this economic data, which goes back to 1990, employment in this sector fell on a year-over-year basis. In 2019, there was annual employment of 474,600 jobs. But in 2020, employment numbers fell dramatically, as seen in other sectors across the economy. Sector employment fell to 441,400 jobs in 2020. This is a loss of about 33,200 jobs, or 7.0%.

Despite the decline in total employment, this sector consistently accounted for roughly 17.0% of total jobs between 2019 and 2021. Nationally, 16.2% of all jobs were in education and

health services in 2021. In Maryland, about 81.6% of the category is in health services, including doctors' offices, outpatient care centers, hospitals, medical labs, nursing homes, child day care services, services for children and the elderly, and other social services. Hospitals account for nearly one-quarter of employment for the health services subsector. Employment at private schools, colleges, universities, trade, and technical schools makes up the other 18.4% of the sector. Employment percentage totals for each of these two subsectors have remained relatively unchanged from 2015 to 2021.

Leisure and Hospitality Services

The leisure and hospitality services sector consists of three subsectors: hotels; restaurants and bars; and various arts, entertainment, and recreation venues like golf courses, amusement parks, and gaming facilities. With 283,000 jobs in 2019, the sector accounted for 10.2% of total employment. This sector was significantly affected by the COVID-19 pandemic. Average employment for 2020 was 210,900. This was a loss of 72,100 jobs, or 25.5%. This impact was particularly pronounced in two subsectors. Arts, entertainment, and recreation went from 45,100 jobs in 2019 to 30,400 jobs in 2020 – a loss of about 14,700 jobs, or nearly one-third of subsector employment. Hotel employment fell from 30,600 in 2019 to 20,100 in 2020, a loss of 10,500 jobs, or a decline of 34.3%. Overall, 2021 showed an increase in total employment numbers, even if it has been somewhat muted. There were 229,700 jobs in 2021 in this sector, which is an increase of 8.9% compared to 2020. In the first five months of 2022, leisure and hospitality services employment averaged 238,700, which is still well below the 2019 level, but represents a 14.8% increase over the same period in 2021.

Other Services

The “other services” sector is the second smallest category, representing 4.0% of total employment in 2021, with 105,800 jobs. There are three subsectors under the “other services” category. The first is various kinds of repair and maintenance establishments. The second is comprised of personal services including laundries, dry cleaning, hair salons, funeral parlors, and parking lots and garages. The last subsector includes charities; labor unions; business and professional associations; and various religious, civic, social, and political organizations. This sector was also impacted by the COVID-19 pandemic. Employment for the other services sector was at 84,800 in April 2020, a loss of 30,000 jobs, or 26.1%, compared to 2019. Since April 2020, there has been a modest recovery in employment, which averaged 107,800 jobs for the first five months of 2022.

Outlook

U.S. Growth Expected to Continue but Uncertainty and Risks of a New Recession Have Risen

As the U.S. entered 2022, forecasts were for continued growth and recovery from the brief pandemic recession. Although the pandemic has not ended, economists generally expected that the disruptions to the economy caused by the pandemic had lessened and would continue to lessen over time. U.S. inflation-adjusted GDP was projected to increase around 3.7%, with employment up close to 4.0%. Total personal income was forecasted to grow around 2.1%, reflecting the expiration of all pandemic-related federal fiscal support. Inflation had accelerated in 2021, but projected growth in CPI was only slightly faster in 2022 (4.8% vs. 4.7%) as supply chains and labor shortages caused by the pandemic continued to fade and consumer spending shifted back to services from goods. After 2022, the economy was projected to return to long-term trends: real GDP growth of 2.0-2.5%; employment growth around 0.5%; and aggregate wages increasing about 4.5% per year.

Events in early 2022 upended the forecasts, especially for the next several years. The Russian invasion of Ukraine significantly impacted global energy and food markets, sending prices sharply higher given the sanctions against Russia and the importance of Ukraine to the world's wheat supply. In addition, the pandemic continues and a major outbreak in China, combined with the country's zero-Covid policy, resulted in months-long lockdowns in major port cities like Shanghai, perpetuating supply chain problems.

Although U.S. employment growth continued in the first half of 2022, inflation accelerated substantially from 6.7% CPI year-over-year growth in the fourth quarter of 2021 to 8.0% in the first quarter of 2022. The Federal Reserve responded by raising its federal funds rate by 1.5 percentage points in the first half of 2022 with plans for further increases over the remainder of the year, a more aggressive tightening than originally expected. Although the Federal Reserve only controls a short-term interest rate, long term rates rose substantially. Rates on 10-year U.S. treasury bonds doubled and residential mortgage rates almost doubled in the first six months of 2022. After peaking on the first day of 2022, the stock market (S&P 500 Index) tumbled, reaching bear market territory in June, defined as a 20% or greater drop.

The purpose of this monetary tightening is to lower inflation by slowing the economy, most directly in rate-sensitive sectors like housing and automobiles. Ideally, overall consumer spending slows enough to relieve the inflationary pressures caused by strong demand without slowing the economy to the point that it enters a recession. Achieving this balance is difficult and the Federal Reserve has historically had limited success in pulling off what is known as a "soft landing." As a result, economists have downgraded their forecasts and increased the odds of a recession to 40%-50% over the period from mid-2022 to mid-2023.

The high uncertainty regarding how various events will impact the economy results in a lack of consensus for the future path of economic growth. Although the odds of a recession have risen, many economists have yet to incorporate a recession into their baseline outlook. Overall,

forecasted growth in U.S. inflation-adjusted GDP has been revised down from around 3.7% at the beginning of 2022 to about 2.5% by mid-year. Employment and wage growth is still expected to be strong (4.0% and 10.0%, respectively), but higher inflation means the real average wage per worker is projected to fall 1.5% in 2022.

In general, projections are that inflation will decelerate to around the Federal Reserve's target of 2.0% by 2023. Some economists expect the U.S. unemployment rate to rise throughout 2023 and 2024 while others project a more gradual increase over this period. Despite the uncertainty, overall, the economic outlook is for the U.S. to return to long-term trends by 2024 or 2025.

Maryland Economy Expected to Continue to Lag U.S.

Similar to the nation as a whole, the Maryland economy is expected to continue its recovery from the pandemic recession, albeit more slowly. Employment is projected to grow around 2.7% in 2022, with wage growth up 7.8% over 2021. This compares with growth of 4.0% for employment and 10% wage growth for the overall U.S. economy. High inflation in 2022, however, results in the forecasted real wage per worker falling 2.3% in Maryland, the largest decline since the late 1970s. These estimates reflect an elevated risk of a new recession but do not factor in a recession occurring in 2022.

Economic growth in Maryland is expected to moderate in 2023. Employment growth is projected to slow to 1.0%-1.5% in 2023. Wage growth is expected to be around 5.7% and with moderating inflation, the real wage per worker turns positive, growing about 1.3% in Maryland in 2023.

As was true nationally, views among economists vary with regard to the trajectory of the unemployment rate, ranging from very little decline in 2023 to a substantial drop. The path of the unemployment rate depends not only on the forecast of employment but also expectations about the labor force. Long term demographic trends related to slow population growth and the aging of the large baby boomer generation have resulted in weak labor force growth for some time. But the labor force contracted sharply in Maryland when the pandemic started, and recovery has been slow. In 2021, the number of Marylanders in the labor force was 154,000, or 4.6%, lower than in 2019. If people continue to return to the job market in significant numbers, labor force growth could be considerably stronger in 2023 than job growth, which would have the effect of keeping the unemployment rate from falling very much. Likewise, slow labor force growth relative to job growth would push the unemployment rate down.

Long-term employment growth is projected to decelerate to less than 1% as the working age population is projected to increase slowly as the baby boom cohort continues to move into retirement. Maryland aggregate wages are expected to grow somewhat faster than the period just before the pandemic. Wage growth averaged 3.7% from 2014 to 2019 and economists project wage growth to average 4.6% from 2023 to 2028. This reflects, in part, the forecast that inflation will grow around 2.1% per year, whereas prior to the pandemic inflation averaged just 1.6% annual growth. Adjusting for the higher path for inflation, the real wage per worker is forecasted to grow around 2.0% per year compared to just 1.0% in the five years before the pandemic.

Section I. General Business Regulation

Section I sets the basic framework within which any business in Maryland must operate. Maryland's general regulations cover such issues as what type of legal structure businesses may adopt (*e.g.*, corporation, partnership); tax liabilities faced by businesses; employment regulations (*e.g.*, minimum wage guarantees, employment of minors, insurance requirements); occupational health and safety requirements; environmental protection regulations; and consumer protection regulations. Section II describes industry specific regulations.

Section I contains four chapters, organized as follows:

- **Chapter 1:** Describes the basic requirements necessary to form and operate a business in Maryland.
- **Chapter 2:** Explains Maryland's employment laws concerning wages, benefits, leave, and workplace standards; describes the Maryland Occupational Health and Safety Administration's role in regulating occupational safety and health in Maryland; and explains the State's role in inspecting elevators, railroads, and other equipment.
- **Chapter 3:** Outlines Maryland's environmental protection regulations and the State agencies responsible for enforcing them.
- **Chapter 4:** Discusses Maryland's consumer protection laws and the State agencies responsible for enforcing them.

Chapter 1. Basic Business Requirements

Maryland law regulates the operation of all general forms of business entities. A business includes any private trade, employment, occupation, or profession conducted for profit or not for profit. Generally, before a business may operate in the State, the business must organize under the laws of Maryland, obtain a business license, and fulfill certain tax registration requirements. The State Department of Assessments and Taxation, the Department of Commerce, and various local government units each have a role in the licensing, registration, and regulation of business entities in the State.

This chapter describes the types of business organizations and the generally applicable license, filing, and tax registration requirements. A discussion of the laws that pertain to specific industries in Maryland is provided in subsequent chapters.

Forms of Business Organization

Before a business entity can operate in the State, the business must choose a form of business organization, and in most cases, organize under the laws of the State. The four most common types of business organizations in the State are sole proprietorship, partnership, corporation, and limited liability company.

Generally, a business entity is considered either a domestic or foreign business entity. A domestic business entity is organized and exists under the laws of Maryland. A foreign business entity is organized under the laws of the United States; another state of the United States; a territory, possession, or district of the United States; or a foreign country.

Sole Proprietorships

A sole proprietorship is the simplest form of business organization, requiring no legal entry formalities except compliance with State and local licensing and taxation requirements. A business is automatically considered a sole proprietorship if it does business activities but does not register as any other kind of business. A sole proprietorship does not produce a separate business entity – meaning the business assets and liabilities of an individual are not separate from the personal assets and liabilities of the individual.

General Partnerships

A partnership is an unincorporated association of two or more co-owners to carry on a business for profit. In a partnership, all partners are personally responsible for the assets and liabilities of the partnership. General partnerships benefit from pass-through taxation, where taxes on the business' assets or liabilities pass through the business entity directly to the business owners' personal taxes. Other business organizations, like corporations, must pay taxes

twice – first on a business level, and second on a personal level. A partnership may exist whether the persons intend to form a partnership and whether or not the association is called a partnership.

While it is not necessary to file a certificate or other document with the State Department of Assessments and Taxation to form a general partnership, it must be created under the partnership laws of Maryland or another state. These laws, together with a partnership agreement (which may be oral, written, or implied), govern the relationships among the partners and between the partners and the partnership.

Corporations

A corporation is a legal entity that is separate from its owners and may be formed for any lawful purpose. Corporations offer the strongest protection to its owners from personal liability, but the cost to form a corporation is higher than for other business organizations. Both domestic and foreign corporations are subject to regulation by the State. Special types of corporations in Maryland include professional service corporations, nonstock corporations, private foundations, and cooperatives. A Maryland corporation may also elect to be a benefit corporation, which must have as its purpose the creation of a general public benefit by including or amending into its charter a statement that the corporation is a benefit corporation.

Domestic Corporations

To form a domestic corporation, one or more adult individuals must sign and file articles of incorporation with the State Department of Assessments and Taxation and pay all relevant taxes and fees. Amendments to corporate charters must also be filed with the department. When the department accepts the articles of incorporation for record, the proposed corporation becomes a corporate body under the name and subject to the purposes, conditions, and provisions stated in the articles.

A business incorporating as a domestic corporation must pay an incorporation fee for the processing of the articles of incorporation plus an additional fee of \$50 for nonstock corporations that are organized to operate as a not-for-profit entity under § 501(c)(3), (4), or (6) of the Internal Revenue Code. Domestic corporations must also pay an organization and capitalization fee based on the corporation's amount of declared capital stock.

Foreign Corporations

Before conducting business in Maryland, a foreign corporation must qualify or register to do business with the State Department of Assessments and Taxation. Foreign corporations are subject to the following requirements and fees:

- **Registration to conduct interstate or foreign business:** To transact interstate or foreign business in Maryland, a foreign corporation must register with the State Department of Assessments and Taxation. No filing fee is required for registration.

- **Qualification to conduct intrastate business:** To transact intrastate business in Maryland, a foreign corporation must pay a \$100 fee to file papers with the State Department of Assessments and Taxation in connection with its qualification to do intrastate business.
- **Name registration:** A foreign corporation may register its name with the State Department of Assessments and Taxation by paying a \$100 name registration fee and a \$100 annual renewal fee.

Limited Partnerships and Limited Liability Companies

Limited Partnerships

A limited liability partnership may be formed by any existing legal partnership without dissolving or otherwise changing its form of organization. This form of business entity generally protects a partner from personal liability for debts and obligations of the partnership arising from negligence, wrongful acts, or omissions of the limited liability partnership. A partnership may register as a limited liability partnership by filing a certificate of limited liability partnership with the State Department of Assessments and Taxation.

A limited partnership has one or more general partners and one or more limited partners. Limited partners are liable only for the amount which they invest in the limited partnership. A limited partnership must file a certificate of limited partnership with the State Department of Assessments and Taxation.

A limited liability limited partnership is a sub-class of limited partnership that protects the assets of general partners from judgments against other general partners. A limited partnership may register as a limited liability limited partnership with the State Department of Assessments and Taxation.

Limited Liability Companies

A limited liability company is an unincorporated business organization that combines the tax advantages of a partnership with the liability limits of a corporation. A domestic limited liability company may conduct activities in any state related to any lawful business or activity, whether or not for profit, except the business of acting as an insurer. To form a limited liability company, articles of organization must be executed and filed for record with the State Department of Assessments and Taxation.

A domestic limited liability company may elect to be a benefit limited liability company, which must have as its purpose the creation of a general public benefit, by including in its articles of organization a statement that the limited liability company is a benefit limited liability company.

The filing fee for domestic limited partnerships, limited liability partnerships, limited liability limited partnerships, and limited liability companies is \$100. The filing fee for foreign limited partnerships, limited liability partnerships, limited liability limited partnerships, or limited liability companies is \$100.

Real Estate Investment Trusts

A real estate investment trust is an unincorporated business trust or association in which property is acquired, held, managed, administered, controlled, invested, or disposed of for the benefit and profit of any person who may become a shareholder in the real estate investment trust. To create a real estate investment trust, a declaration of trust must be filed for record with the State Department of Assessments and Taxation.

The fee schedule to establish a real estate investment trust is similar to that for a domestic corporation and includes a \$100 fee for recording the declaration of trust and an additional organization and capitalization fee based on the amount of certificates of beneficial interest.

Statutory Trusts

A statutory trust is an unincorporated business, trust, or association that is formed by filing an initial certificate of trust with the State Department of Assessments and Taxation and is governed by a governing instrument. A governing instrument is a declaration of trust or other trust instrument which provides for the governance of the affairs of a statutory trust and the conduct of the statutory trust's business.

A domestic statutory trust is formed by filing the required initial certificate of trust with the State Department of Assessments and Taxation. The filing fee for an initial certificate of trust is \$100. A foreign statutory trust must register with the State Department of Assessments and Taxation and pay a \$100 fee to conduct intrastate, interstate, or foreign business in Maryland.

Joint Venture

A joint venture is a business undertaking by two or more persons engaged in a single defined project. There are no formal registration requirements for joint ventures.

Business Licenses

A business license is required for most businesses in Maryland, including retailers and wholesalers. A trader's license is required for a business that sells merchandise not manufactured by the business. Generally, licenses must be renewed annually.

To determine whether a particular business activity requires licensing by the State or any other additional licenses and permits, the business may contact the clerk of the circuit court in the

county where the business will be located. To obtain a license or license renewal, a business may first be required to obtain a Certificate of Status from the State Department of Assessments and Taxation that verifies that the business is in “good standing.” Good standing means all documents and fees required by law to be submitted to the department have been received and that the department has received no notification of delinquent tax payments.

The State has several online systems available to assist with business establishment and licensing. For example, the Maryland Business License Information System, administered by the Department of Commerce, is designed to help business owners determine which State permits and licenses are required to operate their business. Similarly, the Maryland Business Express System allows an individual to register a business name or a trade name, form certain business entities with the State Department of Assessments and Taxation, and establish required tax accounts with the Comptroller of Maryland.

Trade Names

A person engaged in a mercantile, trading, or manufacturing business as an agent or doing business under a name other than its own must file a certificate with the State Department of Assessments and Taxation. The certificate must disclose the names and addresses of the owners of the business, the character and location of the business, the name under which the business is conducted, and the identification number assigned by the State Department of Assessments and Taxation. A trade name must be distinguishable from all other names on file with the department. A trade name certificate is effective for five years from the date of filing. The fee for recording, amending, cancelling, or renewing a trade name certificate is \$25.

Tax Registration

Businesses must register for State, local, and federal taxation to operate in the State. Requirements for each level of government are described below.

State Tax Registration

Completion of a single tax registration (the Combined Registration Application) will meet the requirements for most State taxes, including sales and use, employer withholding, unemployment insurance, and admissions and amusement taxes. The one-stop registration also serves as an initial step for businesses requiring State alcoholic beverage tax and tobacco tax licenses and registration with the Comptroller of Maryland. While the Alcohol and Tobacco Commission oversees the general regulation of alcohol and tobacco licensing enforcement in the State, the Comptroller’s Office retains authority over tax laws as they relate to alcohol and tobacco taxes.

The Combined Registration Application and instructions may be obtained from the clerk of the circuit court in each county or any branch office of the Comptroller. The application also may be completed online or downloaded from the Comptroller's website.

Local Tax Registration

Many local taxes are collected by the State; however, local and State property taxes are collected by local governments. Businesses must contact the local government where the business is located for information on how to comply with local regulations. The local supervisor of the State Department of Assessments and Taxation also can provide assistance.

Federal Tax Registration

A new business should contact the Internal Revenue Service to register for:

- an employer identification number;
- business and employee income tax withholding;
- Social Security and Medicare tax withholding;
- federal unemployment insurance; and
- other federal taxes.

The Internal Revenue Service also has guidebooks and other tax publications helpful in starting and operating a business. For further information, visit the Internal Revenue Service website.

Annual Report

All business entities in the State must file an annual report along with a reporting fee with the State Department of Assessments and Taxation by April 15 of each year, regardless of whether the business owns property, generates income, or has conducted business activity in the State during the preceding year. Failure to file the annual report may result in the business losing the right to conduct business in Maryland. **Exhibit 1.1** identifies the filing fee that each business entity must pay to file the annual report.

Exhibit 1.1 Annual Reporting Fee Requirement

<u>Business Entity</u>	<u>Fee</u>	<u>Business Entity</u>	<u>Fee</u>
Nonstock Corporation	\$0	Statutory Trust	\$300
Stock Corporation	300	Real Estate Investment Trust	300
Limited Liability Company	300	Certified Family Farm	100
Limited Liability Partnership	300	Sole Proprietorship	0
Limited Partnership	300	General Partnership	0

Source: Department of Legislative Services

Personal Property Tax

A business that owns, leases, or uses tangible personal property (*e.g.*, furniture, fixtures, tools, machinery, equipment, etc.) in Maryland or maintains a trader's license with a local unit of government in Maryland is subject to personal property tax and must file a personal property return listing that property by April 15 of each year. The personal property return is filed at the same time as the required annual report discussed earlier in this chapter.

The State Department of Assessments and Taxation administers and enforces the property tax assessment and tax laws, while the appropriate local government bills businesses and collects taxes based on the property assessment and location and the tax rate. The annual tax is based on the value of the personal property the business owns.

Other Filing Fees

In addition to the initial filing fees to conduct business in the State, business entities are required to notify the State Department of Assessments and Taxation and pay a filing fee for certain changes or amendments to the governing documents of the entity, including changes in articles, name changes, mergers, consolidations, and dissolutions.

The State Department of Assessments and Taxation also levies fees in the form of penalties for certain actions/omissions, such as failure to incorporate, register, or other relevant activities.

Regulation of Industries

Industries such as construction, manufacturing, and wholesale and retail trade and many services are subject to general regulation through licenses and permits as well as industry-specific

regulations. For example, construction companies need to obtain local business licenses issued by clerks of the circuit courts. Permits are needed for construction projects that, for example, affect nontidal waterways or involve refuse disposal, hazardous waste, or sewer sludge. In addition, specialized professionals who work on a construction project, such as electricians, plumbers, and landscape architects, must have appropriate occupational licenses.

“Chapter 2. Employment and Occupational Safety and Health Regulations” of this handbook provides a more detailed discussion of the licensing and other requirements that pertain to specific industries in Maryland.

Chapter 2. Employment and Occupational Safety and Health Regulations

Personal injuries and illnesses arising out of conditions of employment impose a substantial burden on employers and employees in the form of lost production and wages, medical expenses, and disability compensation payments. Equally important, certain standards of employment must be encouraged in order to guarantee employees sufficient wages and guard against unfair, exploitative behavior by employers. The State of Maryland seeks to assure safe and healthy working conditions and to preserve the integrity of the employment relationship. The Commissioner of Labor and Industry has primary responsibility to support and enforce employment regulations and occupational safety and health regulations, and the Division of Labor and Industry in the Maryland Department of Labor is the regulatory agency that supports the commissioner's activities.

This chapter describes the State's employment and occupational safety and health laws, as well as the regulatory functions of the various agencies charged with enforcing them.

Employment Laws and Regulations

The employer/employee relationship in Maryland is subject to federal and State regulation. In the cases of interstate commerce or government contracts, federal requirements may supersede State regulations. However, under certain circumstances, the more stringent law will apply. The following discussion of State regulation generally addresses only those areas not affected by federal law.

The commissioner and the division, as well as the Division of Workforce Development and Adult Learning within the department, enforce Maryland's employment regulations. The Division of Labor and Industry is charged with preventing accidents and incidents that result in fatalities and injuries; preventing work-related illnesses; protecting employee wages and rights; and assisting regulated industries and employers to comply with State laws and regulations. The Division of Workforce Development and Adult Learning oversees the State's workforce programs by providing customer-focused employment and training services that include advancing job placement and job training efforts and reporting on the needs and demands of the labor market.

Other State agencies help enforce various employment regulations. The Maryland Commission on Civil Rights is charged with ensuring equal opportunity to all through the enforcement of Maryland's laws against discrimination in employment, housing, and public accommodations. The Workers' Compensation Commission processes and adjudicates workers' compensation claims and penalizes employers that do not obtain workers' compensation coverage for their employees. The Division of Unemployment Insurance in the department administers unemployment insurance claims and ensures that employers pay unemployment taxes on the wages earned by their employees.

Employment Standards

Employers and employees are guaranteed certain protections and rights through wage and employment laws and an assortment of other provisions. The Commissioner of the Division of Labor and Industry along with the division's Employment Standards Service administers and enforces these laws. The commissioner is also required to enforce local minimum wage laws and is authorized to investigate whether a local minimum wage law has been violated under the same powers and duties as the State's Wage and Hour Law.

Employment of Minors

The Maryland Employment of Minors Law applies to children ages 14 through 17 and restricts the kind of work that may be performed and the number of hours that may be worked by these minors. The law seeks to protect minors so that their employment experience is not a detriment to their education or safety. However, certain activities are not considered employment, provided that the activities do not involve mining, manufacturing, or hazardous occupations, and take place outside of the school day. Those activities include farm work; domestic work; work performed in a business owned by a parent; and unpaid volunteer work. Restrictions under the child labor provisions of the federal Fair Labor Standards Act may be greater than State standards and, in such a case, employers must comply with the higher standard.

A minor under the age of 14 may not be employed or permitted to work, but several activities, such as caddying and newspaper delivery, are exempted. Moreover, these minors may obtain a special permit to work as a model, performer, or entertainer. Minors age 14 through 17 are issued work permits, and employers must have these permits in their possession before these minors are allowed to work. Applications for work permits are available on the department's website. A minor must apply for a work permit by completing and submitting an online application to the commissioner. After reviewing an online work permit application, the commissioner may issue the permit if the employment is allowed for the minor under State law. The minor, the minor's parent or guardian, and the employer must sign the work permit. The commissioner issued over 75,000 work permits in calendar 2021.

Equal Pay for Equal Work

The Maryland Equal Pay for Equal Work Law prohibits employers from discriminating against employees by paying wages to employees of one sex or gender identity at a rate less than that paid to employees of the opposite sex or gender identity for work of comparable character or work on the same operation or business. Wages may lawfully vary based on a nondiscriminatory seniority system, a nondiscriminatory merit system, a system that measures performance based on a quality or quantity of production, a bona fide factor other than sex or gender identity that meets specified criteria, or jobs that require different abilities, regular performance of different duties, or work that is performed on different shifts.

Additionally, an employer may not provide less favorable employment opportunities based on sex or gender identity. Providing less favorable employment opportunities include assigning or directing the employee into a less favorable career track, if career tracks are offered, or position; failing to provide information about promotions or advancement in the full range of career tracks offered by the employer; or limiting or depriving an employee of employment opportunities that would otherwise be available to the employee but for the employee's sex or gender identity. An employer also may not prohibit an employee from inquiring about, discussing, or disclosing the wages of the employee or another employee or requesting that the employer provide a reason for why the employee's wages are a condition of employment. Employers are further precluded from requiring employees to enter into waivers that purport to deny an employee the right to disclose or discuss the employee's wages and taking any adverse or retaliatory actions against the employee for exercising rights under the law.

The Equal Pay Commission, established in 2016, is required to evaluate wage disparities, establish a mechanism to collect data from employers in the State in order to evaluate wage disparities, develop a strategy to determine and recommend best practices regarding equal pay for equal work, study and recommend administrative and legal processes and remedies to streamline and harmonize employment antidiscrimination laws, partner with other private- and public-sector entities, and share data and findings to assist in enforcement actions under the Equal Pay for Equal Work Law.

Wage and Hour Law

The Maryland Wage and Hour Law is the State complement to the federal Fair Labor Standards Act, which specifies minimum wage and overtime requirements for employers and employees in the State. Chapters 10 and 11 of 2019 increase the State minimum wage rate for employers with 15 or more employees in increments until the full phase-in of \$15.00 per hour on January 1, 2025. For employers with 14 or fewer employees, the wage rate reaches full phase-in on July 1, 2026.

The Board of Public Works, however, may temporarily suspend one scheduled increase in the State minimum wage for one year between October 1, 2020, and October 1, 2024, if it determines that the seasonally adjusted total employment is negative as compared with the previous six-month period. If total adjusted employment is negative, the Board of Public Works may also consider the recent performance of State revenues in making its determination.

The Acts specify that, unless the federal minimum wage is set at a higher rate, the State minimum wage for employers with 15 or more employees is as follows:

- \$12.50 per hour as of January 1, 2022;
- \$13.25 per hour as of January 1, 2023;
- \$14.00 per hour as of January 1, 2024; and

- \$15.00 per hour as of January 1, 2025.

The State minimum wage for an employer that employs 14 or fewer employees is as follows:

- \$12.20 per hour as of January 1, 2022;
- \$12.80 per hour as of January 1, 2023;
- \$13.40 per hour as of January 1, 2024;
- \$14.00 per hour as of January 1, 2025;
- \$14.60 per hour as of January 1, 2026; and
- \$15.00 per hour as of July 1, 2026.

An employer may pay 85% of the State minimum wage rate to employees younger than age 18.

The Maryland Wage and Hour Law and minimum wage requirements do not apply to certain categories of employees, including those defined as administrative, executive, or professional; certain seasonal employees; part-time employees younger than age 16; salesmen and those who work on commission; an employer's immediate family; drive-in theater employees; employees training in a special education program in a public school; employees of an establishment that sells food and drink for on-premises consumption and has an annual gross income of \$400,000 or less; employees employed by an employer who is engaged in canning, freezing, packing, or first processing of perishable or seasonal fresh fruits, vegetables, poultry, or seafood; certain farm workers; and covered employees under the Secure Maryland Wage Act.

Generally, the employer of a tipped employee is allowed a tip credit that can be applied against the direct wages paid by the employer. The employee can be paid tipping wages so long as the wages plus the tips received equal at least the minimum wage, the employee retains all tips, and the employee customarily receives more than \$30.00 a month in tips. The tip credit is equal to the State minimum wage, less \$3.63. Thus, the tip credit increases as the minimum wage increases, and the wage paid by employers to tipped employees remains \$3.63, as long as their wages plus tips equal the minimum wage.

Under Maryland's Wage and Hour Law, an employer is required to pay an overtime wage of at least 1.5 times the usual hourly wage for each hour over 40 hours that an employee works during one work week. This requirement does not apply to an employer that is subject to federal rail laws; a nonprofit concert promoter, legitimate theater, music festival, music pavilion, or theatrical show; or specified amusement or recreational establishments. It also does not apply to an employee for whom the U.S. Secretary of Transportation sets qualifications and maximum

hours of service under federal law; a mechanic, parts person, or salesperson, under certain conditions; a driver employed by a taxicab operator; or specified air carrier employees under certain conditions. Also, specific exemptions apply for farm work, bowling establishments, and infirmaries.

If an employer pays less than the wages required, the employee may bring an action against the employer to recover (1) the difference between the wage paid to the employee and the wage required; (2) an additional amount equal to the difference as liquidated damages; and (3) legal fees. The court must award these differences in wages, damages, and counsel fees if the court determines that an employee is entitled to recovery. However, if an employer shows to the satisfaction of the court that the employer acted in good faith and reasonably believed that the wages paid to the employee were not less than the required wages, then the court must award liquidated damages of an amount less than the difference in wages or no liquidated damages. A person who violates the Maryland Wage and Hour Law is guilty of a misdemeanor and on conviction is subject to a fine of up to \$1,000.

Wage Payment and Collection

The Maryland Wage Payment and Collection Law regulates the conditions and manner of payment by employers. Employers are required to:

- pay workers the wages promised;
- establish regular paydays;
- pay wages when due;
- pay employees by check, debit or card account, direct deposit, or in cash;
- pay employees at least once every two weeks or twice a month (administrative, executive, or professional employees may be paid less frequently);
- furnish employees with a statement of gross earnings and deductions each pay period;
- advise each employee, when hired, of the employee's rate of pay and designated payday; and
- pay an employee (upon termination of employment) all wages due on or before the next regular payday.

Sick Leave

Generally, the Maryland Healthy Working Families Act requires an employer with 15 or more employees to have a sick and safe leave policy under which an employee earns at least 1 hour of paid sick and safe leave, at the same rate as the employee normally earns, for every 30 hours an employee works. An employer with 14 or fewer employees, based on the average monthly number of employees during the preceding year, must at least have a sick and safe leave policy that provides an employee with at least 1 hour of unpaid sick and safe leave for every 30 hours an employee works.

An employer is not required to allow an employee to earn or carry over more than 40 hours of earned sick and safe leave in a year, use more than 64 hours of earned leave in a year, accrue more than 64 hours at any time, or use earned sick and safe leave during the first 106 calendar days the employee works for the employer. An employer is not required to carry over unused earned sick and safe leave if the leave is awarded at the beginning of each year.

The Act does not apply to specified circumstances, such as employees who regularly work less than 12 hours a week, specified independent contractors, and individuals younger than age 18.

Flexible Leave

Under the Maryland Flexible Leave Act, a private-sector employer who provides paid leave to its employees must allow an employee to use earned paid leave for bereavement leave or to care for immediate family members, including a child, spouse, or parent, with an illness. An employer is prohibited from taking action against an employee who exercises the rights granted or against an employee who files a complaint, testifies against, or assists in an action brought against the employer for a violation of these provisions.

An employer is considered a person that employs 15 or more individuals and is engaged in a business, industry, profession, trade, or other enterprise in the State, including a person who acts directly or indirectly in the interest of another employer. State and local governments are not included.

Employees who earn more than one type of paid leave from their employers may elect the type and amount of paid leave to be used for bereavement leave or in caring for their immediate family members.

Unpaid Parental Leave

The federal Family and Medical Leave Act requires covered employers with 50 or more employees to provide eligible employees with up to 12 work weeks of unpaid leave during any 12-month period under the following conditions: the birth and care of an employee's newborn child; the adoption or placement of a child with an employee for foster care; care for an immediate family member with a serious health condition; medical leave when the employee is unable to

work due to a serious health condition; or any qualifying circumstance arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on “covered active duty.”

State law partially expands the federal Family and Medical Leave Act by requiring employers with 15 to 49 employees in the State to provide employees with unpaid parental leave benefits. An eligible employee may take unpaid parental leave up to a total of six weeks in a 12-month period for the birth, adoption, or foster placement of a child. To be eligible for the unpaid parental leave, an employee must have worked for the employer for at least one year and for 1,250 hours in the previous 12 months. Prior to taking unpaid parental leave, an employer may require an employee, or an employee may elect, to use paid leave, if available. During parental leave, the employer must maintain existing coverage for a group health plan and, in specified circumstances, may recover the premium if the employee fails to return to work. An employee has a right of action against an employer for damages caused by an employer’s noncompliance. State and local governments are not included.

Parental Leave for State Employees in the Executive Branch

Maryland law requires up to 60 days of paid parental leave to an employee in the Executive Branch of State government who is the primary caregiver responsible for the care and nurturing of a child to care for the child immediately following either the child’s birth or the adoption of a child who is younger than age six. An employee entitled to parental leave may use available accrued annual leave and personal leave. If that leave is less than 60 days, the State agency that employs the employee must provide the employee with additional paid leave to ensure 60 days of parental leave.

Paid Family Medical Leave

The Family and Medical Leave Insurance program and the Family and Medical Leave Insurance Fund (which is administered by the Maryland Department of Labor) was established by Chapter 48 of 2022. The program provides up to 12 weeks of benefits and paid leave to a covered individual, which includes a covered employee, an employee that works for an employer with one or more employees, or a self-employed individual.

Each employee, each employer with 15 or more employees, and each participating self-employed individual, must pay to the Secretary of Labor a percentage contribution based on wages, beginning October 1, 2023. The Act establishes a process for determining the initial contribution rates of employers and employees, as well as a process for reassessing the contributions every two years. Claims for benefits are expected to begin being paid on January 1, 2025. A more detailed discussion of family and medical leave insurance is included in the Insurance Requirements section below.

Leave for Military Deployment of Spouse, Parent, or Child

Under federal law, an eligible employee who is the spouse, son, daughter, or parent of a military member in the National Guard, Reserves, or regular Armed Forces may take up to 12 weeks of leave under the federal Family and Medical Leave Act during any 12-month period to address the most common issues that arise when a military member is deployed to a foreign country. These include attending military events and related activities, as well as issues related to short-notice deployments, childcare, and making or updating financial and legal arrangements. Leave may also be used for post-deployment activities, such as attending arrival ceremonies, reintegration briefings, and related issues or events. A family member must give notice at least 30 days before taking any leave under these provisions or, if 30 days' notice is not possible, as soon as practicable.

State law expands these protections by requiring employers that employ 50 or more employees, including the State and local governments, to allow an employee to take leave from work on the day that an immediate family member is leaving for or returning from active military duty outside the United States. To qualify for the leave, an employee must have worked for the employer on a full- or part-time basis for the last 12 months and worked at least 1,250 hours during that time. Employers may not require an employee to use accrued compensatory, sick, or vacation leave for this purpose. Employers may require the employee to submit proof that the leave is being taken in accordance with the law.

Shift Breaks

Under the Maryland Healthy Retail Employees Act, employees who are not exempt under the federal Fair Labor Standards Act and who work at specified retail establishments in the State with 50 or more employees are entitled to shift breaks. Specifically, for retail employees that work between four and six hours, employers are required to provide nonworking shift breaks of at least 15 minutes, unless the requirement is waived in writing. If employees work for more than six consecutive hours, employers must provide nonworking shift breaks of at least 30 minutes. Finally, for employees working at least eight consecutive hours, employers are required to provide nonworking shift breaks of at least 15 minutes for each additional four-hour period an employee works. Certain breaks may be considered a "working shift break" if the type of work prevents an employee from being relieved or an employee is allowed to consume a meal and the time is counted toward an employee's work hours. A working shift break requires a written agreement between the employee and the employer. The law establishes a tiered civil penalty for first and subsequent violations and entitles an employee to receive specified remedies if an employer does not comply with an order from the commissioner for a subsequent violation against the same employee.

Employee and Job Applicant Privacy Protection

State law includes several prohibited practices that apply to employers' recruitment, hiring, and retention practices. Except for specified law enforcement and correctional positions, employees and applicants for employment may not be required by their employer or prospective

employer to submit to or take a polygraph examination or similar test as a condition of employment, prospective employment, or continued employment.

Subject to specified exceptions, an employer may not use an applicant's or employee's credit report or credit history in determining whether to deny employment to the applicant, discharge the employee, or determine compensation or terms of employment. Employers may request or use an applicant's or employee's credit report or credit history after an offer of employment has been extended and if the information will not be used for a prohibited purpose, or the employer has a bona fide purpose for requesting the information that is substantially job-related and disclosed in writing to the employee or applicant.

An employer, including the State and local governments, is prohibited from requesting or requiring an employee or applicant for employment to disclose a username, password, or other means of accessing an Internet site or electronic account. An employer may not penalize or threaten to penalize an employee or applicant for employment for refusing to disclose this information.

Worker Misclassification

Generally, when a company hires an employee, the company is responsible for paying half of that employee's Social Security and Medicare taxes, as well as premiums for workers' compensation insurance coverage and unemployment insurance taxes. Barring any specific statutory exemptions, employers also withhold federal, State, and local income taxes from their employees' wages. By contrast, independent contractors pay all of their own Social Security and Medicare taxes and are responsible for paying income taxes in full. Independent contractors are not covered by workers' compensation insurance or unemployment insurance laws, nor do they receive overtime compensation or benefits such as health insurance. Further, employees are provided with labor protections, such as those provided under various federal and State wage laws, which do not apply to independent contractors. Employers save money by avoiding the above overhead costs when workers are classified as independent contractors instead of employees.

The practice of misclassification of employees is commonly referred to as "workplace fraud," as defined and regulated by the Maryland Workplace Fraud Act. Work performed by an individual covered by the Act is presumed to create an employer-employee relationship unless the individual is specifically exempt under the applicable law, or the individual is an independent contractor as determined by a specific test under the applicable law.

Discrimination in Employment

Maryland seeks to ensure that all persons have equal employment opportunity. In general, the State Discrimination in Employment Law coincides with federal law. Title 20, Subtitle 6 of the State Government Article of the Annotated Code of Maryland prohibits discrimination in employment on the basis of race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information, or disability. Activities that may be considered discriminatory practices include:

- failure to provide reasonable accommodations for applicants;
- failure or refusal to hire, refer, or promote an individual;
- discharge of an individual;
- limitation, segregation, or classification of employees or applicants for employment; and
- discrimination against an individual in compensation or in the terms, conditions, and privileges of employment.

The Maryland Commission on Civil Rights accepts written complaints from persons who reasonably feel that they have been the subject of discrimination. In addition, the commission may initiate a complaint based on reliable information that a person or business is engaged in a discriminatory practice.

The law applies to employers with 15 or more employees. A covered employer is obligated to maintain employment policies, procedures, and practices that do not discriminate. In addition, covered employers are obligated to provide reasonable accommodations for disabled individuals. Reasonable accommodations include making adaptations to the workplace or the job so that qualified persons can perform their duties. The commission looks at each accommodation to determine whether it is reasonable.

In cases of employment discrimination, the commission attempts to restore the complainant to the status he or she would have enjoyed had there been no form of discrimination. This may take the form of a job offer, lost wages, a promotion, or reinstatement.

Prevailing Wage and Living Wage

The State's prevailing wage and living wage laws apply to certain projects and services when State public funds are used. The Prevailing Wage Unit and the Living Wage Unit in the division administer and enforce these laws.

Prevailing Wage

The federal Davis-Bacon Act, enacted during the Great Depression, is the model for state prevailing wage laws throughout the country. Prevailing wage laws generally require that workers performing a specific job or task are paid an hourly wage that is the industry standard in a given geographic area. There are two primary purposes of the federal Act and state prevailing wage laws. First, the laws stabilize wages in an area by preventing employers from paying less than what is commonly paid to workers in a region. Second, the laws prevent contractors from undermining local employment by low bidding on government contracts and/or importing workers at lower wages.

The Maryland Prevailing Wage Law extends to any public works contract in excess of \$250,000 when State public funds are used to finance at least 25% of the construction costs of a particular project.

A wage determination issued for a project specifies the wage and fringe benefit rate for each classification of worker determined to be prevailing in that locality for that type of construction. The commissioner issues wage determinations for each locality in the State (23 counties and Baltimore City) that remain in effect for one year from the date on which they become final.

The law also specifies that a regular day's work consists of 10 hours. Overtime compensation must be given for any work performed in excess of 10 hours in a single day, in excess of 40 hours per workweek, on Sundays, and legal holidays.

Living Wage

The Maryland Living Wage Law requires contractors and subcontractors to pay a living wage to employees performing work on certain State service contracts in excess of \$100,000, or \$500,000 or more if the employer has 10 or fewer employees, with certain exemptions. The Living Wage Unit administers and enforces the law. The commissioner is required to adjust the wage rates annually based on the Consumer Price Index and to allow certain reductions to the wage rates. The wage rates and any adjustments are published on the division's website.

The living wage rates, as of September 2021, are \$14.55 per hour for work performed in Tier 1 (Anne Arundel, Baltimore, Howard, Montgomery, and Prince George's counties, and Baltimore City) and \$10.93 per hour for work performed in Tier 2 (any county in the State not included in Tier 1). Due to increases in the Maryland minimum wage rate that exceed the Living Wage rate, offerors, contractors and subcontractors in Tier 2 should be aware of the current Maryland minimum wage rates and pay the higher of the two. Failure to comply with the law may result in the assessment of penalty damages and payment of restitution to the appropriate employees.

Insurance Requirements

Employees are protected by three insurance requirements for employers: workers' compensation insurance, unemployment insurance, and family and medical leave insurance. Through an adjudicated process with the Maryland Workers' Compensation Commission, the Maryland Workers' Compensation Law provides compensation and medical benefits to covered employees who are injured or develop an occupational disease on the job. Through the Division of Unemployment Insurance in the department, the Maryland Unemployment Insurance Law provides unemployed workers with financial support through temporary periods of involuntary unemployment. The department is also charged with administering the Family and Medical Leave Insurance Program. This program provides paid leave to covered employees for up to 12 weeks, under specified circumstances.

Workers' Compensation Insurance

All employers in Maryland are required to provide workers' compensation coverage for their employees. The cost to the employer through insurance premiums varies by industry, and there are approximately 1,170 industrial classifications, according to the North American Industry Classification System. After determination of a base or "average" insurance premium rate by industry classification, with the base rate set (to cover claim losses) by an industrywide rate-making organization (National Council of Compensation Insurers) and approved by the Maryland Insurance Administration, a qualifying employer's insurance premium may be modified based on the firm's loss experience record when compared to the loss experience of similar firms in Maryland. The insurer also includes, as a portion of the insurance premium, the insurer's overhead, other expenses, and a profit factor.

Employers may obtain coverage for their employees in one of three ways:

- insure with the Chesapeake Employers' Insurance Company, the insurer of last resort in the State and an authorized insurer in the State similar to other authorized insurers;
- insure with any insurance company that is authorized by the Maryland Insurance Administration to write this type of coverage in the State; or
- become a "self-insurer" by applying to the Maryland Workers' Compensation Commission (this option is extremely rare and generally only applies to government agencies).

In Maryland, an injury is covered under workers' compensation if the harm suffered by the covered employee was by an accidental personal injury or occupational disease arising out of and in the course of covered employment. To receive benefits, an injured employee must file a claim with the commission.

The commission processes and adjudicates workers' compensation claims. In fiscal 2021, 21,841 claims were filed, of which 40 were fatalities. Benefits are paid to injured employees by the employer (if the employer is self-insured) or the employer's workers' compensation insurer. For compensable injuries, workers' compensation benefits include wage replacement, medical treatment, death and funeral costs, and vocational rehabilitation expenses. Wage replacement benefits are based on the employee's average weekly wage and on the type of injury, as prescribed by statute.

The Maryland Uninsured Employers' Fund pays workers' compensation benefits ordered by the commission in favor of injured employees who file claims against employers that had not secured adequate workers' compensation coverage. The fund finances the claims it pays through the collection of applicable fines, assessments, and benefit recoveries.

Unemployment Insurance

Generally, unemployment insurance 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. All private business employers and nonprofit organizations employing one or more persons, at any time, are subject to the Maryland Unemployment Insurance Law, unless specifically exempted.

Both the federal and state governments have responsibilities for unemployment compensation. The U.S. Department of Labor oversees the unemployment insurance 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.

The administration of the unemployment insurance program is financed through employer taxes, as specified under the Federal Unemployment Tax Act. The federal tax is 6.0% of the first \$7,000 in wages paid to each employee. Employers receive credit of up to 5.4% if the employers pay all State unemployment insurance taxes due and the State's law is in conformity with required provisions of the federal Act. The net tax (0.6%), a maximum of \$42 per employee per year, is collected by the federal government and is used to finance state and federal administrative costs; federal reimbursements for federally funded extended benefits; and loans to states with insolvent trust funds. The Maryland program is administered by the Division of Unemployment Insurance in the department with use of these federal funds.

Unemployment benefits paid to eligible persons are generally financed by contributions made by employers to the division that are deposited in the Maryland Unemployment Insurance Fund, commonly referred to as the Unemployment Insurance Trust Fund. Each employer is assigned a particular tax rate for a calendar year based on (1) its experience with unemployment claims and (2) the solvency of the trust fund. Certain nonprofit and governmental organizations can opt to become self-insured under the program, which requires the employer to reimburse the trust fund dollar-for-dollar for any unemployment benefit claims paid to former employees.

As shown in **Exhibit 2.1**, tax rates vary annually according to the solvency of the trust fund, which determines the applicable tax table. Table A has the lowest tax rates; employers pay from \$25.50 to \$637.50 per employee, per year. Table F has the highest tax rates; employers pay \$187 to \$1,147.50 per employee, per year. Employers are required to make contributions to the trust fund based on their applicable tax rates and their taxable wages. Taxable wages are defined as the first \$8,500 earned by each employee in a calendar year. The total taxable wages reported by employers varies and was \$22.8 billion, \$21.6 billion, and \$20.3 billion in 2018, 2019, and 2020, respectively.

Generally, employers may pay a higher tax rate due to their former employees claiming and receiving unemployment benefits. These effects are also shown in Exhibit 2.1. Benefits paid to former employees of an employer are charged to the specific employer's account when wages earned from the employer are used to determine a claimant's entitlement to benefits. There are a

variety of circumstances under which employers may be relieved of benefit charges. For example, employers are not charged if a former employee left employment voluntarily or due to domestic violence of the former employee or former employee's spouse, minor child, or parent, or was discharged for gross or aggravated misconduct. There are also certain exclusions related to churches, agricultural employment, students, and others.

Exhibit 2.1 Unemployment Insurance Tax Rates

Tax Table	As of Sept. 30, if the Trust Fund Balance, As a Percentage of Taxable Wages		Trust Fund Balance (\$ in Millions)		Then Next Year's Tax Rates Range from			Annual Tax Per Employee (Rate x \$8,500)		
	Exceeds	Up to	Exceeds	Up to	No Claims	Single Claim	Up to	No Claims	Single Claim	Up to
A	5.00%	N/A	\$995.8	N/A	0.30%	0.60%	7.50%	\$25.50	\$51.00	\$637.50
B	4.50%	5.00%	896.2	\$995.8	0.60%	0.90%	9.00%	51.00	76.50	765.00
C	4.00%	4.50%	796.6	896.2	1.00%	1.50%	10.50%	85.00	127.50	892.50
D	3.50%	4.00%	697.1	796.6	1.40%	2.10%	11.80%	119.00	178.50	1,003.00
E	3.00%	3.50%	597.5	697.1	1.80%	2.60%	12.90%	153.00	221.00	1,096.50
F	0.00%	3.00%	0.0	597.5	2.20%	3.10%	13.50%	187.00	263.50	1,147.50

Notes: Fund balance threshold dollar amounts are based on the 2020 taxable wage base and are subject to modest changes each year. A "single claim" represents the tax rate applicable to the lowest possible rate associated with nonzero (.0001 to .0027) benefit ratios. Taxes are applied to the first \$8,500 earned by each employee, each year; compensation less than that amount reduces taxes owed accordingly.

Source: Department of Legislative Services

Table F was in effect in 2021 due to the COVID-19 pandemic; prior to that, Table A had been in effect since 2016. Table C will be in effect in 2022 and 2023 pursuant to Chapter 73 of 2021, which also resulted in an \$830 million infusion of federal funds into the trust fund. A preexisting State law requiring a federal solvency goal to be met prior to moving to a tax table with lower rates will again apply beginning in 2024. The federal solvency goal, which is designed to ensure the State's ability to pay claims during periods of high unemployment, is approximately \$1.4 billion.

Unemployment benefits are based on the amount of wages that the employee earned during the base period (the first four of the last five completed calendar quarters prior to the date the employee filed a claim). If a claimant does not qualify for unemployment benefits because of insufficient wages in the base period, an alternative base period is used (the last four completed calendar quarters) to determine eligibility. Unemployment benefits are available to both full-time and part-time workers that lose employment or have their pay reduced to less than their applicable

weekly benefit amount. Part-time workers who become unemployed may file a claim for unemployment benefits while actively searching for part-time work. The weekly benefit amount provided by Maryland law ranges from \$50 to \$430. The maximum duration that weekly benefits may be paid is 26 weeks, absent federal extended benefits.

Family and Medical Leave Insurance

The Family and Medical Leave Insurance (FAMLI) program provides up to 12 weeks of benefits and paid leave to a covered individual, which includes a covered employee, an employee that works for an employer with one or more employees, or a self-employed individual.

Beginning October 1, 2023, each employee, each employer with 15 or more employees, and each participating self-employed individual, must pay to the Secretary of Labor a percentage contribution based on wages, which are established in regulation. The Act establishes a process for determining the initial contribution rates of employers with 15 or more employees and employees, as well as a process for reassessing the contributions every two years. By June 1, 2023, the Secretary must set the total rate of contribution for employees and the percentage of the total contribution rate to be paid by employers with 15 or more employees and employees.

Beginning January 1, 2025, claims for benefits are expected to begin. To be eligible for benefits, a covered individual who is taking leave from employment may submit a claim for intermittent leave, or up to 12 weeks of benefits to (1) care for a newborn child or a child newly placed for adoption, foster care, or kinship care with the individual during the first year after the birth, adoption, or placement; (2) care for a family member with a serious health condition; (3) attend to a serious health condition that results in the individual being unable to perform the functions of the individual's position; (4) care for a next of kin service member; or (5) attend to a qualifying exigency arising out of the individual's family member's deployment, as defined by the Act.

The weekly benefit payable to a covered individual ranges from a minimum of \$50 to a maximum of \$1,000 for the 12-month period beginning January 1, 2025. Beginning January 1, 2026, the maximum weekly benefit must be increased by the annual percentage growth in the Consumer Price Index, subject to a determination by the Board of Public Works based on expected economic conditions. If a covered individual is receiving FAMLI benefits or is taking leave, the employer must continue any employment health benefits for the time that the covered individual is absent from work or receiving FAMLI benefits. Additionally, the employer must restore the individual to an equivalent position of employment when the employee returns to work.

An employer may satisfy the Act's requirements through a private employer plan consisting of employer provided benefits, insurance, or a combination of both, if the plan is offered to all eligible employees and at least meets the rights, protections, and benefits provided to a covered employee under the program. An employer that provides covered employees with a private employer plan approved by the Maryland Department of Labor and those covered employees are exempt from the Act's required contributions.

A covered individual is disqualified from receiving benefits for one year if the individual willfully makes a false statement or misrepresentation regarding a material fact or willfully fails to report a material fact to obtain benefits. An employer is subject to a civil penalty of up to \$1,000 for each occurrence if the employer willfully makes or causes a false statement to be made or willfully fails to report a material fact regarding an employee's claim for benefits. In addition, an employer is prohibited from retaliating against an employee who exercises their rights under the program. The Act also specifies how the Secretary must investigate and enforce the Act, which includes mediation, issuing orders, assessing a civil penalty of up to \$1,000 for each employee for whom the employer is not in compliance, and asking the Attorney General to bring an action on behalf of the employee.

Miscellaneous Employment Laws

Other employment laws provide various protections for employees. These State laws generally guarantee employee benefits and prohibit certain employer practices related to recruitment, hiring, and retention.

Medical Questions

An employer may not require an applicant to answer any questions pertaining to any physical, psychological, or psychiatric condition that does not have a direct, material, and timely relationship to the applicant's capacity to properly perform the responsibilities of the job.

Day of Rest

Most retail employees may choose, as a day of rest, Sunday or the Sabbath of the employee, after giving written notice to the employer.

Payments or Deduction from Wages for Tipped Employees

An employer is prohibited from requiring a tipped employee from reimbursing the employer or pay to the employer the amount equivalent to a customer's charge for food or beverages if the customer leaves the employer's place of business without paying for the food or beverages.

Employment Notices Required by State Law

Employers are required to post various notices about employment conditions and benefits for their employees. The following is a list of the laws that require employers to post notices:

- Employment of Minors;

- Equal Pay for Equal Work;
- Wage and Hours;
- Paid Sick and Safe Leave;
- Discrimination in Employment;
- Occupational Safety and Health;
- Unemployment Insurance; and
- Workers' Compensation Insurance.

Occupational Safety and Health Regulations

The Commissioner of Labor and Industry and the division regulate employment working conditions under the Occupational Safety and Health Program. The commissioner and division also monitor and enforce safety conditions of amusement rides, elevators and escalators, and boiler and pressure vessels under its Safety Inspection Program.

Occupational Safety and Health

The Maryland Occupational Safety and Health Administration (MOSH) sets regulations governing conditions, practices, and operations to ensure safe and healthy workplaces. In general, the administration adopts the federal Occupational Safety and Health Administration standards and may adopt regulations to address specific State challenges. The program is funded by a mixture of federal and special funds. In order to maintain federal approval and funding, Maryland's program must be at least as effective as the federal Occupational Safety and Health Administration's standards. Specific objectives of MOSH include:

- encouraging employers and employees to reduce safety and health hazards in the workplace;
- developing and promulgating occupational safety and health standards that reflect current trends in technology and emerging injury trends;
- developing effective compliance and enforcement programs;
- training and educating personnel for effective and equitable administration of occupational safety and health standards;

- maintaining an effective consultation program to assist employers to voluntarily comply with occupational safety and health standards;
- conducting research in the field of occupational safety and health; and
- maintaining effective and timely reporting procedures with respect to occupational safety and health.

MOSH Enforcement

MOSH is responsible for ensuring that employers meet their duty under the Maryland Occupational Safety and Health Act to provide a safe and healthy workplace for employees. Trained safety inspectors and industrial hygienists conduct unannounced onsite inspections to identify hazardous conditions and secure their timely correction. The scheduling of these general inspections, based on total employment, lost workday cases, injury rates, and violation and inspection histories, is designed to impact those industries and workplaces with the highest proportion of hazards and violations. If an employer participates in a Voluntary Inspection Program, the employer's place of employment is exempt from MOSH inspections to the extent allowed by federal law. The administration also provides 24-hour response to, and conducts investigations of, fatalities, catastrophes, accidents, imminent danger situations, employee complaints, and professional referrals.

Significant civil and criminal penalties act as a deterrent for private employers regarding violations of the Act. Generally, the penalty for a serious violation may not exceed \$7,000 for each violation. Penalties for failure to correct a violation may be up to \$7,000 for each calendar day that the violation continues beyond the stated abatement date; however, the penalty for a willful or repeated violation may be as much as \$70,000 for each violation. A willful violation that resulted in an employee death may result in a fine not exceeding \$10,000, imprisonment for up to six months or both for the employer. On conviction of a subsequent offense, an employer is subject to a fine not exceeding \$20,000, imprisonment for up to one year, or both.

MOSH Outreach

MOSH provides free consultation services for private-sector employers; this service is separate from MOSH compliance and is funded nearly 90% by federal funds. The remainder is funded with special funds. Consultants assist private-sector employers, free-of-charge, to achieve voluntary compliance with MOSH law and standards and regulations, and to improve safety and health in the workplace. At the request of an employer, a consultant conducts an onsite visit where no citations or penalties are issued, unless the employer does not abate an apparent hazard in the agreed upon timeframe. Highest priority is given to small, high-hazard employers. An employer may request a survey of an entire work site or a specific area of concern. When necessary, follow-up visits are made to ensure the correction of serious hazards.

The State offers partnership and alliance agreements and recognition programs that span government agencies, construction and manufacturing sectors, and professional organizations. These agreements and programs reach many employees and provide a way to share resources between the private sector and the public sector. They promote employee safety and health by focusing on eliminating injuries and fatalities, providing mentorship and expertise, and recognizing employers who go above and beyond basic compliance with all applicable MOSH Standards. The Cooperative Compliance Program forms partnerships within the construction industry. The Safety and Health Achievement Recognition Program and the Voluntary Protection Program give recognition to small and large employers.

Under normal circumstances, MOSH also provides education and training by offering both full- and half-day seminars across the State covering 30 various technical safety and health topics. Some seminars are offered in both English and Spanish, including fall protection, blood borne pathogens, respiratory protection, construction safety, machine guarding, industrial hygiene, excavations and trenching, and permit required confined space.

Exhibit 2.2 shows MOSH's activities. In 2021, MOSH conducted 1,386 inspections and investigations across the State.

Exhibit 2.2
Maryland Occupational Safety and Health Activities
Calendar 2021

Inspections and Investigations	1,386
Violations	5,230
Complaints Inspected	160
Fatalities Investigated	20
Discrimination Cases Completed	20
Educational Classes	0
Educational Participants	0
New Cooperative Compliance Sites	1
Total Voluntary Protection Program Sites	20

Source: Maryland Department of Labor

Note: In-person educational classes were paused due to the COVID-19 pandemic.

Safety Inspections

The Safety Inspection Program under the division oversees the Amusement Ride Safety Law, the Elevator and Escalator Safety Law, the Railroad Safety and Health Law, and the Maryland Boiler Pressure and Safety Act.

Amusement Ride Safety

The commissioner administers and enforces the Amusement Ride Safety Law, which affects amusement rides and attractions erected permanently or temporarily at carnivals, fairs, and amusement parks.

Both a certificate of inspection issued by the commissioner and proof of insurance are required to operate amusement rides or attractions in Maryland. The insurance policy may be obtained from any insurer or surety acceptable to the Maryland Insurance Commissioner and must provide coverage against liability that arises out of the use of an amusement attraction (at least \$350,000 for mechanical rides and at least \$200,000 for nonmechanical rides or other amusement attractions).

Before a ride or attraction may be placed in operation, the owner or operator must notify the commissioner in writing that the ride or attraction is ready for inspection and must supply information about the type of ride or attraction and the location and dates of operation. A current certificate of insurance must be on file with the commissioner.

A certificate of inspection issued by the commissioner for a ride or attraction in an amusement park is valid for not more than one year from the date issued. Certificates for rides and attractions at fairs and carnivals are valid for not more than 30 days. Each time a ride or noninflatable attraction is dismantled and moved to a new location, it must be inspected and issued a new certificate.

The division inspected 5,904 amusement rides in calendar 2019, 3,639 in calendar 2020, and 4,213 in calendar 2021.

Elevator and Escalator Safety

The Elevator and Escalator Safety Inspection Program is responsible for ensuring that all elevator units operating in Maryland are tested and inspected in accordance with Maryland law. Unless otherwise specified by statute, an elevator may not operate in a building, structure, or place of employment in the State unless it has been certified by the commissioner. Inspections are required for new elevators and after any modifications to existing elevators. Generally, operational elevators must undergo periodic annual inspections and more comprehensive five-year inspections. There is an exception for cliffside residential elevators, which must be inspected every two years.

Prior to October 1, 2018, for annual inspections, a licensed elevator mechanic performed tests to verify that an elevator unit operated safely, but the inspector (State inspector or third-party qualified elevator inspector) was not required to be physically present to witness the licensed elevator mechanic running the tests. Beginning October 1, 2021, annual elevator inspections will transition to being conducted by licensed elevator mechanics in the physical presence of a third-party qualified elevator inspector for all elevators in privately owned buildings, except for direct-acting hydraulic elevators, which must comply beginning October 1, 2022. If the commissioner determines that there is an insufficient number of third-party qualified elevator inspectors to physically witness tests for publicly owned buildings, State inspectors may witness tests until the commissioner determines otherwise.

In addition to inspection duties, State inspectors perform accident and complaint investigations. The State inspectors conducted 8,370 elevator inspections in calendar 2020 and 6,356 in calendar 2021. Third-party qualified elevator inspectors conducted 29,838 elevator inspections in calendar 2020 and 31,308 in calendar 2021. In addition to inspection duties, State inspectors perform elevator incident/accident investigations and elevator complaint investigations. In calendar 2020, State inspectors conducted one incident/accident investigation and 59 complaint investigations. In calendar 2021, State inspectors conducted 9 incident/accident investigations and 70 complaint investigations.

Railroad Safety and Health

The Railroad Safety and Health Program supplements the program that the Federal Railroad Administration administers to monitor safety practices of railroad companies operating in the State. Inspectors receive certification from the Federal Railroad Administration to conduct inspections of railroad track, power, and equipment and to examine operating practices. The program also monitors and assists certain railroad operations that are not under federal jurisdiction.

Boiler and Pressure Vessel Safety

The Boiler and Pressure Vessel Safety Inspection Unit inspects boilers and pressure vessels used in commercial establishments, places of public gathering, and apartment buildings with six or more units.

The Maryland Boiler Pressure and Safety Act establishes rules and regulations that conform to the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers. All new and existing boilers must meet the requirements of the American Society of Mechanical Engineers code and have an inspection certificate issued by an authorized boiler inspector. Higher pressure boilers are required to be inspected yearly, while low pressure boilers and pressure vessels require inspection every two years. Each inspection involves not only a detailed examination of the existing condition of the pressure envelope and associated equipment, but also a thorough review of the practices employed in daily operation by the owner, along with a check of the operator's knowledge and ability. All inspections must be performed by an inspector

commissioned by the National Board of Boiler and Pressure Vessel Inspectors. Approximately 130 special boiler inspectors are authorized to conduct inspections, in addition to 10 deputy boiler inspectors on staff with the division. Owners who have obtained insurance coverage on their boilers or pressure vessels should expect their insurance company to conduct the necessary inspections.

The unit conducted 7,008 boiler and pressure vessel inspections in calendar 2020 and 7,191 inspections in calendar 2021. Private-sector insurance company inspectors conducted 25,864 boiler and pressure vessel inspections in calendar 2020 and 30,691 inspections in calendar 2021.

Maryland Building Codes Administration

One additional responsibility that is distinct from, but related to, occupational safety and health is the adoption and administration of statewide building codes and materials. In its role administering statewide building and materials codes, the Maryland Department of Labor:

- provides technical assistance and training to local governments, industry, and the public to ensure that buildings are energy efficient and accessible to individuals with disabilities;
- adopts and updates a Model Performance Code, which applies to industrialized/modular buildings and buildings that are owned, leased, operated, and controlled by the State;
- helps to ensure buildings meet applicable standards for health and safety; and
- establishes and enforces standards for industrialized/modular buildings and is responsible for inspecting and certifying these building units at the factory.

Among the laws and standards under its purview, the department administers the Maryland Accessibility Code, Maryland Building Rehabilitation Code, Maryland Building Performance Standards, and Maryland Livability Code. While local governments enforce nearly all these laws and standards, the administration provides interpretation, training, and technical assistance to the local enforcement agency.

Chapter 3. Environmental Protection, Health, and Safety

The Maryland Department of the Environment's primary mission is to protect and restore the environment for the health and well-being of all Marylanders. The department's vision is for healthy, vibrant, and sustainable communities and ecosystems in Maryland. The department provides services geared toward helping businesses and residents comply with State environmental laws and regulations. Such services include online guidance on environmental permits and approvals and a searchable online database that enables individuals to view permit application notices online (searchable by project name, city, county, zip code, applicant name, or type of application).

A brief description of the regulatory functions of the department and an overview of air, water, and land permits and programs are presented in this chapter. The chapter concludes with a review of the department's enforcement and compliance role.

The department regulates residential and commercial activities that can potentially affect the quality of the State's environment through the following administrations:

- Air and Radiation Administration;
- Water and Science Administration; and
- Land and Materials Administration.

The permits, licenses, registrations, approvals, and certifications that these administrations require are described below.

Air and Radiation Administration

The mission of the department's Air and Radiation Administration is twofold: to improve and maintain air quality and control sources of radiation to protect the health and welfare of the people and the environment of Maryland while providing for enhanced community service and economic development. The regulatory activities of the administration include:

- monitoring air quality from various sources;
- assisting businesses with understanding and meeting State and federal air quality requirements and radiological health laws and regulations;
- inspecting equipment that has the potential to emit radiation or cause air pollution;

- issuing permits and licenses required for medical, industrial, commercial, and institutional facilities;
- reducing air pollution from motor vehicles by establishing and enforcing jointly with the Motor Vehicle Administration a vehicle emissions inspection program;
- developing plans, programs, and standards to reduce and prevent air pollution and control sources of radiation in a cost-effective manner that protects public health;
- setting emissions budgets for power plants affected by the Regional Greenhouse Gas Initiative and monitoring compliance with the initiative;
- investigating and resolving complaints; and
- training various industry workers and supervisors.

Facility Permits and Approvals

The administration issues several types of permits or approvals for various types of facilities that may have an impact on the State's air quality. Some facilities may require more than one permit or approval. Maryland had approximately 13,440 registered or permitted sources of air emissions in fiscal 2021; approximately 100 of these sources are responsible for more than 98% of all pollutants emitted from stationary sources. Numerous potential sources of lower levels of pollution are not required to be registered or permitted by the department.

Air Quality Permit to Construct

An operation or equipment that discharges emissions to the outside air needs an air quality permit to construct. Examples of these types of operations or equipment include coating and painting operations, asphalt plants, incinerators, quarry operations, paint spray booths, chemical-processing equipment, fuel-burning equipment, and printing presses. Requiring a business to secure an air quality permit to construct ensures that any new, modified, replaced, or relocated source of air emissions complies with all air quality requirements.

Air Quality General Permit to Construct

An air quality general permit to construct is a generic permit issued to businesses that are similar in operation, the manner in which the business installs equipment, and have similar low-scale emissions characteristics. This one-time permit is required before construction, installation, or modification of equipment. General permits with standardized permit conditions have been established for:

- businesses with perchloroethylene dry cleaning equipment;

- char broilers and pit barbecues;
- small fuel-burning equipment;
- sheetfed lithographic printing;
- groundwater air stripper/soil vapor extraction systems;
- vehicle refinishing;
- medium-sized boilers;
- concrete batch plants;
- off-road gasoline refueling facilities; and
- small, medium, and large gasoline refueling facilities.

Air Quality State Permit to Operate

An operator of air pollution sources that have the potential to significantly affect air quality (such as incinerators, large boilers, and some types of manufacturing equipment) must obtain an operating permit. Such permits may impose reasonable terms and conditions on sources to ensure compliance and protect public health. There were approximately 480 active sources permitted under the State permit to operate at the end of fiscal 2021.

New Source Review Approval

Portions of Maryland are designated as nonattainment areas for ozone, meaning that ozone levels in the ambient air occasionally exceed federal air quality standards. Any new or modified major stationary source of air emissions that will discharge significant amounts of volatile organic compounds, oxides of nitrogen, or fine particulate matter in specified jurisdictions must obtain a new source review approval from the administration before beginning construction. The primary purpose for this approval is to ensure that these major sources of air pollution will not worsen existing ozone or impede the State's efforts to achieve compliance with the federal ozone and fine particulate standard.

Prevention of Significant Deterioration Approval

Ambient air pollution is a broad term to describe air pollution in outdoor environments. National ambient air quality standards have been established by the U.S. Environmental Protection Agency for particulate matter, sulfur oxides, carbon monoxide, ozone, nitrogen dioxide, and lead. To prevent significant deterioration of ambient air quality in areas where the State has achieved

the National Ambient Air Quality Standards, the prevention of significant deterioration approval seeks to limit the amount of air pollutants released by a new or modified facility proposing to locate in an area that meets the national standards. Except for ozone levels in portions of the State, Maryland does not have any other significant air pollution problems.

Part 70 (Title V) Operating Permit

Title V of the federal Clean Air Act includes an operating permit program whose purpose is to combine, into a single document, all state and federal air quality requirements applicable to a particular facility. Title V does not impose any new substantive requirements above state requirements.

Occupational Licensing and Registration

The administration licenses or registers several types of businesses and practitioners, including asbestos contractors, asbestos training providers, incineration operators, vehicle emission inspection stations, and facilities that handle radioactive materials or radiation machines.

Asbestos Contractor License

A business, contractor, or other person engaged in any activity involving the disturbance of friable asbestos must apply for an asbestos contractor license. Workers and supervisors must be medically monitored and complete annual review courses to continue working in an environment which exposes them to asbestos. Approximately 25% to 30% of all asbestos projects in the State are also subject to additional federal program requirements.

Asbestos Training Provider Approval

The administration has developed approval procedures to ensure that asbestos trainers meet certain standards. An individual who wants to become a Maryland Approved Training Provider must apply for approval of the individual's training course. The administration approves the following types of initial and review courses: worker; foreign language worker; supervisor; inspector; management planner; project designer; and operations and maintenance.

Incinerator Operator Certification and Training Course Approval

An incinerator operator must receive certification from a training course provider approved by the administration before operating an incinerator. The administration certifies the following types of incinerator operators by the type of waste that will be incinerated: special medical and industrial waste; sewage sludge; municipal waste; and hazardous waste.

Vehicle Emissions Inspection License and Certification

The administration regulates vehicle emissions inspection activities by (1) issuing licenses to fleet owners to perform official emissions inspections on the fleet owner's vehicles;

(2) certifying technicians who work at fleet inspection stations or at certified emissions repair facilities; and (3) certifying motor vehicle repair facilities that make emissions-related repairs.

Radiation/Radioactive Materials Registration and License

The administration performs a variety of regulatory activities relating to radiation facilities and radioactive materials, including (1) registering all facilities in which a radiation machine will be used and licensing all facilities that possess or use radioactive materials; (2) certifying all radiation machines in Maryland (except mammography, dental and veterinary practices) to ensure the machines meet State performance standards; (3) registering individuals and facilities that possess and use specified quantities of radioactive materials; (4) licensing individuals to inspect x-ray machines; and (5) registering x-ray machine service providers.

Reciprocal Recognition of Out-of-state Radioactive Material License

As a U.S. Nuclear Regulatory Commission agreement state, Maryland must recognize an out-of-state facility's radioactive material license issued by the commission or by other states within the agreement. However, a licensee with out-of-state facilities must meet procedural requirements for working in Maryland, obtain an authorization letter from the Radiological Health Program within the department, pay a reciprocity fee, and notify the program at least three days before beginning work in the State.

Regional Greenhouse Gas Initiative

The Regional Greenhouse Gas Initiative is a cap-and-trade program established in conjunction with a number of northeastern and Mid-Atlantic states in an effort to reduce carbon dioxide (CO₂) emissions from the power sector. Each participating state limits CO₂ emissions from electric power plants, issues CO₂ allowances, and establishes participation in CO₂ allowance auctions. In Maryland, the administration sets emissions budgets for affected power plants and monitors compliance.

Quarterly allowance auctions are conducted in a uniform price (all allowances are sold at the same price), sealed bid format. Since the allowance auctions began and through the quarterly allowance auction held in June 2022, the participating states generated a total of \$5.3 billion in revenue from the sale of allowances to entities that need the allowances for compliance. Maryland's cumulative revenues during that time totaled more than \$960 million. In Maryland, about half of the State's auction revenue has been directed toward consumer energy bill assistance (low-income energy bill assistance programs and, in prior years, rate relief for residential electricity customers in general). The remainder is directed generally toward energy efficiency, renewable energy, and other greenhouse gas reduction programs and Maryland Energy Administration administrative expenses.

Water and Science Administration

The mission of the Water and Science Administration is to restore and maintain the quality of the State's ground and surface waters, protect wetland habitats throughout the State, and manage the utilization of the State's mineral and water resources. The administration manages a broad range of activities, including:

- inspecting and maintaining compliance of various facilities and activities, including industrial and municipal wastewater discharges, agriculture, construction involving water and sewerage facilities, sediment control, stormwater management, wetlands, and waterways;
- protecting public health and water quality through permitting for surface and groundwater discharges;
- performing dam safety inspections, permitting new dams, and reviewing modifications to existing dam permits;
- providing review of water-related permits and customer access to the Environmental Permits Service Center;
- surveying and evaluating public water systems to ensure that they are optimized and to reduce the risk of passing pathogens to drinking water;
- assisting local governments with the development of local wellhead protection and watershed protection programs for their public water supply sources;
- providing financial and technical assistance for capital projects to improve water quality, protect public health, and support the State's smart growth and neighborhood revitalization efforts; and
- providing technical assistance to water and wastewater utilities.

The permits and licenses issued by the administration are described below. Some permits and licenses may also require federal approval or compliance with additional permit requirements (*e.g.*, stormwater management).

Water Quality

One of the administration's primary responsibilities is regulating the amount of nutrients and pollutants that are discharged into ground and surface waters through the issuance of permits and the enforcement of permit requirements.

Surface Water Discharge Permit (Industrial and Municipal)

The surface water discharge permit is a combined State and federal permit under the National Pollutant Discharge Elimination System. This permit is issued for industrial and municipal facilities that discharge to State surface waters and is designed to meet federal effluent guidelines, when applicable, and ensure that the discharge satisfies State water quality standards. Among those requiring an industrial permit are industrial, commercial, or institutional facilities that discharge wastewater (or stormwater from certain facilities) to surface waters of the State. Among those requiring a municipal permit are cities, counties, federal facilities, schools, commercial water and wastewater treatment plants, and treatment systems for private residences that discharge to surface waters.

General Discharge Permits

General discharge permits have been developed for several categories of business activity that are similar in their wastewater characteristics. These general permits are issued by the various administrations within the department, depending on the nature of the business activity. As discussed in more detail throughout this chapter, general permits with standardized permit conditions have been established for:

- stormwater associated with industrial activities;
- concentrated animal feeding operations;
- surface coal mines, mineral mines, quarries, borrow pits, and ready-mix concrete and asphalt plants;
- seafood processors;
- hydrostatic testing of tanks and pipelines;
- marinas; and
- swimming pools and spas.

General Discharge Permit for Stormwater Associated with Industrial Activity

The administration has established a general permit with standardized permit conditions for certain industrial facilities that discharge stormwater to the State's surface waters. Industrial facilities covered under this permit include those whose principal activity is manufacturing, mining, hazardous waste treatment or disposal, landfills that receive industrial waste, recycling, steam electric power generation, transportation facilities that perform vehicle maintenance or

equipment cleaning operations, specified sewage treatment works, and construction activities that disturb more than one acre.

Pretreatment Program (Industrial)

Through the Pretreatment Program, the administration oversees multiple local pretreatment programs for numerous industrial facilities that discharge wastewater to publicly owned treatment facilities in accordance with the Environment Protection Agency's national pretreatment program.

Under the program, local governments with approved programs issue industrial discharge permits and enforce all governing regulations. If an industrial user discharges to a treatment facility in an area of the State that does not have a local program, the department issues the pretreatment permit.

Groundwater Discharge Permit (Industrial or Municipal)

A groundwater discharge permit is issued to control the disposal of treated municipal or industrial wastewater into the State's groundwater via spray irrigation or other land-treatment applications, as well as discharges into the subsurface by a drain field or seepage pit.

Toxic Materials Permit

A toxic materials permit is required for a homeowner, farmer, local government, or other person who wants to control nuisance aquatic life in ponds, ditches, or waterways by the use of chemical products (*e.g.*, mosquito control, algae removal).

Municipal Separate Storm Sewer Permit

A municipal separate storm sewer permit is required for owners of municipal storm sewer systems serving large, medium, and small jurisdictions. A large jurisdiction serves a population of 250,000 or more, a medium jurisdiction serves a population of at least 100,000 but no more than 250,000, and a small jurisdiction serves a population of less than 100,000. Only Anne Arundel, Baltimore, Montgomery, and Prince George's counties and Baltimore City are considered large jurisdictions. Carroll, Charles, Frederick, Harford, and Howard counties are considered medium jurisdictions. All other jurisdictions within the State are considered small jurisdictions.

Waterworks and Waste System Operator Certification

A waterworks and waste system operator certification are required for operators and superintendents of water treatment plants, water distribution systems, wastewater treatment plants, wastewater collection systems, certain pretreatment facilities that discharge to sanitary sewers, and under certain conditions, industrial wastewater facilities.

General Permit for Stormwater Associated with a Construction Activity

A permit is required for all construction activity in the State with a planned total disturbance of one acre or more. Conditions of the permit include compliance with approved erosion and sediment control and stormwater management plans, compliance with water quality standards and total maximum daily loads, self-monitoring, and recordkeeping.

Erosion/Sediment Control Plan Approval and Stormwater Management Plan Approval

Maryland's erosion and sediment control and stormwater management programs seek to reduce stream channel erosion, pollution, siltation, and local flooding caused by land use changes associated with urbanization. Erosion and sediment control plan approval is required for any construction activity that disturbs 5,000 square feet or more of soil or results in the excavation of 100 cubic yards or more of soil. Certain activities require plan approval before construction to prevent siltation due to releases of sediment (soil) from active construction sites.

After construction, stormwater runoff typically increases due to the loss of ground cover and the increase of impervious surfaces, such as roofs, sidewalks, roads, and parking lots. Stormwater management plans prevent stormwater runoff and stream bank erosion through the use of infiltration practices, shallow marshes, retention ponds, and detention ponds. Approval of the plan is required for any new development project that disturbs 5,000 square feet or more of land. Stormwater management plan approval may be obtained at the same time as the erosion and sediment control plan approval.

Enforcing compliance with these plans is a significant effort, as 1,018 approvals were in effect for erosion and sediment control and stormwater management plans in fiscal 2021. Approximately 747 of these sites were inspected in fiscal 2021.

Water Supply and Wetlands

Water and Sewerage Construction Permit

A water and sewerage construction permit is required before installing, extending, or modifying community water supply or sewerage systems including treatment plants, pumping stations, and major water mains and sanitary sewers. However, smaller scale activities, such as construction of a conventional septic tank or mound system, do not require a water and sewerage construction permit.

Water Appropriation and Use Permit

A water appropriation and use permit is required for any activity that withdraws water from the State's surface and/or underground waters except for the following activities:

- fire extinguishing;
- agricultural use under 10,000 gallons per day;
- individual domestic use except withdrawals for heating and cooling;
- temporary dewatering during construction if expected to be less than 30 days and the average water use does not exceed 10,000 gallons per day; and
- use under 5,000 gallons per day (annual average) if certain conditions are met.

Drinking Water Laboratory and Sampler Certification

Sampling and testing of public water systems is the primary method of evaluating the safety of the drinking water supply. A drinking water laboratory certification is required for both in-state and out-of-state laboratories that analyze drinking water samples for water systems in the State. A drinking water sampler certification is required for individuals collecting samples for Safe Drinking Water Act compliance, including laboratory personnel, municipal and private water system operators and superintendents, county and State health department staff, and other individuals who collect samples for public drinking water systems.

Well Driller License

Well drilling includes making, altering, repairing, or disconnecting well system equipment for profit. The State Board of Well Drillers, among other things, ensures that the public is protected from unqualified or incompetent well drillers. The board issues licenses to persons who drill water supply and geotechnical wells or install water pumps or water conditioning equipment.

Well Construction Permit

A permit is required before installing any well that will explore for water, obtain or monitor groundwater, or inject water into any underground formation from which groundwater may be produced. County health departments generally issue these permits in coordination with the department.

Tidal Wetlands License and Permit

The Tidal Wetlands Program is responsible for maintaining the reasonable use of tidal wetlands while furnishing essential resource protection. A tidal wetlands license or permit must be obtained before a person may perform any of the following activities that affect tidal wetlands:

- dredging;

- filling open water and vegetated wetlands;
- constructing piers and associated structures; or
- shoreline protection projects, including marsh creation, bulkheads, and revetments.

The program issues permits directly for minor projects – those that affect less than 5,000 square feet of tidal wetlands or propose residential activities. For major projects, which affect 5,000 square feet or more of tidal wetlands or require public notice, the program must issue a report and recommendation to the Board of Public Works. The board then votes to approve the issuance of a wetland license authorizing the activity.

Marine Contractors License

The Marine Contractors Licensing Board licenses and regulates individuals and entities that provide marine contractor services in the State. Marine contractor services are construction, demolition, installation, alteration, repair, or salvage activities located in, on, or under State or private tidal wetlands. A marine contractor must be licensed to perform or solicit marine contractor services in the State.

Nontidal Wetlands and Waterways Permit

The Nontidal Wetlands Division manages nontidal wetlands (inland freshwater areas such as marshes or bogs) and protects essential water resources by authorizing only necessary and unavoidable impacts. In general, the following activities that disturb a nontidal wetland or its buffer require a nontidal wetlands and waterways permit:

- grading or filling;
- excavating or dredging;
- changing existing drainage patterns;
- disturbing the water level or water table; and
- destroying or removing vegetation.

To prevent flooding and erosion and to maintain fish habitat and migration, a nontidal wetlands and waterways permit is also required for the construction or repair of the following projects in a waterway or a 100-year flood plain:

- dams and reservoirs;

- bridges and culverts;
- excavation, filling, or construction;
- channelization;
- change in the course, current, or cross-section of any stream;
- temporary construction (*e.g.*, utility lines); and
- any other similar project.

Dam Safety/Waterway Construction Permit

The Maryland Dam Safety Division issues waterway construction permits for new dams and ponds and modifications to existing water impoundments to ensure dams are built and operated properly to protect public safety. Generally, a person who proposes to construct, reconstruct, repair, or alter a dam, reservoir, or similar waterway obstruction must obtain a permit before beginning any work.

Relaying Oysters for Commercial Harvest Approval

Oysters, clams, or mussels transplanted from a polluted environment to a clean environment will cleanse themselves of the polluting bacteria or viruses. This cleansing ability is a phenomenon of the shellfish feeding process. To protect public health and to make good use of a valuable natural resource, approval from the department is required before relaying oysters for commercial harvest for both off-bottom aquaculture and for private oyster lease holders.

Land and Materials Administration

The mission of the department's Land and Materials Administration is to protect human health and to protect and restore Maryland's land and water resources by reducing the quantity and toxicity of generated wastes. The administration maintains a highly visible presence in the regulated community, provides assistance to stakeholders, and develops long-term strategies for waste management needs. The regulatory activities of the administration include:

- permitting facilities and conducting compliance inspections to ensure proper management of solid waste, hazardous waste, sewage sludge, petroleum products, medical waste, mining operations, animal feeding operations, lead, and scrap tires;
- remediating leaking underground storage tank sites and enforcing laws pertaining to the proper installation and operation of registered underground storage tank facilities;

- implementing a “superfund” program to assess suspected hazardous waste sites, including federal facilities, to eliminate environmental and public health threats through removal and remedial actions;
- administering a voluntary program to encourage the cleanup, reuse, and redevelopment of abandoned contaminated industrial and commercial properties (referred to as “brownfields”);
- providing oversight, issuing permits, and enforcing laws related to animal feeding operations;
- issuing coal and noncoal mining permits and gas well permits;
- generally enforcing and monitoring the reclamation of disturbed lands and abandoned coal mines; and
- facilitating planning and tracking of the generation and disposal of low-level radioactive waste.

The administration also enforces the State’s lead paint abatement regulations; inspects vehicles that carry hazardous material; and assesses solid waste management needs, generation, and disposal capacity and recycling market opportunities in the State. Conducting outreach to regulated businesses regarding pollution prevention and educating residents about waste management are also activities of the administration.

The permits, licenses, and certifications issued by the administration are discussed below, organized by program.

Solid Waste Program

The Solid Waste Program oversees disposal and handling of domestic, commercial, and nonhazardous industrial solid waste. Several of the activities described below require other types of State permits and local government approval. Public input is usually solicited to determine and address any community concerns before a permit is issued.

Refuse Disposal Permit

A person who installs, materially alters, or extends a refuse disposal system must obtain a refuse disposal permit. Refuse disposal systems that require this permit include municipal landfills; land-clearing debris landfills; industrial landfills (including industrial landfills that dispose of coal combustion byproducts); rubble landfills; municipal and special medical wastes incinerators; waste transfer stations; and waste processing facilities.

Groundwater Discharge Permit for Rubble Landfills

A groundwater discharge permit, along with a refuse disposal permit, includes limitations and requirements to protect public health and minimize groundwater pollution. A groundwater discharge permit for rubble landfills regulates the discharge of pollutants that may be generated due to rainwater or groundwater passing through the rubble waste in an unlined disposal cell and seeping into groundwater beneath the landfill. Rubble waste consists primarily of waste resulting from construction and demolition activities and land-clearing debris.

Because all rubble landfills constructed after July 1, 2001, must have liners and leachate collection systems, groundwater discharge permits are no longer required for recently constructed rubble landfills. However, unlined rubble landfills constructed before July 1, 2001, must maintain these permits until such time as the administration determines that a regulated discharge is no longer occurring. In fiscal 2021, 16 groundwater discharge permits were in effect.

Natural Wood Waste Recycling Facility Permit

A natural wood waste recycling facility permit is required for the construction and operation of natural wood waste recycling facilities, with limited exceptions for nonprofits and on-site recycling operations. These facilities assure the proper management and recycling of natural wood wastes such as tree limbs and stumps, brush, root mats, logs, leaves, grass clippings, unadulterated wood wastes, and other natural vegetative materials that are generated when land is cleared for construction purposes.

Resource Management Program

The Resource Management Program regulates certain waste-related activities to ensure the protection of public health and the environment, including (1) discharges from animal feeding operations; (2) the utilization of sewage sludge; (3) the operation of composting facilities; (4) the handling of scrap tires, as described below; and (5) the treatment, storage, and disposal of hazardous waste. The program is also responsible for implementing the State's waste diversion programs. In calendar 2020, over 8.9 million tons of solid waste was managed by State facilities.

Animal Feeding Operations Permit

As mentioned in the discussion of general discharge permits above, the Water and Science Administration established a general permit with standardized permit conditions for wastewater discharges from concentrated animal feeding operations and animal feeding operations in the State.

Sewage Sludge Utilization Permit

Sewage sludge, also known as biosolids, is one of the final products of the treatment of sewage at a wastewater treatment plant. A sewage sludge utilization permit is required for any person who treats, composts, transports, stores, distributes, applies to land, incinerates, conducts

innovative or research projects, or disposes of sewage sludge or septage (effluent from septic tanks) in the State.

Composting Facility Permit

Composting facilities that use an area greater than 5,000 square feet in support of composting must obtain a Composting Facility Permit. The permit assures the proper management and recycling of organics such as yard trimmings, food scraps, nonrecyclable paper, department-approved animal manure and bedding, industrially produced food processing materials, animal mortalities, manufactured organic materials like waxed-corrugated cardboard, noncoated paper and other materials that the department determines pose a low level of risk from hazardous substances and a higher-level risk from physical contaminants and human pathogens.

Scrap Tire Management Licenses and Approvals

A person who hauls or transports, collects, or accumulates and transfers, recycles or processes into raw materials, utilizes as fuel, or authorizes the processing of scrap tires must obtain the appropriate license or approval. The necessary licenses or approvals are listed below.

- **Scrap Tire Hauler License:** for commercial businesses that transport more than five scrap tires annually to or from approved facilities.
- **Scrap Tire Collection Facility License:** for facilities that collect or accumulate scrap tires temporarily and transfer the tires to other licensed or approved scrap tire facilities. General facilities can accumulate no more than 50 tires at one time, secondary facilities can accumulate up to 1,500 tires at one time, and primary facilities can accumulate more than 1,500 tires at one time.
- **Scrap Tire Recycler License:** for facilities that recycle or process scrap tires into raw materials or marketable products.
- **Tire Derived Fuel or Substitute Fuel Facility Approval:** for facilities to utilize scrap tires (whole or chipped) as a fuel or supplemental fuel.
- **Solid Waste Acceptance Facility Approval:** authorizes the processing of scrap tires at permitted solid waste acceptance facilities (*e.g.*, incinerators or transfer stations).

Controlled Hazardous Substance Facility Permit

A controlled hazardous substance facility permit is required for the construction and operation of a facility used to treat, store, or dispose of hazardous waste.

Waste Diversion

Waste diversion is the process of eliminating waste before it is created. In Maryland, waste diversion is defined as the amount of waste recycled or diverted from entering the waste stream through source reduction activities. The waste diversion rate is the sum of the recycling rate and the source reduction credit (which is up to 5% and based on certain source reduction actions). The Maryland Recycling Act sets mandatory recycling rates for State government and local jurisdictions in the State, as well as a voluntary statewide recycling goal. In calendar 2020, Maryland achieved a Maryland Recycling Act rate of 38.22%, a source reduction credit of 4.03%, and a Maryland Recycling Act waste diversion rate of 42.25%.

Oil Control Program

Oil Operations Permit

A person who stores 10,000 gallons or more of oil in an above-ground tank, stores 1,000 gallons or more of used oil, transports oil, operates an oil transfer facility, or stores and treats oil-contaminated soil must obtain an oil operation permit. A person who stores less than 10,000 gallons of nonedible oil in above ground tanks, less than 1,000 gallons of used oil, or any quantity of edible oil not intended to be used as a motor fuel, lubricant, or fuel source, is exempt from this requirement but is not exempt from specified spill reporting, construction, and other regulatory standards or procedures.

Oil Transfer License

A person may not transfer oil in the State without a license. Additionally, a person other than a vessel or barge may not transfer oil in the State without a license. Funds received from the oil transfer license fee are used to fund the State's oil control and spill response activities. Oil in containers of less than 100 gallons in capacity, and certain oil products, are exempt from the oil transfer fee and reporting requirements.

Oil Control Program General Wastewater Discharge Permit

A general permit for wastewater discharges (ground or surface water) from oil-related activities is issued to categories of business activities that are similar in their wastewater characteristics. General permits with standardized permit conditions have been established for:

- stormwater and hydrostatic test water from oil terminals with less than five million gallons total storage capacity and without pipeline or marine transfer capabilities; and
- remediated groundwater from petroleum contaminated groundwater sources.

Surface Water Discharge Permit for Oil Terminals

A surface water discharge permit combines the requirements of the State discharge permit program and the National Pollutant Discharge Elimination System into one permit for oil terminal facilities that discharge stormwater or hydrostatic test water to State surface waters.

Groundwater Discharge Permit for Oil Terminals

A groundwater discharge permit combines the requirements of the State discharge permit program and the National Pollutant Discharge Elimination System into one permit for oil terminal facilities that discharge stormwater or hydrostatic test water to State groundwaters. Oil terminals with a storage capacity of more than five million gallons that receive oil by pipeline or marine transfer must apply. In fiscal 2021, there were no groundwater discharge permits for oil terminals in effect.

Underground Storage Tank Technician, Remover, or Inspector Certification

To protect groundwater from leaks caused by improperly removed or installed underground storage tanks or noncompliant underground storage tanks, an individual who removes, installs, upgrades, repairs, retrofits, or inspects an underground storage tank must be certified.

Lead Poisoning Prevention Program

The Lead Poisoning Prevention Program serves as the coordinating agency for statewide efforts to eliminate childhood lead poisoning. Approximately 0.2% of all Maryland children younger than age six who were tested in 2020 had elevated blood lead levels of 10 micrograms per deciliter or more; this reflects a decline in the number of cases from 328 in 2019 to 270 in 2020. Much of the decline in blood lead levels in recent years is the result of implementation and enforcement of the State's lead law. The Maryland Targeting Plan for Areas at Risk for Childhood Lead Poisoning, released in 2015, and accompanying proposed regulations, called for blood lead testing at 12 months and 24 months of age throughout the State. Previously, only children living in certain at-risk zip codes or who were enrolled in Medicaid were targeted for testing. These initiatives have significantly increased the number of children receiving blood lead testing statewide.

Lead Accreditation and Oversight Division

The Lead Accreditation and Oversight Division assists in preventing childhood lead poisoning and protecting at-risk individuals from lead exposure by overseeing the regulated community of third-party lead providers in order to ensure compliance with State laws related to lead accreditation, lead inspection, and lead abatement requirements. One of the division's activities includes the oversight of lead paint abatement work. This work includes any activity which eliminates or reduces lead paint hazards, including paint removal, replacement of components, encapsulation, repainting, and inspection. A contractor, supervisor, risk assessor, or

inspector engaging in such activities must be accredited through the administration. Abatement workers must be trained, but do not need to be accredited.

Training providers for people involved in the abatement of lead paint (workers, supervisors, inspectors, and risk assessors) must employ accredited instructors and conduct training courses that are accredited by the administration.

Information on the State's related Lead Paint Rental Unit Registration program can be found below in the Technical Services and Operations Program section.

Land Restoration Program

The Land Restoration Program focuses on cleaning up uncontrolled hazardous waste sites throughout the State. Clean up projects abate immediate uncontrolled discharges, ensure that contaminated soil does not pose a risk to public health and the environment, and address groundwater contamination and surface water discharges.

Voluntary Cleanup Program

The Voluntary Cleanup Program streamlines and provides certainty in the processes for cleaning up eligible properties contaminated with hazardous waste or oil. The program also enables eligible purchasers of property to substantially limit liability for past contamination before purchasing property. A companion program, the Brownfields Revitalization Incentive Program, administered by the Department of Commerce, may provide financial incentives to certain sites in the cleanup program or those that are contaminated by oil.

Mining Program

The mission of the Mining Program is to protect the public and the environment from the potential impacts of active mining and to promote the restoration and enhancement of active and abandoned mine land and water resources.

Coal Mining Permit

A coal mining permit is required for surface coal mining, deep coal mining, prospecting, preparation plants, loading facilities, and refuse reclamation operations. Mining permit requirements are aimed at protecting the public and the environment from the potential adverse effects from coal mining.

Coal Mining Operator License

A person responsible for a coal mining operation must obtain a mining operator license from the administration. The license ensures that coal mining operations meet the administration's

environmental standards, have proper credentials, have acceptable track records in-state and out-of-state, and meet financial accountability requirements.

Surface Coal Mining Blaster Certification

The use of explosives at surface coal mining operations must be conducted under the direction of a certified blaster. A blaster is the person who is directly responsible for the use of explosives at surface coal mining operations. The blaster must be familiar with the blasting plan and site-specific performance standards for the mining operations.

Surface Mining License

A person responsible for a surface mining operation must obtain a license from the administration. The license ensures that noncoal mining operations meet the administration's environmental standards, have proper credentials, have acceptable track records in the State and elsewhere, and meet financial accountability requirements.

Noncoal Mining Permit

A permit is required to conduct surface mining to minimize the effects of noncoal mining activities (sand, gravel, clay, limestone, granite, shale, and dimension stone) on the environment, to provide proper land reclamation, and to ensure public safety.

Oil and Gas Exploration and Production

A person proposing to drill a well for oil or gas must obtain a permit from the administration's Mining Program before beginning work. Permits are also required for seismic operations. However, permits are not issued for the hydraulic fracturing of a well for the exploration of oil or natural gas, which is a prohibited activity in the State. The review process evaluates the technical adequacy of the project, ensures sufficient environmental controls are employed, and assures citizens that property and mineral interests are protected. At the end of fiscal 2021, there were 100 oil and gas exploration and production permits in effect, and zero renewal permit actions in progress.

Industrial General Discharge Permits from Mining Operations

As mentioned above in the discussion on general discharge permits, the Water and Science Administration established a general permit with standardized permit conditions for wastewater and stormwater discharges from surface coal mines, mineral mines, quarries, borrow pits, ready-mix concrete, and asphalt plants.

Technical Services and Operations Program

Hazardous Waste: Environmental Protection Agency Identification Number Assignment

Generators and transporters of hazardous waste and facilities that treat, store, or dispose of hazardous waste must notify the U.S. Environmental Protection Agency and the administration before treating, storing, disposing, or transporting hazardous waste. Further, large quantity handlers of universal waste must notify the administration before accumulating 5,000 kilograms of universal waste for the first time. Once the administration is notified, the generator or transporter is assigned an Environmental Protection Agency identification number.

Controlled Hazardous Substances and Special Medical Waste Hauler and Vehicle Certification

To ensure the safe transport of hazardous wastes within the State, the administration regulates the movement of controlled hazardous substances by certifying controlled hazardous substance haulers, vehicles, and drivers, and by requiring manifests to track hazardous waste. The administration regulates the movement of special medical wastes in much the same way.

Lead Paint Rental Unit Registration

Lead-based paint is the major source of lead exposure for children in the State. While the use of lead-based paint has been banned in the United States since 1978, lead-based paint remains on interior and exterior surfaces of many older buildings. The Maryland lead law establishes registration and inspection requirements aimed at minimizing the risk of lead poisoning among tenants of residential rental properties constructed before 1978. Compliance with the law involves (1) registration of the property with the administration; (2) distribution of tenant educational information; (3) meeting applicable risk reduction standards; and (4) using trained or accredited workers, supervisors, and contractors for work related to meeting risk reduction standards. At the end of fiscal 2021, there were more than 121,000 pre-1978 rental dwelling units registered with the administration.

Enforcement and Compliance

The department imposes penalties and takes enforcement actions that appropriately address and adequately punish any violations found. The department's coordinated enforcement and compliance effort seeks compliance with all legal requirements and encourages business practices that foster active pollution prevention.

Through the enforcement of the laws and regulations that govern the actions of the department's programs, each program individually and collectively contributes to the compliance process. In addition to State laws and regulations, federal rules and regulations also must be

implemented. In many instances, an individual company or industrial facility may fall under the jurisdiction of several environmental programs at the federal, State, and local level. However, most enforcement programs share common functions, including inspections, evaluations, and monitoring.

If an inspection reveals a violation, many programs have a discretionary component that allows a company to fix a minor problem without the risk of a fine or civil or criminal action. More serious action is undertaken in the form of fines, corrective orders, and injunctions. In some cases, criminal sanctions may be initiated by the department if an inspection reveals a significant violation or if a minor problem indicates a pattern of noncompliance and develops into an ongoing significant violation.

The Environmental Crimes Unit of the Maryland Office of the Attorney General is responsible for the coordination, investigation, and prosecution of criminal environmental violations and other associated criminal charges throughout the State. Typical environmental cases involve the illegal discharge of pollutants into the waters of the State, the illegal accumulation, storage, or disposal of hazardous waste, open dumping, accumulation or disposal of solid waste, violations of State laws, and frauds associated with the State's lead paint laws. In fiscal 2021, the unit opened 35 criminal investigations. At the close of the fiscal year, 11 matters remained pending.

The department is required by law to report compliance activity data about its enforcement activity at facilities that are subject to regulation. **Exhibits 3.1** and **3.2** provide summaries of the department's various fiscal 2021 compliance performance measurements and the fines collected under Section 1-301(d) of the Environment Article.

Exhibit 3.1
Maryland Department of the Environment
Compliance Activity Performance Measurements
Fiscal 2021

Permitted Sites and Facilities	
Permits/Licenses Issued	7,157
Permits/Licenses in Effect	64,533
Other Regulated Sites and Facilities	147,066
Inspections	
Sites Inspected	40,213
Inspections, Audits, Spot Checks	120,627
Enforcement Actions	
Compliance Assistance Rendered	12,776
Enforcement Actions Taken	15,827
Penalties	
Amount of Penalties Obtained*	\$2,926,453

*This number reflects all fines collected by the department (Exhibit 3.2 shows the portion of these fines that were deposited in specific funds).

Source: Maryland Department of the Environment

Exhibit 3.2
Fines Collected for Enforcement Actions*
Fiscal 2021

Clean Air Fund	\$387,134
Clean Water Fund	1,759,121
Hazardous Substance Control Fund (HSCF)	0
Recoveries for Expenditures from HSCF (Environment Article under Section 7-221)	150,322
Nontidal Wetland Compensation Fund	0
Oil Disaster Containment, Clean Up, and Contingency Fund	121,800
Total	\$2,418,377

*Only includes those funds required to be reported under Section 1-301(d) of the Environment Article.

Source: Maryland Department of the Environment

Chapter 4. Consumer Protection

Maryland consumer protection laws establish standards and rights to promote a competitive, free, and honest marketplace. Specifically, the Maryland Consumer Protection Act was enacted to ensure that consumers are not deceived, or provided with false or misleading information, when purchasing or using consumer goods, services, credit, or real estate. The Act sets certain minimum standards for the protection of consumers across the State. This chapter describes some of the laws concerning consumer protection, the regulatory agency with the primary responsibility for enforcing them, and the penalties that may apply to violators of these laws.

Regulatory Authority

Consumer protection laws in Maryland are enforced generally by the Consumer Protection Division of the Office of the Attorney General. Other agencies also have some responsibility for enforcing certain consumer protection laws. The Office of the Commissioner of Financial Regulation in the Maryland Department of Labor, for example, has a role in enforcing the consumer credit laws and consumer motor vehicle leasing contracts laws and the Secretary of State regulates charitable fundraising entities.

The Consumer Protection Division enforces the State consumer protection laws against those who commit unfair, abusive, or deceptive trade practices. An unfair, abusive, or deceptive trade practice includes (1) making false or misleading oral or written statements that have the capacity, tendency, or effect of deceiving or misleading consumers; (2) misrepresenting the quality, sponsorship, or nature of any consumer goods, realty, or services; (3) failing to state a material fact if the failure deceives or tends to deceive; and (4) advertising or offering consumer goods, realty, or services in a manner that does not conform with actual intent or form of sale.

The division's responsibilities generally include:

- mediating complaints through a unit comprised of professional supervisors and trained volunteers;
- providing a unique voluntary binding arbitration program;
- seeking restitution for consumers, civil penalties, and costs through administrative hearings and court proceedings;
- making policy recommendations to the Governor and the General Assembly;
- assisting, developing, and conducting programs of consumer education and information through publications and other materials prepared for the public;

- undertaking activities to encourage business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the promotion and sale of consumer goods and services;
- protecting the public from fraudulent schemes and promotions; and
- reporting to other law enforcement authorities' information about violation of the laws affecting consumers.

Further, as part of the division, a Consumer Council advises the division, undertakes studies and reports, and fosters cooperation among federal, State and local agencies, and private groups. The council includes representatives of consumer interests, business interests, and the public.

The division operates through 12 units; the activities of each unit is briefly described below.

- **Home Builder and Home Builder Sales Representative Registration Unit:** Registers home builders and home builder sales representatives and ensures compliance with the Maryland Home Builder Registration Act and other builder-related laws. The unit also administers the Home Builder Guaranty Fund, which provides compensation to purchasers of new homes who suffer actual losses as a result of construction defects that have not yet been resolved by their builders.
- **Health Club Registration Unit:** Registers health clubs and ensures that they are properly bonded.
- **Health Education and Advocacy Unit:** Assists health care consumers in understanding their health care bills; assists patients with health equipment warranty issues; mediates patient disputes with health care providers; and assists patients in filing grievances under their health insurance carrier's internal grievance process. Health insurers must notify their insureds that the unit is available to assist if a consumer wishes to appeal a denial of coverage. Patients appealing an insurer's decision may obtain assistance by calling the unit's toll-free hotline or by filing a complaint online or by mail. When necessary, the unit will file a formal written grievance with a health insurer on behalf of a patient and, in certain circumstances, transfer the case file to the Maryland Insurance Administration or other applicable external review organization. The unit also helps consumers who have been denied enrollment in a Qualified Health Plan or denied Advanced Premium Tax Credits or cost-sharing subsidies by Maryland Health Connection.
- **Identity Theft Unit:** Assists consumers who have been victims of identity theft and helps to educate consumers about how to avoid becoming a victim in the first place. The unit also assists consumers in placing freezes on their credit reports and works with businesses and consumers when a security breach has occurred.

- **Education Unit:** Prepares publications and designs other activities to inform the public of their rights and responsibilities as consumers.
- **Mediation Unit:** Resolves disputes between consumers and businesses through mediation.
- **False Claims Unit:** Investigates and litigates cases in which a government contractor or grantee is suspected of submitting false or fraudulent claims for payment to the State.
- **Investigative Unit:** Works with the division's attorneys to investigate alleged violations of the Consumer Protection Act and related statutes.
- **Arbitration Unit:** Renders binding decisions on disputes that cannot be resolved through mediation, provided both parties agree to submit the dispute to arbitration. Neither party is charged for this service.
- **Enforcement Unit:** Enforces the Consumer Protection Act and other consumer protection statutes; the unit also includes subunits specifically dedicated to certain policy areas (*e.g.*, housing, financial transactions, health fraud, and opioids).
- **Senior and Vulnerable Adult Asset Recovery Unit:** Pursues asset recovery on behalf of financially exploited senior citizens (aged 68 or older) and vulnerable adults (a person who lacks the physical or mental capacity to provide for their daily needs) by bringing civil actions for damages on their behalf against persons who financially exploited them by way of deception, intimidation, or undue influence.
- **Structured Settlement Transferee Unit:** Implements a registration program for transferees, which is required by the State's Structured Settlement Protection Act.

Exhibit 4.1 summarizes the Consumer Protection Division's activities in fiscal 2021.

Exhibit 4.1
Consumer Protection Division Activities
Fiscal 2021

Number of Inquiries	37,120
Number of Complaints Received	10,064
Number of Arbitrations	11
Number of Cease and Desist Orders and Settlements	46
Amount of Recoveries for Consumers	\$29,067,000

Source: Office of the Attorney General, Consumer Protection Division

Consumer Protection Laws

Consumers are provided with certain protections from unfair, abusive, or deceptive practices by businesses under the State's consumer protection laws. Many of these laws are discussed below, although the list is not all-inclusive. Consumer protection laws are set forth in the Commercial Law, Real Property, and Transportation Articles of the Annotated Code of Maryland.

Advertising

A merchant may not advertise items at a low price with little or no intention of selling the advertised items and then try to sell similar, yet more profitable, items. There must be enough items on hand at the store to meet a reasonably expected public demand, unless the advertisement discloses a limited quantity or other qualification. In addition, phony going-out-of-business sales are prohibited, and distress sales may be held only for a 60-day period. Making a statement in an advertisement that a person knows or should know is untrue, deceptive, or misleading (false advertising) is a misdemeanor.

Aftermarket Crash Parts

Before beginning repair work on a vehicle, an auto body shop must provide the vehicle owner with a list of replacement crash parts that the shop intends to use in making repairs. Auto body shops must disclose to vehicle owners whether the parts are genuine crash parts (original manufacturer) or aftermarket crash parts.

Arbitration of Consumer Claims

The Maryland Transparency in Consumer Arbitrations Act requires an arbitration organization that performs an arbitration activity related to 50 or more “consumer arbitrations” during a five-year period to collect, publish, and make publicly available specified information about the parties involved, types of claims handled, and arbitration outcomes. A consumer arbitration is a binding arbitration conducted in accordance with a consumer arbitration agreement. The information must be updated by the arbitration organization at least every quarter and could be considered in determining whether a consumer arbitration agreement was unconscionable or unenforceable under law. Consumers may also seek injunctive relief against an arbitration organization.

Excluded from the Act’s scope are arbitrations (1) conducted in accordance with specified insurance policies; (2) governed by rules adopted by a securities self-regulatory organization and approved by the federal Securities and Exchange Commission; (3) between a consumer and certain nursing homes or long-term care facilities; and (4) involving a public- or private-sector collective bargaining agreement.

Automotive Repair Facilities

Before beginning any repair work for which a customer will be charged more than \$50, automotive repair facilities are required by the Maryland Automotive Repair Facilities Act to give the customer on request a written statement that contains specified information, including the estimated price for labor and parts, the estimated surcharge, if any, and the estimated completion date. If disclosed prior to the estimate being made, the automotive repair facility may charge a reasonable fee for the estimate.

Without the customer’s consent, an automotive repair facility may not charge an amount that exceeds the written estimate by 10%. The facility also must prepare an invoice that describes all work completed, including all warranty work, and all parts supplied.

Automotive Warranties

The Maryland Automotive Warranty Enforcement Act, commonly known as the Lemon Law, provides for the enforcement of manufacturer’s warranties on new motor vehicles. The Lemon Law applies to the sale of all new cars, small trucks, multipurpose vehicles, and motorcycles registered in the State regardless of where they were purchased (or leased). The

warranty period is 24 months after the motor vehicle was originally delivered to the consumer or 18,000 miles, whichever comes first.

Under the law, if a consumer informs the manufacturer or factory branch of any defect or condition that does not conform with all applicable warranties, the manufacturer or factory branch, its agent, or its authorized dealer must make the necessary repairs to any defect or condition covered under a warranty. If the manufacturer, factory branch, agent, or dealer is unable to repair a consumer's motor vehicle after a reasonable number of attempts, the manufacturer or factory branch must either:

- replace the motor vehicle with another that is acceptable to the consumer; or
- accept return of the motor vehicle and refund the full purchase price, less a reasonable allowance for (1) the use of the motor vehicle (not to exceed 15% of the purchase price) and (2) damage not attributable to normal wear, with limited exceptions (*e.g.*, a manufacturing defect).

The law presumes that a reasonable number of attempts have been undertaken if (1) the manufacturer has made four or more unsuccessful attempts to repair the defect; (2) the manufacturer has failed to resolve a problem with the braking or steering systems after one repair attempt; or (3) the motor vehicle is out of service for one or more problems for a cumulative total of 30 or more days. A manufacturer or factory branch is not required to replace the motor vehicle or offer a refund if the defect:

- does not substantially impair the use and market value of the motor vehicle; or
- is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle.

Caller ID Spoofing

Under the federal Truth in Caller ID Act, Federal Communications Commission rules prohibit any person from transmitting misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value. State law specifically prohibits a person from performing "caller ID spoofing" when contacting another individual in the State with the intent to defraud, harass, cause harm to, or wrongfully obtain something of value from another. Caller ID spoofing is the practice of using an application or other technology in connection with a communications service to knowingly cause a caller identification service to transmit false or misleading caller identification information to an individual receiving a call.

Charitable Organizations

The Office of the Secretary of State registers and regulates charities that solicit in Maryland, including the review of a charitable organization's financial and governing documents, as well as the review of all fundraising contracts. Under the Maryland Solicitations Act, certain charitable organizations and representatives must register with the office and may not engage in certain conduct.

With some exceptions, organizations that solicit charitable contributions, professional solicitors, and fundraising counsel must register. There are more than 16,000 registered charities in the State. The office receives and investigates complaints from the public about charitable organizations. A person who commits a willful or grossly negligent violation of the Act or causes a person to commit a willful or a grossly negligent violation of the Act is guilty of a misdemeanor and on conviction is subject to specified criminal penalties.

Consumers can check the Maryland Charities Database to see whether a charity is registered with the office. The database also provides information that shows how much money is actually spent for the charitable purpose.

Condominium Sales

Under the Maryland Condominium Act, a condominium developer must disclose all material facts about the property and file a public offering statement with the Secretary of State. The statement must include a copy of the proposed contract of sale for the unit and other detailed information regarding the condominium. The Act also establishes minimum procedural standards for the operation of the condominium's council of unit owners. The Secretary of State works in cooperation with the Consumer Protection Division to enforce the laws that affect consumers under the Act.

Consumer Debt Collection

Under the Maryland Consumer Debt Collection Act, a person collecting a debt arising out of a consumer transaction must adhere to certain requirements. Among other things, a debt collector may not:

- use grossly abusive or obscene language, use or threaten violence, or send a consumer letters that are designed to be mistaken for legal documents;
- threaten criminal prosecution, unless the transaction involved the violation of a criminal statute;
- hurt a consumer's credit reputation by disclosing or threatening to disclose false information about the consumer;

- contact a consumer's employer or make a claim against a consumer's wages until obtaining a court order against the consumer; or
- engage in unlicensed debt collection activity in violation of State law or engage in any conduct that violates specified sections of the federal Fair Debt Collection Practices Act.

Debt collectors are allowed to write a letter to a consumer demanding payment, telephone a consumer at a reasonable hour of the day or night or visit a consumer at home at a reasonable hour to demand payment. Debt collectors who violate the laws pertaining to debt collection are liable for damages caused to the consumer, including damages for emotional distress or mental anguish suffered with or without accompanying physical injury.

The Consumer Protection Division has authority to enforce the Act, which broadly applies to all debt collectors. The State Collection Agency Licensing Board in the Office of the Commissioner of Financial Regulation also regulates and licenses debt collection agencies, which are a subset of debt collectors. For further information regarding debt collectors, see "Chapter 7. Financial Services Industry" of this handbook.

Credit Cards and Payment by Check

As a condition of accepting a credit card as payment for consumer goods, services, credit, or realty, a person may not record the address or telephone number of the credit cardholder. There are few exceptions to this prohibition, including when the information is necessary for delivery or is required for a special order of consumer goods or services. A person who accepts a credit card for payment may request the credit cardholder to display a form of identification. Electronically printed credit card receipts may not display more than the last five digits of the credit card number and may not display the expiration date of the credit card.

If a credit card is issued without a person's prior request (excluding renewal or replacement of an existing card originally applied for or accepted by the cardholder), the card is not considered accepted until the person signifies acceptance of the card in writing or uses it to obtain credit. Until then, the issuer of the unrequested card assumes the risk of its loss, theft, or unauthorized use and is barred from any recovery against the person to whom the card is issued for any damages that result from its loss, theft, or unauthorized use.

As a condition of accepting a check as payment for consumer goods, services, credit, or realty, a person may not request or record the account number of any credit card of the drawer of the check. However, the person may request to see a credit card as identification or as evidence of creditworthiness and may record the card's type and issuing institution.

Credit Denial, Consumer Reporting Agencies, and Security Freezes

State and federal equal credit opportunity laws prohibit discrimination by a creditor on the basis of race, sex, marital status, national origin, religion, age, receipt of public assistance, or good faith exercise of any rights under the federal Consumer Credit Protection Act.

Among other things, creditors are prohibited from:

- denying credit to a married couple by refusing to consider the incomes of both spouses if they apply for a joint account;
- refusing to consider alimony and child support payments if the amount and regularity of the payments can be verified;
- refusing to recognize the legal name of any married person; and
- asking a woman who applies for credit whether she plans to have children.

A consumer reporting agency may furnish a consumer report only:

- in response to a court order;
- in accordance with written instructions of the consumer to whom it relates; or
- to a person that the agency has reason to believe intends to use the information in connection with a credit transaction or for employment, insurance underwriting, or licensing purposes, or otherwise has a legitimate business need for the information.

Maryland consumers may obtain two free credit reports each year from each of the three major credit reporting agencies – one under federal law and one under State law. Also, consumers may place a “security freeze” on their credit reports to prohibit a consumer reporting agency from disclosing information in the consumer’s credit report without the consumer’s express consent. A representative of a protected consumer may place a security freeze on the credit report of a protected consumer. A protected consumer is (1) an individual under the age of 16; (2) an incapacitated person or protected person for whom a guardian or conservator has been appointed; (3) an individual 85 years old or older; (4) a service member; or (5) an individual incarcerated in a State correctional institution. In addition, a consumer reporting agency must place, on request of the Department of Human Services, a security freeze for a foster care child who was in the custody of a local department of social services. A credit reporting agency may not charge a fee for the placement, removal, or temporary lift of a security freeze.

If a consumer is denied credit because of information contained in a consumer report, the user of the report must give the consumer the name and address of the consumer reporting agency that provided the information.

A complaint for a violation of a law relating to consumer credit reporting should be filed with the Commissioner of Financial Regulation. The commissioner has the authority to hold hearings, issue orders for compliance with the law, and impose civil penalties on violators.

For further information regarding consumer reporting agencies, see “Chapter 7. Financial Services Industry” of this handbook.

Credit Services Businesses

A credit services business is a person that, with respect to the extension of credit by others, provides or represents that the person can or will provide, in exchange for payment, any of the following services: (1) improving a consumer’s credit record, history, or rating or establishing a new credit file or record; (2) obtaining an extension of credit for a consumer; or (3) providing advice or assistance to a consumer about improving the consumer’s credit record, history, or rating; establishing a new credit file or record; or obtaining an extension of credit.

Under the Maryland Credit Services Businesses Act, a credit services business must obtain a license from the Commissioner of Financial Regulation. A credit services business, its employees, and its independent contractors may not:

- receive payment solely for referring a consumer to a credit grantor who will or may extend credit to the consumer if the credit is extended on substantially the same terms as those available to the general public;
- make, assist, or advise a consumer to make false or misleading statements in connection with a credit application;
- make or use false or misleading representations in offering or selling the services of the credit services business;
- engage in an act, practice, or course of business that operates as a fraud or deception in connection with offering or selling its services;
- accept payment before rendering full and complete performance of the contracted services;
- create or assist a consumer in creating a new consumer credit report, credit file, or credit record by obtaining and using a different name, address, telephone number, Social Security number, or employer tax identification number;

- assist a consumer in obtaining an extension of credit at an interest rate which, except for federal preemption, would be prohibited under the State’s consumer credit provisions; or
- charge a fee for obtaining an extension of credit if the fee, when combined with any interest charged on the extension of credit, exceeds the legal rate of interest.

A complaint for a violation of the Act can be filed with the Commissioner of Financial Regulation. The commissioner has the authority to hold hearings, issue orders for compliance with the law, and impose civil penalties on violators. The Consumer Protection Division also has authority to enforce the Act.

For further information regarding credit services businesses, see “Chapter 7. Financial Services Industry” of this handbook.

Debt Management Services and Debt Settlement Services

Debt management services means receiving funds from a consumer in order to distribute funds among the consumer’s creditors to pay the consumer’s debts. A person providing debt management services must provide a consumer with a consumer education program, and, through a debt management counselor certified by an independent organization, prepare a financial analysis of and initial budget plan for the consumer’s debt obligations. A person providing debt management services must also provide a consumer with a list of creditors the licensee reasonably expects to both participate and not participate in the debt management services agreement.

A person providing debt management services may charge a consumer a consultation fee and maintenance fee for a debt management services agreement. The consultation fee may not be more than \$50, which includes the cost of a consumer’s credit report. The maintenance fee may not be more than \$8 for each creditor that a consumer has listed in a debt management services agreement and may not exceed \$40 a month. Voluntary contributions from a consumer to a licensee are only allowed if the contribution does not exceed the authorized consultation and maintenance fees.

Debt settlement services means any service or program represented, directly or by implication, to renegotiate, settle, reduce, or in any way alter the terms of repayment or other terms of a debt between a consumer and one or more unsecured creditors or debt collectors. Debt settlement services includes a reduction in the balance, interest rate, or fees. A registrant may charge a consumer a debt settlement services fee, subject to certain restrictions (*e.g.*, a consumer may not be charged only for a consultation). A person providing debt settlement services must adhere to strict advertising requirements and must provide certain information to a consumer in a debt settlement agreement.

For further information regarding debt management services and debt settlement services, see “Chapter 7. Financial Services Industry” of this handbook.

Direct-to-consumer Genetic Testing Companies

A direct-to-consumer genetic testing company is an entity that (1) offers genetic testing products or services directly to a consumer or (2) collects, uses, or analyzes genetic data that resulted from a direct-to-consumer genetic testing product or service that was provided to the company by a consumer. Direct-to-consumer genetic testing companies are required to (1) provide consumers with information regarding the company's policies and procedures regarding the collection, use, and disclosure of consumer's genetic data; (2) obtain specified types of consent from the consumer before collecting, using, or disclosing the consumer's genetic data; and (3) develop and implement policies and procedures to protect genetic data, including policies related to the disclosure of genetic data to law enforcement or other government agencies.

Direct-to consumer or publicly available open-data personal genomics databases are also required to obtain express consent from a service user before conducting a forensic genetic genealogical DNA analysis and search.

Door-to-door Sales

Under the Maryland Door-to-Door Sales Act, a seller must provide a consumer purchasing consumer goods or services costing \$25 or more through door-to-door sales with:

- a copy of the prospective contract with all relevant data, including the name and the address of the seller; and
- a written and oral notice of the consumer's right to cancel the transaction.

If a consumer cancels a sale for a contract other than a home improvement contract within 3 business days, the seller must refund all payments made by the consumer within 10 business days after receiving notice of cancellation. If a consumer cancels a sale for a home improvement contract within 5 business days, or if the consumer is at least 65 years old, within 7 business days, the seller must refund all payments made by the consumer within 10 business days after receiving notice of cancellation.

The laws pertaining to door-to-door sales do not apply to certain transactions, such as transactions following earlier negotiations when the buyer visited a retail business establishment; transactions in which the buyer initiated contact with the seller and the goods or services are needed to meet a bona fide immediate personal emergency of the buyer under specified circumstances; and transactions conducted and consummated entirely by mail, telephone, or electronic communications. Sellers who violate the laws pertaining to door-to-door sales are liable for damages caused to the consumer, as well as criminal penalties.

Door-to-door Solicitations

Under the Maryland Door-to-Door Solicitations Act, a person making a door-to-door solicitation may not accept or receive, at the time the solicitation is made, \$200 or more in money, check, or other consideration. A solicitation includes a request for money or other valuable consideration or for a pledge or subsequent contribution that promotes the programs or goals of the organization on whose behalf the solicitation is made.

The solicitor must provide the consumer with a pledge form and inform the consumer that a pledge to contribute is not an enforceable contract and the consumer may rescind a pledge at any time. The solicitor also must inform the consumer of the consumer's right to request a refund of a contribution within 30 days after it is made.

Electronic Mail and Facsimile Transmission

A person may not initiate, conspire with another person to initiate, or assist in the transmission of a commercial electronic mail message that (1) misrepresents or obscures any information relating to the point of origin or transmission path of the message or (2) contains false or misleading information in the subject line.

A person may not make an unsolicited facsimile transmission for the purpose of encouraging another person to purchase goods, realty, or services.

Foreclosure Consultants

A foreclosure consultant is a person who solicits or contacts a homeowner and directly or indirectly makes a representation or offer to perform one of a number of services that the person represents will help the homeowner, such as stopping or delaying a foreclosure sale. A foreclosure consultant is prohibited from arranging, offering, or participating in a foreclosure rescue transaction. A foreclosure rescue transaction is a transaction in which a residence in default is conveyed by a homeowner who retains a legal or equitable interest in all or part of the property. A person who acts as a foreclosure consultant must provide homeowners with a contract that includes information regarding the services to be provided and the foreclosure consultant's compensation. The consultant must also provide a notice regarding the homeowners' right to rescind the contract. A consultant may not receive any compensation until after the foreclosure consultant has fully performed all services promised under the contract. A foreclosure consultant may not charge more than 8% a year for interest on a loan that the consultant makes to a homeowner.

If a foreclosure consultant arranges a sale or transfer of a residence in default, the purchaser of the residence must provide the homeowner with a certain notice that includes a disclosure of the homeowner's right to rescind the contract to sell or transfer the residence within five business days of signing the notice. A purchaser of a residence in default may not represent, directly or indirectly, that the purchaser is acting on behalf of the homeowner; is assisting the homeowner to

save the home; or is otherwise assisting the homeowner in preventing a foreclosure if the homeowner will no longer own the property.

Gift Certificates and Gift Cards

A gift certificate generally may not expire or be subject to any fees within four years after it is purchased. A gift certificate is a device that is (1) sold or issued for a cash value that can be used to purchase goods or services or (2) issued as a store credit for returned goods. Prepaid calling cards and gift certificates given for free under an awards, a loyalty, or a promotional program are not considered gift certificates.

Similar rules apply to a “general use” gift card, *i.e.*, a gift card that is processed through a national credit or debit card service and used to purchase goods or services from multiple unaffiliated merchants. General use gift cards may be subject to a fee, such as a dormancy, inactivity, or service fee, if notice of the fee is provided to the consumer. Federal law generally prohibits the sale of a general use gift card if the underlying funds would expire within five years of the card’s issuance.

Health Club Services

A person who sells health club services must register with the Consumer Protection Division and, if the person collects more than three months’ payment in advance, purchase a surety bond for the purpose of reimbursing members who sustain any loss or damage in the event that the health club closes or files for bankruptcy.

A buyer has three business days to cancel a signed health club services agreement in order to receive a full refund. A health club services agreement may not contain an automatic renewal clause, unless the agreement provides for a renewal option for continued membership that is accepted by the buyer.

Hearing Aid Sales

A purchaser of a hearing aid may cancel the purchase for any reason within 30 days of the date of delivery for a full refund, less an amount for services of up to 20% of the purchase price. The contract must state the purchaser’s cancellation rights.

Home Appliance Repairs

A repair company must furnish a written bill for the cost of repairing a home appliance with a retail cost that exceeds \$100. The bill must include (1) the hourly labor rate; (2) the actual repair time; (3) the itemized cost of any new, used, or reconditioned parts used in the repair; and (4) if applicable, a statement that used or reconditioned parts were used. This requirement does not apply if the repair work is done under a service contract or if a flat price or firm estimate is given before the repair work is completed.

Household Goods Movers

Household goods moving services means the loading, packing, moving, transporting, storing while in transit, unloading, or otherwise taking possession or control from a consumer of household goods for the purpose of moving them to another location at the direction of the consumer for a fee. Under the Maryland Household Goods Movers Act, household goods movers may not enforce or threaten to enforce a carrier's lien or refuse to deliver a consumer's household goods when providing moving services within the State. Unless waived by the consumer, a household goods mover must provide a written estimate containing specified information to a consumer before providing household goods moving services for an intrastate move.

A household goods mover must also provide a consumer with a written receipt that states (1) the household goods mover's legal name and (2) the address and telephone number of either the household goods mover's resident agent in the State or, if there is no resident agent, the principal place of business of the household goods mover.

Immigration Consulting Services

An immigration consultant is a person that provides nonlegal advice, guidance, information, or services to a client on an immigration matter for a fee. An immigration matter is any legal proceeding, filing, or action that affects the immigration status of a noncitizen and arises out of specified laws, executive orders, presidential proclamations, or actions of federal agencies. An immigration consultant is not an attorney and must provide specified notice to that effect in a written contract and at each place of business.

An immigration consultant may not:

- provide legal advice or legal services concerning an immigration matter;
- make a misrepresentation or false statement to persuade a client to use the immigration consultant's services;
- make a statement that the immigration consultant can or will obtain special favors from or has special influence with certain federal agencies;
- collect compensation for services not yet performed;
- refuse to return documents supplied by, prepared by, or paid for by a client at the client's request; or
- represent, advertise, or communicate that the immigration consultant possesses titles or credentials that would qualify the immigration consultant to provide legal advice or legal services.

Internet Access Providers (Online Child Safety)

Internet access providers are providers that offer directly to residential customers an interactive computer service to obtain access to the Internet in exchange for consideration. Internet access provider does not include a library or educational institution that operates or offers an interactive computer service to obtain access to the Internet. Maryland's Online Child Safety Act requires Internet access providers to make parental controls available to subscribers in the State at or near the time of subscription.

The required parental controls must allow a subscriber, in a commercially reasonable manner, to block all access to the Internet and either (1) block a child's access to specified websites; (2) restrict a child's access to subscriber-approved websites; (3) restrict a child's access to websites approved by the parental control provider; or (4) monitor the websites a child visits or attempts to visit. The Act allows an Internet access provider to charge a subscriber a fee for use of the parental control features.

Internet Ticket Sales

A person may not intentionally sell or use software to circumvent a security measure, an access control, or any other control or measure on a ticket seller's website that was used to ensure an equitable ticket buying process. The prohibition applies to the purchase of a ticket for admission to an "entertainment event," which is a performance, a recreation, an amusement, a diversion, a spectacle, a show, or any similar event.

In addition, certain misleading practices are prohibited on websites advertising the sale or resale of tickets for entertainment events, including websites that facilitate a secondary ticket exchange or electronic marketplace that enables consumers to sell, purchase, and resell tickets. A person who owns, operates, or controls such a website may not use in the Uniform Resource Locator (URL) a lower-level domain name that contains, or is substantially similar to, the venue name or the event name, including the name of the individual or a group performing or appearing at the event. The prohibition does not apply to a person who is acting on behalf of a venue.

Kosher and Halal Products

A person may not sell unpackaged kosher or halal products unless the person prominently and conspicuously displays a disclosure statement setting forth the basis for the representation that the food is kosher or halal. A disclosure statement must be displayed on the premises where unpackaged kosher or halal food is sold or served. The Consumer Protection Division has adopted disclosure forms to be used by persons who sell kosher or halal food. Packaged kosher food must have a kosher identification securely attached to the outside of the package.

Late Fees – Consumer Contracts

Unless otherwise provided in law, a consumer contract that requires the payment of a late fee must disclose, by its terms or by notice (1) the amount of the late fee; (2) the conditions under which the late fee will be imposed; and (3) the timing for the imposition of the late fee. A late fee in a consumer contract is subject to one of the following limitations:

- the amount of the late fee may be up to \$5 per month, or up to 10% per month of the payment amount that is past due, whichever is greater; and no more than three monthly late fees may be imposed for any single payment amount that is past due, regardless of the period during which the payment remains past due; or
- the amount of the late fee may be up to 1.5% per month of the payment amount that is past due.

A late fee included in a consumer contract may not be imposed until 15 days after the date the bill was rendered for the goods or services provided. If a bill is not rendered, a late fee may not be imposed until 15 days after the payment amount becomes due.

Layaways

Under the Maryland Layaway Sales Act, a layaway sales agreement must include the price and all other terms of the agreement, including a description of the goods and any delivery or service charges. Any reduction in the price of a layaway item that occurs within 10 days after purchase must be passed on to the buyer of the layaway item. Additionally, a seller is prohibited from increasing the layaway price under a layaway agreement.

A seller must permit a buyer to cancel a layaway agreement, without penalty or obligation, within 7 days from the date of the agreement. If the buyer defaults (fails to make a required payment within 15 days after the date it is due), the seller may cancel the layaway agreement and keep 10% of the layaway price or the money the buyer already paid, whichever is less.

Merchandise Delivery

When a consumer orders furniture, major appliances, or other household goods from a dealer, the dealer must include in the sale or lease contract the estimated date on which the dealer reasonably anticipates delivering the merchandise. If the dealer fails to provide the consumer with an estimated delivery date or fails to deliver the ordered merchandise within two weeks of the latest promised date, the consumer may cancel the contract and receive a full refund of the deposit. The dealer must refund the consumer's deposit within two weeks of a request. As an alternative to canceling the contract, the consumer may modify the contract by selecting another item, take a store credit, or agree on a new delivery date.

If the dealer and consumer have agreed on a delivery time but the goods cannot be delivered successfully due primarily to the conduct of the consumer, and if the dealer gives the consumer written or oral notice of the attempted delivery, the consumer forfeits all remedies provided by the law.

Mortgage Servicers

A mortgage servicer must send to a mortgagor, within seven days after acquiring the mortgage servicing, a written notice containing information about the mortgage on the date of the transfer and the new servicer. The information must include the principal and escrow balances of the mortgage and the address where mortgage payments are to be sent.

Motor Vehicle Leasing

The leasing of new and used motor vehicles by individuals for nonbusiness purposes for a lease term of more than four months are regulated in the State. A consumer motor vehicle lease must be in writing, signed by the lessor and lessee, and contain disclosures regarding such matters as insurance coverage, ownership rights, early termination penalties, capitalized costs, and the lessee's rights upon default. A lessor, when extending an existing lease or offering a new lease to cure a default, may not include a provision that is less favorable to the lessee than the original lease. The lessor, however, may increase the security deposit, down payment, or the lease payments as long as the total payments over the new or extended lease term do not exceed the total payments under the original lease. In addition, a lessor may not (1) fail to include any dealer processing or freight charge when determining the adjusted capitalized cost used to calculate the base payment shown in an advertisement for a leased vehicle or (2) advertise to the general public a capitalized cost reduction in connection with a vehicle lease unless the reduction is offered to all potential lessees.

Both the Consumer Protection Division and the Commissioner of Financial Regulation have enforcement authority of consumer motor vehicle leasing contracts.

“Mug Shot” Websites

Mug shots of arrested individuals are widely and freely available from State and local law enforcement agencies. For-profit mug shot websites gather mug shots from law enforcement agencies and publish them on their sites. An individual may request an operator of such a website to remove the individual's photograph or digital image from the site free of charge if the court or police record containing the photograph or digital image was expunged, shielded, or otherwise removed from public inspection, or the resulting judgment was vacated. The website operator must remove the photograph or digital image of the individual within 30 days after receiving the request.

New Home Warranties

Before entering into a contract for the sale or construction of a new home, a home builder must disclose in writing to a purchaser whether the builder participates in a new home warranty security plan. If the builder does not participate, the builder must disclose that without a new home warranty or other express warranties, the purchaser may be afforded only certain limited implied warranties.

A new home warranty under a plan must provide at a minimum:

- a one-year warranty on materials and workmanship;
- a two-year warranty on electrical, plumbing, heating, cooling, and ventilating systems; and
- a five-year warranty against structural defects.

New home warranty security plans must provide the minimum coverage required by law, post a bond, and be approved by the Consumer Protection Division.

Non-disparagement Clauses

A contract or a proposed contract for the sale or lease of consumer goods or services may not include a provision waiving the consumer's right to make any statement concerning the seller or lessor, employees or agents of the seller or lessor, or the consumer goods or services themselves. A person may not threaten or seek enforcement of such a contract provision or penalize a consumer for making a statement protected under the law prohibiting such a contract provision.

Personal Information Protection

The Maryland Personal Information Protection Act imposes certain duties on a business to protect an individual's personal information. A business in possession of personal information must implement and maintain reasonable security procedures and practices to protect the information from unauthorized access, use, modification, or disclosure.

If a data breach occurs, the business must conduct, in good faith, a reasonable and prompt investigation to determine the likelihood that personal information of the individual has been (or will be) misused. If the business determines that personal information likely has been (or will be) misused, the owner or licensee of the computerized data must notify an affected individual as soon as practicable, but not later than 45 days after the business discovers or is notified of the breach. For a business that only maintains personal data, the business must notify the owner or licensee of the breach as soon as practicable but not later than 10 days after the business discovers or is notified of the breach. Notification may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation or jeopardize homeland or national security.

When a breach occurs, a business must also provide notice to the Office of the Attorney General that includes (1) the number of Maryland residents affected by the breach; (2) a description of the breach, including when and how the breach occurred; (3) any steps the business has taken or plans to take relating to the breach; and (4) the form of notice and a sample of the notice that will be sent to individuals affected by the breach. The Act also establishes a specific notification process for breaches involving email account information.

Prizes Conditioned on Purchases or Sales Promotions

A person may not notify another person by any means, as part of an advertising scheme, that the other person has won a prize, received an award, or been selected or is eligible to receive anything of value if the other person must purchase goods or services or pay any money to participate in or submit to a sales promotion effort. However, prizes may be conditioned on the purchase of other goods or services if the retail price of the prize offered does not exceed the greater of (1) \$40 or (2) the lesser of (i) 20% of the purchase price of the goods or services that must be purchased or (ii) \$400.

A person who offers a contest, sweepstakes, or other sales promotion effort not prohibited by law must disclose certain information. Additionally, certain disclosures are required when prizes (1) relate to the sale, lease, or rental of real property; (2) are awarded by chance; and (3) are not awarded by chance (*i.e.*, everyone receives the prize).

Required disclosures must appear on the first page of the prize notification and include information about the retail price and number of prizes offered, the odds of winning, and other rules and conditions involved.

Product Guaranties and Service Contracts

The Maryland Service Contracts and Consumer Products Guaranty Act requires a person that makes a guaranty about a consumer product to provide written information at the time of sale to the consumer about the guaranty, including:

- the duration of the guaranty period measured by time or some other measure of usage, such as mileage;
- any maintenance that a consumer must undertake to be entitled to repairs or replacement under the guaranty;
- the guarantor's obligation during the guaranty period;
- the procedure the consumer must follow to have the defective product repaired or replaced; and

- any means established for quick, informal settlement of any guaranty dispute.

The Act also requires a service contract for the repair, replacement, or maintenance of a product to be in writing and include:

- the contract's duration, measured by time or product usage, and the contract's purchase price and terms, including the provider's obligations;
- any reasonable and necessary maintenance required to be performed by the person guaranteed as a contract condition;
- the merchandise and services to be provided and the procedures to follow to obtain services or file a claim under the contract;
- any limitations, exceptions, or inclusions under the contract;
- the terms, restrictions, or conditions governing cancellation of the contract before its stated termination date; and
- any means established by the provider for quick informal settlement of a dispute.

The Consumer Protection Division's jurisdiction is limited to product guaranties and service contracts that are provided within Maryland. Interstate services, those affecting more than one state, fall under the jurisdiction of federal entities.

Social Security Number Privacy

With the exception of a unit of State or local government, a person may not:

- publicly post or display an individual's Social Security number;
- print an individual's Social Security number on a card required for the individual to access products or services provided by the person;
- require an individual to transmit the individual's Social Security number over the Internet unless the connection is secure or the individual's Social Security number is encrypted;
- initiate the transmission of an individual's Social Security number over the Internet unless the connection is secure or the individual's Social Security number is encrypted; or
- require an individual to use the individual's Social Security number to access an Internet website unless another authentication method is required.

Similarly, unless required by State or federal law, a person may not:

- print an individual's Social Security number on material mailed to the individual;
- include an individual's Social Security number in material that is electronically transmitted to the individual unless the connection is secure or the individual's Social Security number is encrypted; or
- include an individual's Social Security number in any material that is transmitted by facsimile to the individual.

Student Loan Servicers

The Office of the Commissioner of Financial Regulation must designate an individual to serve as a Student Loan Ombudsman. The ombudsman, among other things, receives and processes complaints about student education loan servicing and may refer any matter that is abusive, unfair, deceptive, or fraudulent to the Office of the Attorney General for civil enforcement or criminal prosecution. For further information regarding the ombudsman, see "Chapter 7. Financial Services Industry" of this handbook.

In addition, a student loan servicer (*i.e.*, the entities collecting principal, interest, or other amounts owed on student loans) is also prohibited from taking specified adverse actions with regard to student loan borrowers, including misrepresenting information in connection with the servicing of a student education loan and misapplying (or refusing to correct) a misapplication of a payment.

Telemarketing

Under the Maryland Consumer Protection Act, a telephone solicitor must first inform a consumer of the nature of the call, the caller's name, and the purpose of the call. Additionally, a contract made pursuant to a telephone solicitation is not valid and enforceable against a consumer unless the contract is made in compliance with the Maryland Telephone Solicitations Act, which specifies that:

- a contract resulting from a telephone solicitation must be in writing and signed by the consumer;
- the contract must contain the seller's name, address, and telephone number; the total price of the contract; and a detailed description of the goods or services being sold;
- a conspicuous statement in the contract must disclose that no payments will be required unless the consumer signs and returns the contract to the seller;

- the seller may not charge a consumer's credit account until after the consumer signs the contract and sends it back to the seller; and
- the contract may not exclude from its terms any oral or written representations made by the seller to the consumer.

Do Not Call Registry

The National Do Not Call Registry and related telemarketing laws and rules under the jurisdiction of the Federal Communications Commission and the Federal Trade Commission are enforceable by the Office of the Attorney General in Maryland courts under the Maryland Consumer Protection Act. Each prohibited telephone solicitation is a separate violation.

Telephone Bills – Cramming

“Cramming” is a practice in which a third party adds a charge to an individual's telephone bill for a service the individual did not order, agree to, or use. To combat this practice, State law prohibits a person from submitting charges to a telephone company unless the person first obtains express authorization from the telephone customer. The authorization must include, among other things, the customer's name and telephone number, an explanation of the product or service being purchased and all applicable charges, and an affirmation from the customer that the charges may be billed to the customer's telephone bill.

A telephone customer is not liable for third-party charges that appear on a telephone bill unless the customer (1) was given notice that the telephone company allows third-party billing and (2) was provided access to the name and telephone number of the party that submitted the charge and an itemization of third-party charges, identifying them separately from other charges. A telephone customer also is not liable for any third-party charges that the customer disputes within a reasonable time, unless the party that submitted the charges to the telephone company has provided a copy of the customer's authorization to the telephone company and the customer.

Telephone Records

A telephone record is any information retained by a telephone company that relates to the telephone number dialed, the incoming number of a call made to a customer, or other data related to calls typically contained on a customer's bill. To protect the privacy of cellular and other telephone service subscribers, a person may not:

- knowingly obtain or attempt or conspire to obtain a telephone record without the customer's authorization by fraudulent, deceptive, or false means;
- knowingly sell or attempt to sell a telephone record without the customer's authorization;
or

- receive a telephone record knowing that the record has been obtained without the customer's authorization or by fraudulent, deceptive, or false means.

Ticket Resales

A ticket reseller is prohibited from selling or offering to sell a "speculative ticket," which is defined as a ticket that is not in the actual or constructive possession of the reseller at the time of sale, unless the reseller discloses specified information to a prospective purchaser at the outset of the sales transaction. Ticket resellers are required to refund any consideration or deposit paid for tickets if the reseller fails to obtain the tickets (1) within 24 hours after the approximate date of specified delivery but before the commencement of the event or (2) in conformity with the required disclosures. Any required refunds must be made within 10 days after the final day of the event for which the tickets were sold.

Unit Pricing

A person who sells, offers, or displays for sale a consumer commodity at retail must disclose the total price of the commodity or the unit price if the commodity is (1) sold only by units or (2) is prepackaged and within certain categories, including foods, paper products, wrapping products, and cleaning products. A number of items are exempt from the unit pricing requirements, including certain prepackaged foods, items sold only by prescription, and items sold through vending machines.

Vacation Club Memberships

A vacation club membership is an interest in a vacation club membership plan that entitles a purchaser to the use or occupancy of a vacation accommodation on a recurring basis. It includes an interest in a club that provides or arranges for the use or occupancy of campgrounds, condominiums, or other vacation accommodations. Either party may cancel a contract to purchase a vacation club membership within 10 calendar days after execution. On cancellation, the purchaser is entitled to a full refund. The contract must disclose the right to cancel and receive a refund.

Work-at-home Advertisements

A person that places an advertisement that represents that a person can earn money at home by stuffing or addressing envelopes, mailing circulars, clipping newspaper or magazine articles, or performing similar work must pay compensation to those who perform the represented tasks. The person placing the advertisement may not require a person who will perform the tasks to advance any monetary payment or deposit for any instructional booklets, brochures, or other items or services.

Enforcement and Penalties

The Consumer Protection Division may attempt conciliation, issue cease and desist orders, or seek action in court, including an injunction, to enforce the Maryland Consumer Protection Act. Unless otherwise specified in statute, the general penalty for persons who violate the Act includes:

- civil penalties – a fine of up to \$10,000 for each violation and, if the violator engages in a subsequent violation, a fine of up to \$25,000 for each subsequent violation; and
- misdemeanor criminal penalties – a fine of up to \$1,000 or imprisonment for up to one year, or both.

Other remedies and criminal penalties may apply that are specific to the consumer protections provided in the Commercial Law Article, including the right to a private cause of action.

Civil penalties may be assessed either by the courts or through an administrative action. In setting the amount of the penalty imposed in an administrative proceeding, the Consumer Protection Division considers the severity of the violation for which the penalty is assessed; the good faith of the violator; any history of prior violations; whether the amount of the penalty will achieve the desired deterrent purpose; and whether the issuance of a cease and desist order, including restitution, is insufficient for the protection of consumers.

In any action brought by the Office of the Attorney General under the Consumer Protection Act, the office is entitled to recover the costs of the action for the use of the State.

Section II. Industry-specific Regulation

Section II discusses industry-specific regulations for a general group of nine business/industry activities in Maryland. Each chapter describes the regulations applicable to the industry groups and the State agencies responsible for implementing these regulations. In addition, Chapter 14 discusses specific provisions of Maryland's occupational and professional licensing requirements.

Section II is organized as follows:

- Chapter 5 Agriculture
- Chapter 6 Natural Resources Management
- Chapter 7 Financial Services Industry
- Chapter 8 Insurance
- Chapter 9 Health
- Chapter 10 Alcohol and Tobacco
- Chapter 11 Transportation
- Chapter 12 Public Utilities
- Chapter 13 Sports
- Chapter 14 Occupational and Professional Licensing

For further information regarding the departments, agencies, and other authorities that regulate these industries, refer to *Volume II – Government Services in Maryland*.

Chapter 5. Agriculture

Agriculture is a vital industry that contributes significantly to Maryland's economy. As of 2019, the value of agricultural products produced by the State's more than 12,000 farms totaled approximately \$2.2 billion, with poultry and eggs (\$0.9 billion), corn (\$0.2 billion), and soybeans (\$0.2 billion) accounting for almost two-thirds of total sales. Other significant products included milk from cows; cattle and calves; hogs; oilseeds, dry beans, and dry peas; wheat; nursery, greenhouse, floriculture, and sod; and vegetables, melons, potatoes, and sweet potatoes. The agricultural industry employs approximately 350,000 people and is the largest single land use in the State with about one-third of the State's total land area (2 million acres) being used for farming.

The Maryland Department of Agriculture's mission is to provide leadership and support for the agriculture industry and the citizens of Maryland by conducting regulatory, service, and educational activities that assure consumer confidence, protect the environment, and promote agriculture. To help farmers produce and sell high-quality commodities, the department works to prevent and control disease in livestock and poultry, controls insect pests and weeds, inspects seeds and fertilizers, and disseminates market reports and statistics that help farmers plan farm production. To protect the environment, the department regulates the use of pesticides, implements sound soil conservation methods, and preserves valuable agricultural land. To protect consumers, the department inspects and grades agricultural commodities, oversees the practice of veterinary medicine, and inspects the weighing and packaging of a wide range of products.

The department also administers the Maryland Agricultural Land Preservation Foundation and supports several boards and commissions. The Maryland Agricultural Commission advises the Secretary of Agriculture on agricultural policy, helps the department promote farming, evaluates regulations that affect the industry, and assists in the development and implementation of the statewide strategic plan for agriculture.

The department's website includes a Regulatory Information Center that provides information for the public about enforcement activities and guidance for farmers on environmental permit requirements, as well as information regarding proposed regulations. Online searchable pesticide databases enable consumers to find certified or licensed businesses and individuals to perform pesticide-related services. The department also has selected services available to consumers online, including certain registrations and certain license, permit, and certificate renewals.

The department's regulatory activities are conducted through the following offices, described in further detail throughout this chapter:

- Office of Marketing, Animal Industries, and Consumer Services;
- Office of Plant Industries and Pest Management; and

- Office of Resource Conservation.

For detailed information on federal regulation of agricultural land and products, the Maryland Department of Health, the Maryland Department of Agriculture, the U.S. Environmental Protection Agency, and the U.S. Department of Agriculture may be consulted.

Office of Marketing, Animal Industries, and Consumer Services

The Office of Marketing, Animal Industries, and Consumer Services includes programs that promote the market for Maryland agricultural products, foster and encourage the agriculture industry, and regulate activities related to the commercial use of weights and measures, the practice of veterinary medicine, the prevention and control of animal diseases, egg quality, and commercial horseback riding stables. Sections and programs within the office include:

- Weights and Measures;
- Food Quality Assurance;
- Agricultural Statistics Service;
- Agriculture and Seafood Marketing; and
- Animal Health.

The office is assisted by the Maryland Agricultural Fair Board; Maryland Horse Industry Board; Maryland Organic Certification Advisory Committee; Seafood Marketing Advisory Commission; and State Board of Veterinary Medical Examiners.

The services provided and regulatory activities conducted by each of the sections and programs, the State Board of Veterinary Medical Examiners, and the Maryland Horse Industry Board are described below.

Weights and Measures

The Weights and Measures Program inspects, tests, and registers all weighing and measuring devices used in the purchase and sale of commodities or the exchange of goods and services, such as gasoline pumps and food scales at supermarkets. Prepackaged commodities are inspected and tested for accuracy of quantity statements and compliance with labeling requirements. The program also offers a voluntary registration program for service agencies and service technicians involved in the installation, service, repair or reconditioning of commercial weighing and measuring devices. Maryland's National Type Evaluation Program laboratory is one of several state participating laboratories authorized by the National Conference on Weights and

Measures to test and inspect the accuracy of new measuring and weighing devices and systems before they are approved for use in commerce.

Enforcement activities include regular inspections, undercover investigations, and responses to consumer complaints. The program's activities from fiscal 2018 to 2021 are summarized in **Exhibit 5.1**.

Exhibit 5.1
Weights and Measures
Administrative Controls and Miscellaneous
Fiscal 2018-2021

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Registration Certificates Issued for Weighing and Measuring Devices	6,718	6,686	6,604	6,340
Type Evaluation of Devices Conducted	17	13	8	11
Citizen Complaints Received and Investigated	455	325	257	168
Disciplinary Hearings, Criminal Arrests, Summonses Obtained and/or Civil Penalties	13	2	1	3

Source: Maryland Department of Agriculture

Food Quality Assurance

The Food Quality Assurance Program is responsible for a combination of regulatory and voluntary programs to promote the sale and consumption of high-quality and wholesome agricultural food products. The program consists of four sections (grading services, egg inspection, grain dealers licensing, and organic certification) that conduct a variety of inspections, audits, registrations, and certifications of agricultural commodities and facilities to provide consumers with safe, high-quality agricultural food products while maintaining fair trade practices and enhancing product marketability for the agricultural industry.

The program also provides education and training services for farmers in the State. In 2021, the department completed its final year of work developing a Produce Safety Program to implement and ensure compliance with the federal Food Safety Modernization Act. The program trains farmers on the safe growing, harvesting, packing, and holding of fruits and vegetables grown for human consumption to assist their compliance with the Food Safety Modernization Act Produce Safety Rule. The department also offers voluntary Good Agricultural Practices and Good Handling Practices food safety programs, On-Farm Readiness Reviews, and technical assistance to correct potentially noncompliant issues on farms.

Grading Services

The Grading Services Section provides producers and processors with a voluntary certification program for agricultural commodities including meat, poultry, eggs, fruit, vegetables, and grain. This certification system provides a uniform basis for marketing agricultural commodities and ensures buyers that certified products meet quality standards. The section inspects and certifies the quality, size, labeling, weight, sanitation, and packaging of agricultural commodities. Commodities meeting the standards set by the U.S. Department of Agriculture or the department are officially identified by the section. The grading services are funded by fees charged to processors and producers using the services. In fiscal 2021, the section certified more than 139 million pounds of poultry as USDA Grade A and 10.1 million dozen of shell eggs as USDA Grade A.

Egg Inspection

The Egg Inspection Program inspects eggs sold at the processor, wholesale, retail, and food service levels to ensure that eggs sold in Maryland meet mandatory standards as to quality, size, microbial and physical contamination, refrigeration, labeling, and recordkeeping. The percentage of sampled eggs in compliance with the Maryland Egg Law in fiscal 2021 was 90%. The program is financed through the collection of fees on the sale of eggs.

Wholesalers and egg packers selling eggs in the State must register with the department annually. Egg packers also must submit information that qualifies their flock as meeting a Salmonella enteritidis risk reduction requirement. Producers may meet this requirement by participating in the voluntary Egg Quality Assurance Program.

Grain Dealers Licensing

The Grain Dealers Licensing Program licenses and regulates persons in the business of buying, receiving, exchanging, or storing grain from a grower. Annual license fees range from \$50 to \$300, based on the amount of grain handled. An applicant must meet minimum insurance and net worth requirements. The program licensed 58 businesses with 86 locations in fiscal 2021. The program also publishes an annual directory of licensed grain dealers.

Organic Certification

As a U.S. Department of Agriculture certifier, the Organic Certification Program conducts inspections and reviews organic production and handling operations to provide assurance to consumers who purchase organic products that the products were grown according to the National Organic Program's standards. Products that meet the National Organic Program's standards are "certified organic" by the department. Operations that sell no more than \$5,000 worth of products in a year are exempt from certification requirements but may be registered as "organic" by the department. Products from an exempt operation may not be represented as certified or identified as organic ingredients when used in processed products produced by a certified handling operation.

In fiscal 2021, the program certified 105 Maryland farms and handlers of organic food products and registered as organic 4 farms that are exempt from the certification requirement. The department charges a nonrefundable \$500 certification fee for the cost of field inspection and laboratory analysis for the certification program. Under the federal Organic Certification Cost Share Program, certified producers and handlers are eligible to receive reimbursement for 50% of certification fees, up to a maximum of \$500.

Agricultural Statistics Service

The U.S. Department of Agriculture National Agricultural Statistics Service, Maryland Field Office provides the public with data regarding the production of crops and livestock in the State. The service also gathers and publishes information on land use, income, commodity and land prices, labor, and farm demographics. This information is used to measure the performance of the agriculture sector in the Maryland economy and to track trends and changes in land use and output.

Agriculture and Seafood Marketing

The Agriculture and Seafood Marketing Section assists farmers and other agricultural entrepreneurs in the establishment, expansion, and promotion of their production for local, national, and international markets. The section identifies private-sector and government-agency contacts that help business owners develop business plans, obtain financing, meet regulatory requirements, and locate product distributors. The section also educates farmers about crop insurance to help in managing production and market risk. A variety of programs promote agricultural, seafood, and aquaculture products and businesses, including publication of the Maryland Farmers' Market Directory; coordination of the Farmers Market Nutrition Program; the "Maryland's Best" and "Buy Local" initiatives; the Jane Lawton Farm-to-School Program; the Certified Local Farm Enterprise Program; participation in international food trade shows and trade missions; and grants supporting local agricultural fairs, trade shows, and other promotional events.

Other section activities include support of the Spay and Neuter Grants Program through the collection of a fee on commercial feed that is registered in the State for consumption by a dog or cat. The Spay and Neuter Grants Program works to reduce animal shelter overpopulation and dog and cat euthanasia rates by facilitating and promoting spay and neuter services. The section also assists in the evaluation process for the Maryland Agricultural Education and Rural Development Assistance Fund, a grant program targeted toward rural economic development. In fiscal 2021, grants totaling approximately \$844,500 were awarded under the Maryland Agricultural Education and Rural Development Assistance Fund to regional or statewide organizations that serve rural areas.

Animal Health

The Animal Health Program plans and implements programs to prevent and control infectious and contagious diseases in livestock and poultry, with a particular emphasis placed on

diseases that threaten public health, endanger food supplies, or threaten the economic security of the animal industries. Of particular concern are avian influenza, given the large poultry flocks on Maryland's Eastern Shore, and equine herpes virus, given the potential impact on Maryland's horse industry. The program participates in several federal-state-industry cooperative disease eradication programs audited by the U.S. Department of Agriculture. The program also works closely with several units of the University of Maryland and numerous other local, regional, and national animal industry and animal health organizations.

The program's major activities include health certification of animals imported into, or exported from, the State; inspection and licensing of livestock auctions, dealers, fairs, exhibitions, hatcheries, and farms; and operation of veterinary diagnostic laboratories in Salisbury and Frederick that support the department's field veterinarians, the private veterinary profession, and owners of agricultural and other types of animals. In order to encourage compliance with its livestock and poultry regulations, the section is authorized to impose administrative penalties for violations of certain State laws.

Veterinary Medical Examiners

The State Board of Veterinary Medical Examiners licenses and regulates the veterinary profession. Veterinarians must meet certain requirements to obtain a license to practice veterinary medicine. Veterinarians must register every year and have at least 18 hours of continuing education during this one-year period. Veterinary technicians must register every three years and have 24 hours of continuing education during this three-year period. Under certain circumstances the board may issue cease and desist orders, suspend or revoke a veterinarian's license, and impose penalties up to \$10,000 for certain violations.

Veterinary hospitals also are licensed and inspected to ensure compliance with State regulations. In addition, the board may issue licenses to animal control facilities to allow those facilities to administer drugs needed to sedate or euthanize animals. The activities of the board from fiscal 2018 through 2021 are summarized in **Exhibit 5.2**.

Exhibit 5.2
State Board of Veterinary Medical Examiners
Veterinary Profession Regulation
Fiscal 2018-2021

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Licenses Issued to New Veterinarians	188	165	221	158
License Renewals Issued to Veterinarians	2,871	2,853	2,798	2,841
Renewals Issued to Registered Veterinary Technicians	159	49	135	173
Licenses Issued to Veterinary Hospitals	633	599	580	591
Complaints Closed	56	88	82	105
Complaints Open at Year-End	70	84	92	78

Source: Maryland Department of Agriculture

Animal shelters, including county or municipal animal control facilities, must establish and make publicly available a written veterinary care protocol for dogs and cats, a written protocol for reclaiming animals from the shelter, and an annual summary of intake and disposition data. The department specifies minimum standards of care for dogs and cats in animal shelters, oversees shelters' compliance with the minimum standards and the protocols for reclaiming animals, and may impose a civil penalty for a violation of the requirements.

The administration of a medically important antimicrobial drug via food or water to cattle, swine, or poultry is prohibited unless ordered by a licensed veterinarian through a medically important antimicrobial drug prescription or a veterinary feed directive. A medically important antimicrobial drug may be administered to cattle, swine, or poultry if, in the professional judgment of a licensed veterinarian, the drug is necessary (1) to treat, or control the spread of, a disease or infection; (2) for a surgery or medical procedure; or (3) for prophylaxis to address an elevated risk of contraction of a particular disease or infection, provided the drug is not administered in a regular pattern or administered for more than 21 days unless required by federal label requirements or determined to be necessary by a licensed veterinarian. The restrictions do not apply on farm operations that sell certain limited amounts of cattle, dairy cattle, swine, or poultry per year. The Secretary of Agriculture is authorized to impose an administrative penalty for a violation.

Maryland Horse Industry

The Maryland Horse Industry Board licenses and regulates horse establishments that solicit or offer to the public any of the following services: (1) a boarding stable; (2) a lesson or rental stable; or (3) a rescue or sanctuary stable. Once licensed, a horse establishment is inspected as determined by the board to ensure that board standards are maintained. Certain horse establishments are exempt from the licensure requirement, including stables and farms where

thoroughbred or standardbred horses are bred, trained, and rested, as well as farms where horses are used for agricultural purposes, such as cultivation of the soil or the herding of livestock. The board issued 782 stable/horse establishment licenses in fiscal 2021.

The board is also responsible for:

- advising the department on matters affecting the State's horse industry;
- researching equine health and related issues;
- developing and promoting the horse industry in the State, including distributing grant awards;
- enhancing public awareness of the value of equine activities as related to the preservation of green space and agricultural land; and
- developing and disseminating information about the equine industry.

Office of Plant Industries and Pest Management

The Office of Plant Industries and Pest Management administers programs and enforces State and federal laws and quarantines related to the application and disposal of pesticides; the control of noxious weeds, plant diseases, and pests; the quality of seeds, turf, and other commercial agricultural products sold in the State; and the registration, labeling, and quality testing of feed, pet food, fertilizer, lime, soil conditioners, and pesticide products. The office also oversees the Maryland Hemp Research Pilot Program. The office consists of the following six sections:

- Pesticide Regulation;
- Plant Protection and Weed Management;
- Forest Pest Management;
- Mosquito Control;
- Turf and Seed; and
- State Chemist.

The services provided and regulatory activities conducted by each of these sections are described below.

Pesticide Regulation

The Pesticide Regulation Section regulates the use, sale, storage, and disposal of pesticides and enforces State and federal requirements. Private applicators, most of whom are farmers and commercial pest control applicators, must be certified by the section to ensure that pesticides are applied properly by competent and trained individuals. The section also issues licenses, certificates, and permits to a variety of pest control businesses, public agencies, and restricted use pesticide dealers; and registers each employee, other than a certified applicator, who offers or performs pest control at each business location. Enforcement activities include inspections and reviews of pesticide application records, restricted use pesticide sales records, safety equipment, storage areas, and application equipment and vehicles. Pesticide incidents and consumer complaints on pesticide misuse are investigated as well.

The sale and use of neonicotinoid pesticides is restricted to (1) retail sales from certain registered dealers and (2) use by certified pesticide applicators and farmers, persons working under the supervision of a certified applicator or farmer, and veterinarians. Neonicotinoid pesticides are a class of commonly used insecticides that affect the central nervous system of insects. Concern has been raised about their impact on nontarget organisms, including bees and other pollinators, and the environment.

The section also provides information to pesticide applicators, dealers, and the general public regarding issues concerning pesticide use and regulation. Other projects include registration of pesticide sensitive individuals who receive advance notification of applications to be administered on adjacent properties, recycling of pesticide containers, disposal of unusable or unwanted pesticides, groundwater pesticide monitoring contracted to the U.S. Geological Survey, and training of school personnel in integrated pest management techniques. The activities of the section from fiscal 2018 through 2021 are summarized in **Exhibit 5.3**.

Exhibit 5.3 Pesticide Regulation Section Pesticide Regulation Fiscal 2018-2021

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Pesticide Businesses Licensed	1,484	1,278	1,406	1,978
Applicators Recertified	5,678	5,216	5,028	3,733
Individuals Taking Examinations	836	833	639	639
Businesses Inspected	765	670	502	481
Consumer Complaints Investigated	21	20	12	40

Source: Maryland Department of Agriculture

Plant Protection and Weed Management

The Plant Protection and Weed Management Section administers programs that protect the health of plants and honeybees through nursery inspection, apiary inspection, plant pest surveys, plant quarantines, integrated pest management, noxious weed control, biological control of insects and weeds, classification and control of invasive plant species, plant certification, and ginseng management. The section also provides services and education in pollinator protection and areas related to insect, plant disease, and noxious weed management.

All apiaries must be registered with the section. The section inspects and regulates apiaries in order to prevent the spread of bee disease and parasites and educates beekeepers regarding honeybee health. More than \$40 million worth of in-state crops require, or benefit from, honeybee pollination. In calendar 2020, the section inspected nearly 4,000 colonies. As of calendar 2020, there were about 2,160 registered beekeepers keeping approximately 16,500 colonies scattered throughout the State.

Forest Pest Management

The Forest Pest Management Section conducts a variety of monitoring, assessment, educational, and pest control activities to protect rural and urban forests from damage and loss caused by insect pests and diseases. The Cooperative Gypsy Moth Suppression Program, a cost-share program managed by the section in association with the U.S. Forest Service, local governments, and landowners, uses an integrated pest management approach to protect forest and shade trees from defoliation by the gypsy moth. In May 2021, after a survey concluded that gypsy moth populations were sufficient to cause moderate to heavy defoliation on 531 acres across the State, the department sprayed 531 acres on the lower Eastern Shore with *Bacillus thuringiensis*. Despite spraying, gypsy moths were responsible for defoliating 30,000 acres on the lower Eastern shore in 2021.

The Cooperative Forest Health Program, a cost-share program conducted in coordination with the department, the U.S. Forest Service, and the Department of Natural Resources, monitors and evaluates the presence and effect of several other native and invasive pests. Ongoing forest surveys in recent years include surveys of the southern pine beetle, Sirex wood wasp, and walnut twig beetle. In addition, the section monitors the hemlock woolly adelgid and works with the Department of Natural Resources to suppress the pest, treating approximately 6,700 hemlock trees through tree and soil pesticide injections in fiscal 2021.

Mosquito Control

In order to reduce the risk of transmission of mosquito-borne disease to people, pets, and livestock, and to improve overall quality of life, the Mosquito Control Section administers and implements a statewide mosquito control program. The program includes surveillance of population levels, source reduction, biological control, application of insecticides, evaluation of control strategies, and public education. The Secretary of Agriculture, in cooperation with the local

health authority, may require a person to abate a mosquito habitat if the person is causing or allowing mosquitoes to breed or develop on any property in a manner that may pose a threat to public health.

The Mosquito Control Program is available on a voluntary basis, and participating areas pay a share of the cost for direct services. In calendar 2020, approximately 2,000 communities in 16 counties participated in the program, more than 6,000 acres were treated for mosquito larvae through insecticide applications, and approximately 370 acres were managed using open marsh water management.

Turf and Seed

The Turf and Seed Section has two main functions: encouraging in-state production of quality turf and seed; and ensuring the integrity of seed sold and purchased in the State. All turfgrass sod, plugs, and sprigs must be labeled accurately, enabling purchasers to obtain sod of a consistently high quality. The section administers a voluntary sod certification program that has served as a model for several other states.

The section also provides seed inspection, testing, certification, and quality control services to assure that seed production conforms to department standards. Seed wholesalers doing business in the State must obtain a wholesale seedsman's permit. The section visits retail and wholesale seed dealers and draws samples from seed bags or bins that are then laboratory tested. Each seed lot is checked for purity, germination, and the presence of other crop or weed contaminants. Inaccurately labeled or misrepresented seed lots are removed from the marketplace. In fiscal 2021, section staff inspected approximately 5,100 acres of crop seed and conducted approximately 600 regulatory seed tests.

Hemp Research and Farming

Over the past decade, interest in growing hemp as a crop has increased within the State. There are two hemp programs, the Hemp Research Pilot Program and the Hemp Farming Program. The purpose of the Hemp Research Pilot Program is to authorize and facilitate the research of hemp and any aspect of growing, cultivating, harvesting, processing, manufacturing, transporting, marketing, or selling hemp for agricultural or commercial purposes. During the 2021 growing season, 36 farmers had research projects with six different institutions to grow and conduct research on hemp. The Hemp Farming Program, which was approved by the U.S. Department of Agriculture and went into effect November 1, 2020, allows the department to license farmers to grow hemp without a research project. During the 2021 growing season, 63 farmers registered under the Hemp Farming Program.

State Chemist

The State Chemist Section regulates the sale and distribution of pesticides, animal feeds, pet foods, commercial fertilizers, compost, soil conditioners, and agricultural liming materials.

These regulated products must be registered with the section and businesses must file reports on regulated products that are distributed to the public. Chemical analysis by the section determines if a product meets the formulation shown on its label. Inspections are often done by random selection of sample products offered for sale in the marketplace.

The section also has responsibility for enforcement actions, which may include removal from sale of unsafe, ineffective, or misbranded products. In calendar 2021, the section issued 37 stop sale orders for pesticides, fertilizers, and feeds that had either active ingredient deficiencies or active ingredient over formulations and issued 84 nonregistered stop sale orders. The section has the authority to impose civil penalties.

Office of Resource Conservation

The Office of Resource Conservation implements various conservation practices and programs that assist farmers in balancing farm productivity with the protection of soil and water resources. The office provides a range of educational, technical assistance, financial, and regulatory programs and works with local, State, and federal agencies in the following key areas:

- Program Planning and Development;
- District Operations;
- Conservation Grants;
- Nutrient Management; and
- Watershed Implementation.

The services provided and regulatory activities conducted by the office in each of these areas are described below.

Program Planning and Development

The office develops and coordinates policy, programs, and public information regarding nonpoint source pollution and resource conservation issues. Activities are coordinated among local soil conservation districts, federal and State agencies, and public and private agricultural and natural resource organizations. The office also supports the Maryland Soil Conservation Committee, which coordinates the 24-soil conservation districts and appoints district supervisors.

The Animal Waste Technology Fund is used to provide grants to businesses that demonstrate innovative technologies on farms and alternative strategies for managing animal

manure. These technologies may generate energy from animal manure, reduce on-farm waste streams, or repurpose manure by creating marketable fertilizer and other products and byproducts.

The Maryland Healthy Soils Program supports farmers who want to explore new technologies and farming techniques that promote soil health. The goal of the Maryland Healthy Soils Program is to develop a roadmap to improve the health, yield, and profitability of soils; increase biological activity and carbon sequestration in agricultural soils; and promote education and the adoption of healthy soil practices. In fiscal 2021, the program enrolled over 2,100 acres in a pilot project to promote the use of soil health practices.

District Operations

The office works with soil conservation districts and farmers to develop and implement the agricultural component of the State's Watershed Implementation Plan. One approach is the development of comprehensive soil conservation and water quality plans that address natural resource management on agricultural lands utilizing best management practices to control erosion and sediment loss and manage runoff. As of fiscal 2021, more than 827,000 acres of farmland were managed under soil conservation plans. Another approach involves assisting local public drainage associations and public watershed associations on the Eastern Shore in balancing resource conservation objectives with the maintenance of approximately 820 miles of drainage ditches that drain approximately 183,000 acres of agricultural, forested, and developed land. The office also works with local conservation districts to respond to complaints about soil erosion, odors, and other farm compliance concerns.

The office provides outreach and education to medium and large poultry operations (37,500 chickens or more) that are required to maintain compliance with certain regulations adopted by the Maryland Department of the Environment. Concentrated Animal Feeding Operations (poultry operations that have the potential to discharge to surface waters) must be registered under the General Discharge Permit for Animal Feeding Operations. Poultry operations with 125,000 chickens or more and that do not have the potential to discharge to surface waters must obtain a general permit.

Conservation Grants

The office administers a variety of assistance programs aimed at encouraging farmers to install best management practices (conservation measures used to prevent the loss of soil and nutrients from farmland), including:

- the Maryland Agricultural Water Quality Cost-Share Program, which provides grants that cover up to 100% of the cost to install various best management practices, such as stream protection and manure storage;
- the Cover Crop Program, which provides farmers with grants to plant small grains on their fields in the fall;

- the manure transport program and matching service, which helps animal producers transport excess manure off their farms to farms where the manure can be used within nutrient management guidelines;
- a cost-share grant program for manure injection and incorporation in the spring and fall;
- the Conservation Reserve Enhancement Program, a federal-State initiative, that pays landowners attractive land rental rates to take environmentally sensitive cropland out of production for 10 to 15 years and install conservation practices that protect water quality and provide wildlife habitat; and
- the Low Interest Loans for Agricultural Conservation program, which provides loans to supplement grant payments for more costly improvements, such as wetlands creation or construction of an animal waste management system, or to purchase conservation equipment or adopt new technologies that are not eligible for cost sharing.

In fiscal 2021, farmers received \$25.2 million in cost-share grants to install over 2,000 projects, with \$20 million of the \$25.2 million used for cover crop funding. Farmers also invested approximately \$900,000 of their own funds as part of the Maryland Agricultural Water Quality Cost-Share Program. Under the Low Interest Loans for Agricultural Conservation Program, the office worked with the Maryland Department of the Environment and soil conservation districts to provide farmers with \$467,000 in loans in fiscal 2021.

Nutrient Management

The Nutrient Management Program protects water quality in the Chesapeake Bay by ensuring that farmers and lawn care professionals apply fertilizers, animal manure, and other nutrient sources in an environmentally sound manner. All farmers in the State that gross \$2,500 per year or more and have livestock operations with 8,000 pounds or more of live animal weight must have and implement nutrient management plans. In accordance with the department's regulations, nutrient management plans address the amount, placement, timing, and application of animal waste, commercial fertilizer, sludge, or other nutrient sources to maintain productivity and prevent excess nutrients (primarily nitrogen and phosphorus) from impacting waterways. In recent years, the department has amended its nutrient management regulations to reflect updated scientific research, implement measures required to meet Chesapeake Bay restoration goals, and give farmers more flexibility to address manure storage concerns and changing weather patterns, and minimize soil disturbance. Among other things, the regulations phased in the transition from the use of the phosphorus site index tool to the phosphorus management tool in the nutrient management planning process to assess the risk of phosphorus loss from agricultural lands. This transition was completed July 1, 2021.

The Nutrient Management Program trains and certifies nutrient management consultants and farmers who prepare nutrient management plans for their own farms. In fiscal 2021, the program certified 11 consultants and 5 farmers to prepare the plans and renewed the certifications

of 118 consultants and 35 farmers. Businesses that provide nutrient management consulting services must be licensed by the department and file annual reports. Farmers must submit copies of their initial nutrient management plans to the program; periodically update the plans, take soil samples, and obtain manure analyses; and submit annual implementation reports. By the end of fiscal 2021, 98% of the State's regulated farm operators, managing 1.3 million acres of land, had submitted an initial nutrient management plan. In fiscal 2021, the program conducted 780 on-farm plan audits and inspections and found that 77% of the farms were in compliance.

Additionally, lawn care professionals hired to apply fertilizer to turf (including professionals hired to apply fertilizer to lawns, as well as individuals responsible for turf management at golf courses, public parks, airports, athletic fields, businesses, cemeteries, and other nonagricultural properties) must be certified by the department or work under the direct supervision of an individual who is certified. Businesses that provide fertilizer application services must be licensed annually by the department, file annual reports, and have a certified professional fertilizer applicator on staff. Lawn care professionals and homeowners must comply with fertilizer application restrictions, observe fertilizer blackout dates, use best management practices, and follow University of Maryland recommendations when applying fertilizer to lawns (not gardens). In fiscal 2021, the program certified approximately 1,430 professional fertilizer applicators, issued approximately 860 business licenses, and trained approximately 1,460 lawn care company employees to apply fertilizer under the supervision of a certified professional.

Watershed Implementation Plan Strategies

The office assists the agricultural sector in meeting Chesapeake Bay restoration goals. As part of this process the office implements multiple programs and strategies which include strategies to achieve the water quality goals specified in Maryland's Phase III Watershed Implementation Plan (more commonly known as WIP), the Agricultural Certainty Program, and the Nutrient Trading Program.

Watershed Implementation Plan

Established in 2010 by the U.S. Environmental Protection Agency, the Chesapeake Bay Total Maximum Daily Load (more commonly known as TMDL) establishes nutrient and sediment pollution limits to ensure that all pollution control measures needed to fully restore the health of the bay and its tidal rivers are in place by 2025. As part of the Total Maximum Daily Load, bay jurisdictions must develop watershed implementation plans that identify the measures being put in place to reduce pollution and restore the bay. In August 2019, the Maryland Department of the Environment published the final Phase III Watershed Implementation Plan. A midpoint assessment of Maryland's cleanup progress showed that while the State is on track to meet its phosphorus and sediment reduction goals, additional focus is needed to reduce nitrogen. Accordingly, the agricultural component of Maryland's Watershed Implementation Plan focuses on the need to lower nitrogen levels in the bay.

Agricultural Certainty Program

In 2013, the General Assembly established a voluntary Maryland Agricultural Certainty Program to accelerate the implementation of agricultural best management practices to meet the State's agricultural nitrogen, phosphorus, and sediment reduction goals under the Total Maximum Daily Load. Under this program, the department may certify an agricultural operation if, among other things, the department determines that the operation (1) has a fully implemented soil conservation and water quality plan; (2) has a fully implemented nutrient management plan; (3) meets nitrogen, phosphorus, and sediment load reductions associated with local or Chesapeake Bay-wide Total Maximum Daily Load reductions; and (4) meets State and federal laws, regulations, and permit conditions relating to agricultural sources of nitrogen, phosphorus, or sediment reduction applicable to the operation. A certification is valid for 10 years if the operation remains in compliance with program requirements and there are, generally, no material changes to the operation.

Generally, an agricultural operation that is in compliance and certified under the program is not subject to State or local laws or regulations enacted or adopted after the date of certification that relate to the reduction of agricultural sources of nitrogen, phosphorus, or sediment to meet the Chesapeake Bay Total Maximum Daily Load, local Total Maximum Daily Loads, or other water quality requirements. At the end of the 10-year certification period, a certified operation must comply with all applicable laws, regulations, rules, and permit conditions that went into effect after the operation was initially certified.

Nutrient Trading Program

The Maryland Nutrient Trading Program, a joint effort between the department and the Maryland Department of the Environment, assists farmers and other agricultural landowners with the generation of tradable nitrogen, phosphorous, and sediment credits that can be sold in the private sector. The department has established requirements for the voluntary certification and registration of such credits. The program's website contains a credit calculator, a central registry, and a marketplace to help potential participants determine baseline compliance.

Maryland Agricultural Land Preservation Foundation

The Maryland Agricultural Land Preservation Foundation purchases agricultural preservation easements that restrict development on prime farmland and woodland in perpetuity. Generally, easement properties may not be used for commercial, industrial, or residential purposes unless the foundation determines the purposes are farm- or forest-related uses, home occupations, or otherwise authorized by law. The foundation is funded with State transfer taxes, agricultural land transfer taxes, local matching funds, and federal grant funds. In fiscal 2021, the foundation acquired more than 2,500 agricultural preservation easements covering approximately 337,200 acres statewide.

The foundation works in cooperation with county governments and local agricultural land preservation advisory boards, which develop local rankings systems, approve easement applications, and review and make recommendations on requests from program participants. A county may apply to the Maryland Department of Planning and the foundation for certification (subject to various criteria) as having established an effective county agricultural land preservation program. Certification makes the county eligible for additional agricultural land preservation funding.

Agricultural land conservation easements are granted through a competitive process that takes into consideration certain minimum requirements, such as property size, soil type, and location. In addition to the standard easement payment offered upfront on a lump-sum basis, the foundation offers installment payments for up to 10 years.

Chapter 6. Natural Resources Management

The mission of the Department of Natural Resources is to lead Maryland in securing a sustainable future for our environment, society, and economy by preserving, protecting, restoring, and enhancing the State's natural resources. The department manages more than 500,600 acres of public lands and 17,000 miles of waterways, along with Maryland's fisheries, forests, and wildlife. Some of the department's regulatory activities have an impact on a broad cross section of businesses and other interested parties, while other regulatory functions have a narrower focus. This chapter highlights the department's efforts to protect the environment and maximize the use of natural resources within specific industries. Emphasis is placed on:

- commercial fishing and aquaculture;
- forestry and forest conservation;
- wildlife management; and
- boating.

This chapter also describes the Chesapeake and Atlantic Coastal Bays Critical Area Program and the enforcement of natural resources laws.

Commercial Fishing and Aquaculture

The Fisheries Service manages commercial and recreational fishery harvests to maintain sustainable quality fisheries, enhance and restore fish and shellfish species in decline, promote ethical fishing practices, and ensure public involvement in the fishery management process. The regulatory activities of the Fisheries Service relating to commercial fishing and aquaculture are discussed below.

Fishing

The fishing industry in Maryland has long been one of the State's major industries. The Chesapeake Bay produces about 500 million pounds of seafood harvest annually, including crabs, oysters, and striped bass. The Fisheries Service issues commercial and recreational licenses, regulates the timing and length of the seasons for various species, sets size and catch limits, and sets individual and overall quotas. The Fisheries Service also enforces a variety of other specific regulations related to how, when, and where various types of species may be landed.

In general, the Fisheries Service issues a single commercial fishing license known as the tidal fish license. A tidal fish license authorizes the holder to engage in each authorization indicated on the license. A commercial tidal fishing license holder may fish only during open season for the

species targeted. The Fisheries Service sets commercial open seasons for a wide variety of tidal finfish and shellfish, including striped bass (also known as rockfish), blue crabs, oysters, hard- and soft-shell clams, yellow perch, and sharks.

Maryland operates under a limited entry program for commercial fishing, and the Fisheries Service sets targets for the number of each tidal fish authorization to be issued annually. For example, the number of oyster harvester authorizations is capped at 716, while the number of unlimited finfish harvester authorizations is capped at 283. Commercial fishing authorizations that are revoked or voluntarily relinquished to the department may be reallocated to qualified applicants on a waiting list maintained by the Fisheries Service.

In fiscal 2021, the Fisheries Service issued 9,985 commercial fishing licenses and authorizations, as shown in **Exhibit 6.1** by category.

Charter Boat Fishing

In order to accept direct or indirect consideration for providing services as a fishing guide in Maryland waters, a person must obtain a fishing guide license from the Fisheries Service. A person who is licensed by Virginia to operate a charter boat in its jurisdictional tidal waters and reported fishing activity in 2001 and 2002 may obtain a Maryland Provisional Chesapeake Bay Charter Boat Permit to act as a fishing guide in Maryland tidal waters of the Chesapeake Bay. In fiscal 2021, the Fisheries Service issued 546 fishing guide licenses, including resident and nonresident tidal fishing guide and master and limited fishing guide licenses.

Aquaculture

The Fisheries Service also regulates the State's aquaculture industry, which rears fish, shellfish, and aquatic plants for sale, trade, barter, or shipment. A person who wishes to engage in aquaculture must obtain a permit from the Fisheries Service. Permits for raising nonnative species or nonnative stocks will only be issued if the operation is limited to nontidal ponds, lakes, or impoundments, and the operation is constructed in a manner that assures nonnative stocks are precluded from entering tidal waters or contaminating native species of the State. As of June 30, 2022, the Fisheries Services had issued 2,350 Shellfish Aquaculture Harvester Permits and Registration Cards as well as permits for 30 nonshellfish aquaculture facilities raising various fish and aquatic plant species. While the Fisheries Services is responsible for the development and overall management of aquaculture activities in the State, the Maryland Department of Agriculture is responsible for seafood and aquaculture marketing, due to their expertise in marketing resource commodities.

Exhibit 6.1
Commercial Fishing Licenses and Authorizations Issued, by Category
Fiscal 2021

<u>Commercial License/Authorization Categories</u>	<u>Number of Licenses/Authorizations</u>
Finfish (Hook and Line)	167
Finfish Harvester (All Gears)	284
Limited Crab Catcher	2,561
Limited Crab Catcher – Male Only	447
Crab Harvester (300 Pots)	286
Single Additional Pot Authorization (up to 600 Pots)	217
Double Additional Pot Authorization (up to 900 Pots)	389
Clam Harvester	32
Oyster Harvester	711
Oyster Dredge Boat	6
Conch, Turtles, and Lobster	37
Unlimited Tidal Fish License	2,058
Resident Fishing Guide	478
Nonresident Fishing Guide	45
Master Fishing Guide	6
Limited Fishing Guide	17
Tidal Fish Dealer (Harvester Add-on)	1,930
Tidal Fish Dealer (not Harvester)	129
Northern Snakehead Bow and Hook & Line	98
Invasive Catfish Finfish Trotline	87
Total	9,985

Source: Department of Natural Resources

Maryland's shellfish (oysters and clams) aquaculture program was significantly restructured in 2010, particularly to encourage oyster aquaculture. New lease laws were established to remove the location, size, and corporate ownership limitations that restricted shellfish aquaculture development in the past. The responsibility for shellfish aquaculture permitting is under the Fisheries Service, which has implemented numerous policies to incentivize shellfish aquaculture operations. As of June 30, 2022, there were 467 shellfish aquaculture leases on 7,572 acres.

In another effort to encourage shellfish aquaculture production, the department partnered with the Maryland Agricultural and Resource-Based Industry Development Corporation to provide affordable financing to watermen and other parties who want to start or expand commercial shellfish aquaculture operations in Maryland through the Maryland Shellfish Aquaculture Financing Fund. From the initiative's inception in fiscal 2011 through 2021, the Maryland Agricultural and Resource-Based Industry Development Corporation had issued approximately 86 shellfish aquaculture loans from the fund, totaling more than \$5 million. The loan proceeds may be used to purchase shell, seed, spat, or equipment. The University of Maryland Extension and the Oyster Recovery Partnership also contribute to this effort by providing training and business planning assistance to current and prospective shellfish growers.

Chapter 177 of 2021 authorized the department to issue enterprise leases in the waters of the State for assessing the feasibility of cultivating native or naturalized species of aquatic plants for commercial purposes. The size of the enterprise lease may not exceed two acres, and the application procedures, location restrictions, public notice provisions, and protest processes for these leases are substantially similar to those applicable to shellfish aquaculture leases. The term of an enterprise lease may not exceed five years, and it may not be assigned, transferred, or renewed.

Forestry and Forest Conservation

The Forest Service supports Maryland's forest and tree resources by providing private forest land management expertise, wildfire protection, urban and community forestry assistance, and tree planting programs. The Forest Service manages 149,225 acres of State forests and 73,327 acres of Chesapeake Forest lands (a State-owned sustainable forest managed by a private forestry firm) for their ecological, economic, and recreational benefits. The regulatory activities of the Forest Service regarding tree expert licensing, the Roadside Tree Law, forest product operator licensing, the Seed Tree Law, and forest conservation are discussed below.

Tree Expert Licensing

The Forest Service seeks to create a balance between natural ecosystems and the development of local communities through the protection, conservation, and management of the State's urban forest and tree resources. The Forest Service regulates the commercial tree care services industry on private and public property through the issuance and renewal, and, if necessary, the suspension or revocation, of tree expert licenses. In fiscal 2022, there were 1,230 licensed qualified and insured tree care companies and individuals. The Forest Service is also responsible for implementing the application process and professional examinations for licensed tree care specialists.

Criminal penalties may be pursued by the Forest Service, with assistance as needed from the Maryland Natural Resources Police, for operating a tree care business without a license and the false advertisement or solicitation of an unlicensed tree expert business. Administrative

penalties may apply for fraud or deceit in obtaining a license, negligence or wrongful conduct in the practice of tree care, and violation of rules of ethics promulgated by the Forest Service. The Office of the Attorney General provides assistance regarding the enforcement of administrative penalties.

Roadside Tree Law

The Roadside Tree Law authorizes the Forest Service to regulate the treatment of trees within public road rights-of-way in Maryland by outlining permitting processes and standards of care. A permit is needed to remove or plant a tree within a public road right-of-way. Any care or removal of a roadside tree must be done by a licensed tree care expert. A permit ensures that:

- only beneficial and necessary tree maintenance services are performed;
- tree hazards are documented, and corrective action is taken in a timely and safe manner; and
- the correct type of tree is planted in the proper location to avoid future problems.

In fiscal 2022, the Forest Service issued 764 individual roadside tree permits and 533 blanket permits. Criminal penalties may be pursued by the Forest Service, with assistance as needed from the Maryland Natural Resources Police, for:

- removing or trimming a roadside tree without a permit;
- failure to meet applicable tree care and clearance standards;
- failure to replace trees;
- improper herbicidal use; and
- failure to adhere to roadside tree planting specifications.

Administrative penalties may apply for the violation of the terms of a permit or the violation of the law in general and are pursued by the Forest Service with assistance from the Office of the Attorney General.

Local jurisdictions are also authorized to adopt laws concerning the planting, care, and protection of roadside trees that are stricter than State law as long as these laws do not conflict with State law.

Forest Product Operator Licensing

Under the Forest Product Operators Law, the Forest Service ensures the adequacy of forestry practices and protects consumer interests through the issuance of forest product operator licenses. This license, also required for all forest product manufacturing plants, requires forest product operators to harvest trees in a manner that leaves forests in favorable condition for re-growth and to accurately represent the goods for sale. The Forest Service defines forest product operators as firewood dealers, sawmills, whole tree chippers, and pulp wood and logging contractors. This license is also required for others engaging in a forest production business including mulch suppliers, land clearing companies, tree removal companies, and lumber brokers. Through the licensing process, the Forest Service determines the annual level of harvest and the overall effect on the State's natural resources. In fiscal 2022, the Forest Service issued forest product operator licenses to 460 Maryland businesses and 93 out-of-state businesses.

Seed Tree Law

The Seed Tree Law requires forest product operators to leave a certain number of pine trees per acre during timber harvest operations conducted on 5 acres or more of forest in which 25% or more of the trees are loblolly, shortleaf, or pond pines. The law's intent is to ensure that the State's pine resources are sustained for ecological purposes and for the long-term supply of wood fiber essential to commerce and industry. Instead of leaving pine trees standing, a forest product operator may submit to the Forest Service a reforestation plan indicating how it will ensure regeneration of harvested areas. Regeneration is generally accomplished by either leaving seed trees or replanting pine seedlings in sufficient number to meet the requirements of the law. The Forest Service reviews, approves, and monitors forest regeneration plans to ensure compliance with the law. Each year, approximately 40 to 50 harvested areas (on 2,500 to 3,000 acres) are subject to this law.

Forest Conservation

The Forest Conservation Act's purpose is to minimize the loss of forest resources that may occur during development projects. The Act requires developers to obtain approval of a forest conservation plan before subdivision grading or sediment and erosion control approvals are granted for projects covering an area of 40,000 square feet (approximately one acre) or greater. Specific projects for which other forest protection requirements often apply, such as cutting or clearing for public utilities and certain water quality projects, are exempt from the provisions of the Act. The forest conservation plan must be prepared by a licensed forester, a licensed landscape architect, or another qualified professional. A forest conservation plan must include:

- a site map;
- a table listing, in square feet, the net tract area and the area of forest conservation required for the site, broken down by on or off-site conservation areas;

- a clear graphic indication of the forest conservation provided on the site, which shows forest retention and afforestation areas;
- an anticipated construction schedule, including the schedule for conservation measures;
- an afforestation or reforestation plan with a timetable and description of needed site and soil preparation, species, size, and spacing to be used;
- locations and types of protective devices to be used during construction activities to protect trees and areas of forest designated for conservation;
- a showing of the limits of ecological disturbance;
- a showing of any stockpiling areas;
- a binding two-year management agreement that details how the areas designated for afforestation or reforestation will be maintained to ensure protection or satisfactory establishment, including watering and reinforcement planting provisions if survival falls below required standards; and
- any other requirement established in regulations adopted by the department or imposed by a local jurisdiction.

Approval of forest conservation plans is generally undertaken and enforced by local planning and zoning authorities that have gained the Forest Service's approval for their forest conservation program. If the local authority, however, fails to submit a suitable forest conservation program to the Forest Service, the Forest Service must assume responsibility for the review and approval of all forest conservation plans within the jurisdiction of that local authority. A forest conservation plan must be approved before issuance of the subdivision or a grading or sediment control permit. The approval authority (either the local jurisdiction or the State) must notify an applicant whether the forest conservation plan is complete within 45 days after receipt and may require further information or provide a 15-day extension for extenuating circumstances.

The amount of forest that must be retained on a site subject to development is calculated according to the size of the site and the designated land use. Development on land zoned for higher intensity uses, such as commercial or industrial uses, requires less retention or afforestation than development on land zoned for low intensity uses, such as agriculture or resource conservation areas. Some afforestation may be required on sites that have less than the requisite minimum forest cover. Reforestation or afforestation, if required, may be accomplished on the site, on another site, or through payment into the State Forest Conservation Fund or a local forest conservation fund.

The department administers the State Forest Conservation Fund, which consists of payments made by an applicant in lieu of performance of on or off-site afforestation or

reforestation requirements and penalties collected for noncompliance with specified forestry requirements. However, a local approval authority may establish and administer a local forest conservation fund to apply in that local jurisdiction instead of the State fund. Payment of fees-in-lieu to the State Forest Conservation Fund are made at rates adjusted for inflation as determined by the department annually by regulation. The rate for a project outside a priority funding area must be 20% higher than the rate for a project inside a priority funding area. As of July 2022, the rates identified the department's regulations are 30.5 cents per square foot for a project inside a priority funding area and 36.6 cents per square foot for a project outside a priority funding area. Fee-in-lieu rates for local forest conservation funds must be at least the same as the rates for the State Forest Conservation Fund.

Administrative penalties may apply for the violation of any part of the Act, including:

- failing to follow the terms of a specific forest conservation plan;
- obtaining forest conservation plan approval through misrepresentation or failure to disclose relevant facts; and
- violating the terms and provisions of an easement, covenant, deed, or restriction governing a forest mitigation bank.

Wildlife Management

The Wildlife and Heritage Service provides technical assistance and expertise to the public and private sectors for the conservation and enhancement of Maryland's wildlife resources, including the management of threatened and endangered species, game birds, and game mammals. The Wildlife and Heritage Service also operates approximately 127,100 acres of State-owned lands classified as wildlife management areas. The Wildlife and Heritage Service regulates hunting, trapping, and other wildlife management activities through permitting and licensing. Professional licenses issued include those for the sale of captive reptiles and amphibians, deer damage control, fur dealers, game husbandry, waterfowl outfitting and guiding, waterfowl processing, taxidermy, nuisance wildlife control, regulated shooting areas, and the collection of wildlife for scientific purposes.

In fiscal 2021, nearly 110,400 hunting licenses were issued, primarily (81%) to resident hunters. Those hunters were generally entitled to hunt deer, wild turkey, game birds, and small game mammals without any other stamps or permits. Nearly 225,000 stamps and permits were issued for various other regulated activities, such as the hunting of migratory game birds or furbearing mammals. In total, about 335,400 hunting licenses, stamps, and permits were sold in that year.

Boating

Regulation of the boating industry under the State Boat Act must conform with federal standards in areas such as “numbering vessels for identification,” and may not conflict with any federal law or regulations that apply to vessels on Maryland waters. A dealer or manufacturer who buys, sells, or exchanges new or used vessels, or who manufactures or imports new or used vessels for the purpose of sale or trade, must obtain a boat dealer license from the department’s Licensing and Registration Service. A dealer may also include a yacht broker and a holder of a lien (based on charges for services provided for the vessel) who sells the vessel. To qualify for a license, the dealer must post a surety bond. Out-of-state dealers and manufacturers are exempt from State licensing if they only display and sell their vessels at a boat show, boat exposition, or outdoor recreation show. In fiscal 2021, there were approximately 415 licensed Maryland boat dealers.

All powered vessels principally used in Maryland, whether commercial or recreational, must be titled in Maryland and must display a biennial vessel registration decal. Vessels documented through the U.S. Coast Guard must display a documented use decal. The Licensing and Registration Service operates eight regional service centers to assist the public with boat titling and vessel registration. Licensed dealers are authorized to issue temporary vessel registrations and must collect the required vessel excise tax and fees on the sale of boats. These revenues are forwarded to the dealer’s managing regional service center. At the end of 2021, there were approximately 175,000 registered and documented vessels principally used in Maryland.

Regulation of the State’s Critical Areas

The Chesapeake Bay and the Atlantic coastal bays are vital natural resources for Maryland. Recognizing that the deterioration of these resources relates in great measure to impacts from shoreline development, the General Assembly established the Critical Area Commission in 1984 through the Chesapeake Bay Critical Area Protection Act. In 2002, the law was extended to the Atlantic coastal bays in Worcester County and Ocean City. The Critical Area Commission operates as an administrative unit within the department. The commission includes a full-time chair, local elected and appointed officials, citizen members, and representatives of seven State agencies.

The law creates a partnership between the State and local governments. Sixty-four Maryland jurisdictions, including 16 counties, Baltimore City, and 47 municipalities, have lands that border a portion of the Chesapeake or Atlantic coastal bays, their tidal tributaries, or tidal wetlands. The purpose of this partnership is to address development in a comprehensive fashion in order to improve water quality, conserve wildlife habitats, and manage land uses in a 1,000-foot-wide zone, known as the “Critical Area,” adjacent to these tidal shorelines. The 642,000 acres in the Critical Area comprise approximately 10% of the State’s land area.

Each jurisdiction is responsible for managing land use development in the Critical Area through a local program. The participating counties and municipalities base their programs on the requirements of the law, the commission’s original program criteria, and regulations that the

legislature authorized the commission to adopt under comprehensive statutory amendments enacted in 2008. Standard provisions in each program include limits on forest clearing and the amount of certain semi-impervious surfaces that contribute to stormwater runoff. All local critical area programs, and subsequent amendments, must be approved by the commission. The commission also reviews and comments on land development projects that are subject to local approval. State agencies must obtain commission approval for development projects in the Critical Area.

Enforcement of Natural Resources Management

The Maryland Natural Resources Police is responsible for enforcing laws governing commercial fishing, aquaculture, wildlife, and boating. The Natural Resources Police administer a Boating Safety Education Program to provide boaters with the necessary information to operate a vessel safely on Maryland waterways. The Natural Resources Police also administer hunter education programs with the purpose of reducing hunting accidents and violations and to promote safe, responsible, and knowledgeable hunting activities.

In addition, regular patrols, and inspections by Natural Resources Police officers, who are assigned to the different activities in different areas of the State, provide for the enforcement of, and compliance with, the State's laws and regulations governing natural resources management.

Chapter 7. Financial Services Industry

The financial services industry in Maryland is regulated by the Office of the Commissioner of Financial Regulation within the Maryland Department of Labor and the Securities Division of the Office of the Attorney General. The Office of the Commissioner of Financial Regulation regulates financial institutions in the State, licenses financial services firms and industry professionals, and enforces State consumer lending laws. The Securities Division regulates investment firms and related industries and enforces State securities laws. This chapter describes the role of these State agencies in regulating the financial services industry.

Administration of State Consumer Lending Laws

Under the direction and authority of the Commissioner of Financial Regulation, the Office of Financial Regulation regulates State-chartered and State-licensed financial institutions operating in Maryland. These include depository institutions such as Maryland-chartered banks, trust companies, bank holding companies, and credit unions, as well as nondepository entities such as money transmitters, check cashers, consumer lenders, sales finance companies, installment lenders, mortgage lenders, mortgage loan originators, credit services businesses, debt management services providers, debt settlement services providers, consumer reporting agencies, and collection agencies. The activities of the office are set out in Titles 1 through 7, 11, and 12 of the Financial Institutions Article of the Annotated Code of Maryland. In addition, the office supervises certain activities found in Title 12 and Title 14 of the Commercial Law Article and Title 7 of the Business Regulation Article.

The office may undertake investigatory examinations to determine whether a person has violated any law, regulation, rule, or order over which the office has jurisdiction. The office has authority to enforce the laws and regulations against individuals and entities that are licensed by the office, as well as those unlicensed persons that engage in an activity requiring licensure. The office may suspend or revoke a license, issue a cease and desist order, and impose a fine. In fiscal 2021, the office's Consumer Services Unit assisted in resolving over 750 consumer complaints, resulting in recovery of approximately \$96,500 for consumers. Over the same time period, the office as a whole provided over \$4 million in restitution to consumers and collected \$193,500 in fines and penalties from violators of State financial laws and regulations.

The office has direct regulatory authority only over those banks and credit unions that have a State charter. Unlike State-chartered institutions, most banks and credit unions and all savings and loan associations currently active in the State operate under federal charters and are primarily regulated by federal agencies.

The office is divided into eight units. In addition, the commissioner also designates the State's Student Loan Ombudsman.

- ***Administration Unit:*** Handles most unit-wide administrative services, including procurement, budgeting, and human resources.
- ***Depository Corporate Activities Unit:*** Reviews and processes all applications filed by Maryland-chartered banks, trust companies, bank holding companies, and credit unions.
- ***Depository Supervision Unit:*** Supervises and examines all State-chartered banks, trust companies, bank holding companies, and credit unions to assure their safety and soundness.
- ***Nondepository Licensing Unit:*** Licenses and registers nondepository financial services providers including money transmitters, check cashers, consumer lenders, sales finance companies, installment lenders, mortgage lenders, mortgage loan originators, credit services businesses, debt management services providers, and debt settlement services providers.
- ***Nondepository Supervision Unit:*** Supervises, examines, and investigates the business activities of nondepository licensees and registrants.
- ***Enforcement Unit:*** Serves as the investigatory and enforcement arm of the office and is responsible for investigating fraud-related issues and conducting specialized examinations, including those of unlicensed business entities, with the goal of protecting consumers by uncovering improper business practices or violations of law and obtaining appropriate relief.
- ***Nondepository Operations Unit:*** Provides technical and administrative support to the Nondepository Licensing, Nondepository Supervision, and Enforcement Units and facilitates the development and maintenance of operational procedures as well as employee training. The unit also manages Maryland's Foreclosure Registration System.
- ***Policy and Consumer Services Unit:*** Investigates consumer inquiries and complaints, conducts financial outreach and education, coordinates legislative and regulatory responses, collects and analyzes data, and produces reports for use by management and stakeholders.
- ***Student Loan Ombudsman:*** Investigates complaints from student loan borrowers in the State about their student loan servicers and attempts to resolve those complaints on behalf of borrowers. The Ombudsman may refer any matter that is abusive, unfair, deceptive, or fraudulent to the commissioner or the Office of the Attorney General for civil enforcement or criminal prosecution. The Ombudsman also monitors and disseminates information about student loan servicing activity in the State.

Banks, Trust Companies, and Bank Holding Companies

The office supervises three types of State banking charters: commercial banks; savings banks; and trust companies. Commercial banks offer a full range of banking services and are organized as stock corporations with certain minimum capital requirements. Savings banks, originally chartered as mutual associations to encourage thrift among individuals and to provide residential mortgages, are mutually owned by their depositors. Full-service trust companies offer a full range of banking and trust services while nondepository trust companies offer only trust services. There are no longer any State-chartered savings and loan associations.

In fiscal 2021, there were 26 State-chartered banks, of which 24 were commercial banks and 2 were savings banks, and 4 State-chartered trust companies. To charter a new bank or trust, State law requires a minimum capital level of \$20 million. Banking institutions that accept deposits or retain funds in deposit accounts are subject to a graduated annual assessment of \$8,000 plus \$0.12 for each \$1,000 of the assets of the institution over \$50 million but up to \$250 million; \$0.10 for each \$1,000 of assets over \$250 million but up to \$500 million; \$0.09 for each \$1,000 of assets over \$500 million but up to \$1 billion; \$0.08 for each \$1,000 of assets over \$1 billion but up to \$10 billion; and \$0.07 for each \$1,000 of assets over \$10 billion.

National banks, federal savings banks, and federal thrifts are all chartered by the federal Office of the Comptroller of the Currency, the counterpart of the State regulator.

A federally chartered financial institution may convert its charter status to a State charter, merge with a State-chartered financial institution, or be acquired by a State-chartered institution by following the application process specified in State law.

Examination and Insurance

State-chartered banks and trust companies are examined by the office at least once every 18 months. Further, a bank may be examined by the Federal Deposit Insurance Corporation or the Federal Reserve Bank of Richmond. Both federal entities accept State examinations in lieu of conducting their own. State-chartered nondepository trust companies are examined solely by the office.

Membership in both the Federal Deposit Insurance Corporation and the Federal Reserve System is mandatory for national banks. State-chartered banks, State-chartered savings banks, and federal savings banks must be members of the Federal Deposit Insurance Corporation and may choose to become members of the Federal Reserve System.

The Federal Deposit Insurance Corporation insures funds deposited in insured banks up to \$250,000 per depositor per insured bank for each account ownership category. Nondepository investment products, such as mutual funds, stocks, and bonds, are not covered by Federal Deposit Insurance Corporation insurance.

Interstate Banking and Branching

Under federal law, any entity that controls a commercial bank must register with the Federal Reserve Board as a bank holding company. The Federal Reserve Board reviews applications for acquisitions by bank holding companies and subsidiaries of bank holding companies whose activities are deemed incidental to or closely related to banking. Almost all laws and regulations relating to bank holding companies operating in Maryland are enforced by the Federal Reserve Board.

Maryland law requires bank holding companies that want to acquire a Maryland bank or Maryland bank holding companies to obtain prior approval from the office. In approving the acquisition, the office must consider whether the acquisition would be detrimental to the safety and soundness of the Maryland bank or Maryland bank holding company or would result in an undue concentration of resources or a reduction of competition in the State. The office's approval is also needed for other acquisitions of the voting stock of a commercial bank or bank holding company.

Since 1995, federal law has authorized bank holding companies to engage in interstate banking and branching subject to some limited state regulation. One of the primary purposes of this law is to create a seamless, nationwide banking system that allows customers to bank more easily across state lines.

Maryland law allows banks chartered by other states to establish branches in Maryland on approval by their home state regulator. Another state bank branch operating in Maryland is regulated by the banking department in the home state where the bank is chartered. National banks may establish branches in Maryland on approval by the federal Office of the Comptroller of the Currency.

Maryland law also allows a Maryland bank to establish branches within or outside of Maryland on approval from the office. A Maryland bank may establish a branch in another state by any means allowed by the laws of that state or by federal law. A Maryland bank that establishes a branch in another state may exercise at that branch all powers and rights granted to banks in that state unless the office determines that the exercise of a power or right would threaten the safety and soundness of the bank.

In response to concerns about maintaining the distinction between banking and commerce, Maryland law prohibits a bank branch from being established on the site of a commercial entity that owns the bank or that the bank owns.

Maryland requires reciprocity to equalize the requirements for Maryland banks seeking to open branches in other states. An out-of-state bank may establish new branches in Maryland only to the extent that the home state of the bank allows Maryland banking institutions to establish new branches in its state. This reciprocity requirement does not impact out-of-state banks that already had branches in Maryland as of 2009.

Credit Unions

Credit unions are nonprofit, financial cooperatives composed of members who share a certain field of membership or common bond. Under both federal and State law, credit unions may serve members who all share one common bond; or several groups of members in which the members in each individual group share a common bond (“multiple common bond”); or members who share a geographical “community common bond.” For the benefit of their members, credit unions offer checking and saving products and loans that are similar to banks, but at a cost that is generally lower due to their nonprofit and tax-exempt status.

The office charters, supervises, and examines all State-chartered credit unions. For a new credit union charter, a \$500 application fee is required. Credit unions with assets of \$300,000 or greater are subject to an annual assessment of \$1,000, plus \$0.08 for each \$1,000 of the assets of the institution over \$1 million. In fiscal 2021, there were seven State-chartered credit unions operating in Maryland, with an asset base of approximately \$7.3 billion.

The National Credit Union Administration, an independent federal agency, charters, supervises, and examines all federally chartered credit unions.

Examinations and Insurance

The office examines State-chartered credit unions at least once every 18 months. Insurers may also examine credit unions. Credit unions may choose to be insured by a private insurer licensed in Maryland or the National Credit Union Administration. The only private insurer operating in Maryland, American Share Insurance, is a member-owned share guaranty corporation established in Ohio. American Share Insurance obtained a license in 2004, when the Credit Union Insurance Corporation, a Maryland nonprofit nonstock corporation, was being dissolved.

A private insurer must provide insurance to State-chartered credit unions on the same basis and at least to the same extent and amount as its federal counterpart. In fiscal 2021, one State-chartered credit union was insured by American Share Insurance and six by the National Credit Union Administration.

In addition to insuring those State-chartered credit unions that apply and qualify, the National Credit Union Administration insures all federally chartered credit unions. The administration conducts annual examinations of all federally chartered credit unions. The administration administers the National Credit Union Share Insurance Fund which protects credit union members’ deposits up to \$250,000 per depositor per credit union. As with banks, deposits in self-directed individual retirement accounts are also insured up to \$250,000. Each insured credit union must keep 1% of its insured savings on deposit with the administration.

Money Transmitters

The office regulates and licenses sellers of money orders and traveler's checks and those who receive money for transmission to others, known as money transmitters, operating in Maryland. Legislation enacted in 2021 updated money transmitter regulation to include emerging forms of payment such as virtual currencies. Under Title 12, Subtitle 4 of the Financial Institutions Article, money transmitter services include bill payer services; accelerated mortgage payment services; informal money transfer systems outside the conventional financial institutions system; and money transmissions conducted over the Internet.

To qualify for a money transmitter license, an applicant must meet specified requirements designed to protect consumers. In particular, the applicant must demonstrate to the office that the applicant (1) is of good moral character and has sufficient financial responsibility, business experience, and general fitness to engage in the business of money transmission and (2) has a certain net worth. Money transmitters must pay a \$2,000 annual licensing fee. New applicants must pay a \$1,000 investigation fee and meet certain bonding requirements. Maryland uses the Nationwide Mortgage Licensing System and Registry, universally known as "NMLS," for licensing and renewal of money transmitters. In fiscal 2021, there were 248 money transmitters licensed to conduct business in Maryland.

Check Cashers

Check cashing services means the acceptance or cashing, for compensation, of a payment instrument, regardless of the date of the payment instrument. A payment instrument is a check or a draft ordering an individual or entity to pay money. A person may not engage in the business of providing check cashing services in Maryland without first paying a \$500 annual license fee and a \$100 investigation fee to the office. An applicant is also subject to a criminal history background check. A separate license is needed for each place of business.

To qualify for a license to provide check cashing services, an applicant must meet certain requirements designed to protect consumers. In particular, the applicant must demonstrate to the office that (1) the business will promote the convenience and advantage of the community where the place of business will be located; (2) the applicant has sufficient experience, character, financial responsibility, and general fitness to command the confidence of the public and to warrant the belief that the business will be operated lawfully, honestly, fairly, and efficiently; and (3) the applicant has not committed an act that would be grounds for suspension or revocation of a license to provide check cashing services.

As required by State law, a check cashing services outlet may only charge a percentage of the check being cashed, ranging from 2% to 10%, depending on the type of check. Except for a one-time membership fee not to exceed \$5, a licensee may not charge any other fee, including late fees or other service fees, for accepting or cashing a payment instrument in excess of the greater of:

- 2% of the face amount of the payment instrument or \$3, if the payment instrument is issued by a governmental entity;
- 10% of the face amount of the payment instrument or \$5, if the payment instrument is a personal check; or
- 4% of the face amount of the instrument or \$5, for any other payment instrument.

Check cashing services that are exempt from licensure under Maryland law include (1) services for which a fee of up to 1.5% of the payment amount is charged and that are incidental to the retail sales of the goods and services and (2) transactions that are subject to the Maryland Consumer Loan Law, which provides a maximum 33% annual interest rate. Certain other financial institutions are exempt from licensing if they are otherwise qualified to do business in Maryland. Persons who are exempt from licensure but provide check cashing services must register with the office.

Maryland law prohibits certain deferred presentment transactions, also known as deferred deposit services, cash advances, or payday loans. In a typical transaction, a consumer writes a post-dated check for a certain amount, and the lender gives the consumer the cash amount less the lender's fee. The lender agrees to hold the check until the check's date or until the customer settles the account. The fee for this service ranges from \$15 to \$30 per \$100 check and the transactions are subject to Maryland's usury and consumer loan laws, which impose limits on the amount of interest that a lender may charge.

Consumer Credit

The office is responsible for licensing and, in most cases, regulating consumer lenders, sales finance companies, installment lenders, mortgage lenders, mortgage loan originators, credit services businesses, debt management services providers, debt settlement services providers (registration), consumer reporting agencies (registration), and collection agencies (through the State Collection Agency Licensing Board). **Exhibit 7.1** shows the number of active consumer credit licenses and registrations that the office issued in fiscal 2021.

Exhibit 7.1
Consumer Credit Licenses and Registrations
Fiscal 2021

Consumer Lenders	217
Sales Finance Companies	985
Installment Lenders	181
Mortgage Lenders	3,223
Mortgage Loan Originators	18,675
Credit Services Businesses	50
Debt Management Services Providers	25
Debt Settlement Services Providers*	48
Consumer Reporting Agencies*	75
Collection Agencies	1,655

*Number of registrations.

Source: Office of the Commissioner of Financial Regulation

Consumer Lenders

Small consumer loans and consumer lenders are jointly governed by Title 12, Subtitle 3 of the Commercial Law Article and Title 11, Subtitle 2 of the Financial Institutions Article, which together are known as the Maryland Consumer Loan Law. The office regulates persons that make small consumer loans under Title 12, Subtitle 3 of the Commercial Law Article. These persons include individuals and any type of business entity. The maximum permissible annual interest rate for small consumer loans varies with the amount of the loan, up to 33%. The law applies to loans of \$25,000 or less. The office is also authorized to take action against persons that are required be licensed under the law but may not actually be licensed.

In addition, a consumer lender must be licensed by the office under Title 11, Subtitle 2 of the Financial Institutions Article. A separate license is required for each place of business where a person makes a loan or transacts business under the Maryland Consumer Loan Law. To qualify for a consumer lender license, an applicant must meet specified requirements designed to protect consumers. In particular, the applicant must demonstrate to the office that (1) the applicant has at least \$20,000 in liquid assets; (2) the business will promote the convenience and advantage of the community where the place of business will be located; and (3) the applicant has sufficient experience, character, financial responsibility, and general fitness to command the confidence of the public and to warrant the belief that the business will be operated lawfully. In addition, an applicant must pay an \$850 annual licensing fee and a \$100 investigation fee and meet certain bonding requirements.

Sales Finance Companies

A sales finance company is a person that engages in the business of acquiring, investing in, or lending money or extending credit on the security of any interest in an installment sales agreement, a retail credit account transaction, or a home improvement transaction.

Under Title 11, Subtitle 4 of the Financial Institutions Article and Title 12, Subtitle 6 of the Commercial Law Article, an installment sales agreement is a contract for the retail sale of goods under which part of the price is payable in one or more payments and the seller takes collateral security or keeps a security interest. A retail credit account transaction is an agreement for the retail sale of goods or services that is negotiated at the time a sales price is established. A home improvement transaction is an agreement between parties for the repair, replacement, renovation, alteration, conversion, modernization, improvement, or addition to any land or building designed to be used as a residence for one, two, or three single-family units, if collateral security is required by and given to the contractor as a condition of the transaction.

A sales finance company must be licensed by the office. To apply, an applicant must pay a \$125 annual license fee and a \$100 investigation fee. A separate license is required for each place of business. State and national banking institutions are exempt from licensure.

Installment Lenders

Installment loans and extensions of credit made to individuals are regulated under the Commercial Law Article. An installment lender must be licensed by the office under Title 11, Subtitle 3 of the Financial Institutions Article. An applicant for an installment loan license must pay a \$100 investigation fee and an \$850 annual licensing fee and meet certain bonding requirements. A license is not required for a person who makes five or fewer installment loans a year or if the loan is:

- between relatives;
- between an employer and employee;
- between a landlord and tenant; or
- between primary, secondary, or nonprofit degree-granting postsecondary academic educational institutions and a student, or parent or guardian of a student, for educational expenses.

The maximum annual interest rate for installment loans may not exceed 24% on the unpaid principal balance of the loan. However, the particular law governing the loan may restrict the allowable terms of repayment and security.

Certain other financial institutions engaging in the business of making installment loans are exempt from licensing if they are otherwise qualified to do business in Maryland.

Mortgage Lenders

A mortgage lender is a person that brokers, makes, or services a loan or other extension of credit secured by a lien on residential real property. The mortgage may be categorized as a first or second mortgage loan, a secured open-end line of credit, or a closed-end mortgage.

Under Maryland's Mortgage Lender Law (Title 11, Subtitle 5 of the Financial Institutions Article), a mortgage loan is any loan or other extension of credit secured wholly or partly by an interest in residential real property in Maryland if made for (1) personal, household, or family purposes in any amount or (2) commercial purposes up to \$75,000.

A person may not engage in the business of a mortgage lender in the State without first obtaining a license from the office. An applicant for a mortgage lender's license must pay a \$1,000 annual license fee and a \$1 investigation fee, and must meet certain bond requirements that depend on the applicant's aggregate lending activity. Applications are processed through the Nationwide Mortgage Licensing System and Registry. Criminal history background checks are performed on all applicants. The office examines new mortgage lenders within 18 months after licensure and examines all mortgage lenders at least once every 60 months. The licensing provisions do not apply to certain financial institutions that take deposits, insurance companies, or certain federal corporations. A willful violation of the laws regarding mortgage lending is a felony and, on conviction, a violator is subject to a fine not exceeding \$50,000 or imprisonment not exceeding 10 years or both.

There is no maximum rate of interest for first mortgages made in compliance with § 12-103(b) of the Commercial Law Article. All other loans secured by an interest in residential real property are subject to a maximum rate of 24% simple interest per year computed on the unpaid principal balance outstanding. The particular law governing the loan (Title 12, Subtitles 1, 9, or 10 of the Commercial Law Article) may restrict the allowable terms of repayment and security.

In response to the financial crisis of 2008, legislation passed during the 2008 through 2010 sessions (1) created the Mortgage Fraud Protection Act, Maryland's first comprehensive mortgage fraud statute; (2) prohibited foreclosure consultants from participating in foreclosure rescue transactions; (3) reformed the foreclosure process to provide homeowners with more time and additional notices before their properties are sold; (4) required additional notices to be given to residential tenants renting properties in foreclosure; and (5) allowed an owner-occupier of residential property to request a foreclosure mediation session before the scheduling of a foreclosure sale.

In addition, legislation enacted in 2008 made a number of substantive changes to the laws relating to mortgage lending and the regulation of mortgage lenders. Lenders may not impose penalties, fees, premiums, or other charges for a mortgage loan if the loan is wholly or partly

prepaid, except for reverse mortgage loans. For various types of mortgage loans, including both primary and secondary mortgage loans, the laws modified the factors that a lender or credit grantor must consider when making the loans to focus on the borrower's ability to repay a loan.

Mortgage Loan Originators

A mortgage loan originator is an individual who, for compensation or gain, or in the expectation of compensation or gain, takes a loan application or offers or negotiates terms of a mortgage loan. In Maryland, an individual who acts solely as a mortgage loan processor or underwriter is not a mortgage loan originator. Before acting as a mortgage loan originator, an individual must obtain a license from the office. Several individuals are exempted from the licensing requirements, including individual loan servicers. Mortgage loan originators employed by licensed mortgage lenders are also subject to licensing requirements.

The State mortgage lender and mortgage loan originator laws under Title 11, Subtitle 5 of the Financial Institutions Article conform to the requirements of the federal Secure and Fair Enforcement Mortgage Licensing Act. The Act requires licensees to submit certain information to the Nationwide Multistate Licensing System and Registry, increases civil penalties, and allows the office to issue interim mortgage loan originator licenses.

An applicant for a license must pay a \$1 nonrefundable investigation fee and a \$225 annual license fee. An applicant must also meet certain character and fitness, education, and experience qualifications.

If a complaint is filed with the office regarding an action of a licensee in connection with a mortgage loan, the office must investigate the complaint. A willful violation of the laws regarding mortgage origination is a felony and, on conviction, a violator is subject to a fine not exceeding \$25,000 or imprisonment not exceeding five years or both.

Credit Services Businesses

A credit services business is a person that, with respect to the extension of credit by others, sells, provides, or performs, or represents that the person can or will sell, provide, or perform, any of the following services: (1) improving a consumer's credit record, history, or rating or establishing a new credit file or record; or (2) obtaining an extension of credit for a consumer.

Under Title 14, Subtitle 19 of the Commercial Law Article, a credit services business may not sell its services without being licensed. An applicant for a license must pay a \$100 nonrefundable investigation fee and an \$850 annual license fee and meet certain bond requirements. The office handles complaints alleging violations of the Maryland Credit Services Businesses Act. The office may hold hearings, issue orders for compliance with the law, issue cease and desist orders if a pattern and practice of violations of the law is found, and impose fines.

Debt Management Services Providers

Debt management services are being provided when an authorized person receives funds periodically from a consumer under an agreement for the purpose of distributing the funds among the consumer's creditors in full or partial payment of debts. Before providing debt management services in the State, a person must obtain a license from the office. An applicant must meet specified net worth requirements and post a surety bond.

The annual license fee varies from \$500 up to \$4,000 depending on the applicant's annual gross revenue. In addition, an applicant must pay a \$1,000 investigation fee on initial filing of an application and pay an annual license \$100 fee for each location where the applicant provides debt management services.

Under Title 12, Subtitle 9 of the Financial Institutions Article, a licensee must execute a debt management services agreement with a consumer before collecting any fees for debt management services. A licensee must also provide a consumer with a list of (1) those services that are provided free of charge to consumers with a debt management services agreement but provided for a charge to other consumers and (2) those other services that the licensee provides along with the relevant charges. A licensee must furnish a consumer with a written accounting of any fees.

A licensee may charge a consumer a consultation fee of up to \$50. If a licensee requests a credit report on the consumer, the cost of the report must be paid from the consultation fee. In addition, a licensee may charge a maintenance fee of up to \$8 for each creditor a consumer has listed in a debt management services agreement. However, the maintenance fee charged may not exceed \$40 per month.

Debt Settlement Services Providers

Related to debt management is the practice of debt settlement. Although both debt management and debt settlement involve a provider acting as an intermediary between a consumer and creditors, in debt settlement, the provider offers to negotiate a reduction of debt and a repayment schedule generally without handling the consumer's funds directly. Before providing debt settlement services in the State, a person must register with the office. An applicant must post a surety bond and pay a \$400 registration fee.

Under Title 12, Subtitle 10 of the Financial Institutions Article, a registrant must execute a debt settlement services agreement with a consumer before collecting any fees for debt settlement services. A registrant may not collect any fee until the registrant has renegotiated, settled, reduced, or otherwise altered at least one debt of the consumer and the consumer has made at least one payment under the agreement. A consumer may withdraw from an agreement at any time but is liable for fees the registrant earned to date under the agreement.

Consumer Reporting Agencies

A consumer reporting agency, commonly referred to as a credit reporting agency, is a person that engages wholly or partly in the practice of assembling or evaluating consumer credit information or other information for the purpose of furnishing consumer reports to third parties and that uses any means or facility of commerce for the purpose of preparing or furnishing consumer reports. The three major consumer reporting agencies are Experian, Equifax Information Services, and TransUnion Corporation.

Under Title 14, Subtitle 12 of the Commercial Law Article, the office handles complaints alleging violations of the laws regulating consumer reporting agencies. The office may hold hearings, issue orders for compliance with the law, and issue cease and desist orders if a pattern and practice of violations is found. Maryland residents are entitled to free copies of their credit reports once every 12 months under State law, on request and with proper identification. The charge for a second or subsequent report made during a 12-month period for a consumer may not exceed \$5. Residents are also entitled to free copies of their credit reports once every 12 months under the federal Fair and Accurate Credit Transactions Act.

According to the office, in September 2017, Equifax, one of the largest consumer reporting agencies, disclosed that its security systems had been breached and that consumer credit information was improperly accessed. Nearly 3 million Maryland residents were affected by the breach. In the aftermath of the breach, many Maryland residents were unable to exercise their rights under State law in a timely manner.

Legislation enacted in 2018 expanded State regulation of consumer reporting agencies. This legislation codified the requirement that consumer reporting agencies must register with the office; established a process for receiving and investigating complaints about consumer reporting agencies; imposed a surety bond requirement on consumer reporting agencies; and allowed the office to recoup investigation costs. Among other changes, the legislation also (1) required consumer reporting agencies to develop secure connections to process electronic requests for placing, lifting, or removing a security freeze; (2) expanded the definition of “protected consumer”; and (3) altered specified penalties. Additional legislation enacted in 2018 prohibited a consumer reporting agency from charging a consumer or a protected consumer’s representative a fee for a placement, removal, or temporary lift of a security freeze.

Collection Agencies

A collection agency is a person that engages directly or indirectly in the business of collecting for, or soliciting from another, a consumer claim for a third-party debt; or that sells systems used to collect debt. A consumer claim is defined as a claim that (1) is for money owed by a resident of the State and (2) arises from a transaction in which the resident received credit, money, property, or services.

Under Title 7 of the Business Regulation Article, a person may not engage in the business of a collection agency in this State without first paying a \$350 license fee and filing a surety bond

with the State Collection Agency Licensing Board. If an applicant operates several places of business, each place of business must be licensed.

The commissioner serves as the board chairperson. The board may (1) issue, suspend, and revoke licenses and reprimand licensees; (2) handle complaints and conduct hearings; and (3) mediate disputes between consumers and debt collection agencies.

Administration of State Securities Laws

Headed by the Securities Commissioner, the Securities Division of the Office of the Attorney General administers a system of licensing and registration and takes enforcement action against violators of Maryland's investment-related laws. Regulation of the securities market seeks to protect Maryland investors from fraud and misrepresentation.

The activities of the commissioner are set out in Title 11 of the Corporations and Associations Article; Title 14, Subtitles 1 and 2 of the Business Regulation Article; and Title 2, Subtitle 02 of the Code of Maryland Regulations. The division administers and enforces the Maryland Securities Act, the Maryland Franchise Registration and Disclosure Law, and the Maryland Business Opportunity Sales Act. Violators of these laws are subject to administrative sanctions and civil and criminal penalties. The responsibilities of the division include:

- reviewing and registering offerings of nonexempt securities;
- registering and disciplining certain broker-dealers and agents (brokerage firms and their employee stockbrokers) that do business in the State, regardless of home base or location;
- registering State investment advisers and investment adviser representatives (firms and individuals) that do business in the State and overseeing their conduct and standards of practice;
- processing notice filings of federal investment advisers that do business in the State but who are registered with the U.S. Securities and Exchange Commission;
- reviewing and registering franchise offerings made in the State;
- registering business opportunity sales;
- initiating investigations, administrative actions, civil enforcement actions, and referrals for criminal prosecution; and

- issuing interpretive opinions and “no-action” letters in response to inquiries concerning the division’s interpretations of Maryland law.

The federal National Securities Markets Improvement Act of 1996 reallocated the regulatory authority of the U.S. Securities and Exchange Commission and the states. Since the federal Act preempts certain Maryland registration laws including fee provisions and reporting, recordkeeping, and bonding requirements, the Maryland Securities Act was amended to conform to the federal Act.

The federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 further reallocated the regulatory authority of the U.S. Securities and Exchange Commission and the states by increasing the authority of the states to regulate investment advisers.

Exhibit 7.2 reflects the work of the division in fiscal 2021.

Exhibit 7.2
Securities Division Statistics
Fiscal 2021

Broker/Dealer (firm) Registrations and Renewals	1,832
Registered Agents (stockbrokers)	220,487
Investment Adviser/Financial Planner (firm) Registrations and Renewals	629
Investment Adviser/Financial Planner Representative (individual) Registrations, Renewals, and Notice Filings	13,916
Federal Covered Adviser Notice Filings	2,297
Securities Registrations, Renewals, and Exemption and Notice Filings	33,216
Franchise Registrations and Renewals	1,657
Active Cases, Investigations, and Inquiries	1,126
Registration Fees	\$28,242,529
Fines Imposed, Restitution, and Rescission	\$40,906,414

Source: Office of the Attorney General

Securities, Broker-dealers, and Agents

The Maryland Securities Act (Title 11 of the Corporations and Associations Article), also called the “Blue Sky” Law, regulates the offer and sale of securities in the State by requiring both the registration of firms and individuals selling the securities and the registration of the securities of the issuing company. The division reviews registration filings to ensure they adequately disclose

to potential purchasers the risks of the investment and other important factors relevant to a consumer's decision to purchase.

A broker-dealer is a person, including a stock brokerage firm, engaged in the business of effecting transactions in securities for the account of others or for the broker-dealer's own account. The annual fee to register as a broker-dealer is \$250.

An agent is an individual other than a broker-dealer who represents a broker-dealer or an issuer of a security in affecting or attempting to affect the purchase or sale of securities. The annual fee to register as an agent is \$50.

The commissioner may require registered broker-dealers to have a certain minimum amount of capital, subject to the limitations of the federal Securities Exchange Act. Subject to federal limitations, the commissioner may also require registered broker-dealers, as well as agents, to satisfy certain bonding requirements. Broker-dealers must maintain records of transactions for the division to inspect.

Subject to certain conditions, a limited number of securities and securities transactions are exempt from the registration requirement. The initial or renewal fee to register a public offering is 0.1% of the aggregate offering price of the shares being offered in Maryland, with a minimum fee of \$500 and a maximum fee of \$1,500. The initial fee to file a notice filing of an offering of a mutual fund or unit investment trust is \$500. To renew a notice filing, the fee is \$500 plus a sales fee for the prior year. If the issuer provides a sales calculation, the sales fee is 0.1% of the aggregate offering price of the shares sold in Maryland up to a maximum of \$1,500, less a \$500 credit for the initial filing fee. If the issuer does not provide a sales calculation, the sales fee is \$1,800, less a \$500 credit for the initial filing fee. An issuer that terminates its notice filing instead of renewing it must pay the appropriate sales fee.

Federal law requires that broker-dealers operating in interstate commerce belong to the Financial Industry Regulatory Authority. The authority sponsors an arbitration forum for the resolution of disputes that involve public customers, broker-dealers, or persons associated with broker-dealers.

Investment Advisers

Subject to the requirements of the National Securities Markets Improvement Act, investment advisers also must register with the division under the Maryland Securities Act. Maryland law also requires registration of employees of an investment adviser (called "investment adviser representatives") who have contact with clients concerning investment advice.

An investment adviser is a person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. An investment adviser also includes a person who, for compensation (1) provides or offers to provide,

directly or indirectly, financial and investment counseling or advice, on a group or individual basis or (2) gathers information relating to investments, establishes financial goals and objectives, processes and analyzes the information gathered, and recommends a financial plan.

Investment advisers must make disclosures to their clients concerning their background and experience, fees, and potential or actual conflicts of interests that may arise in the course of advising or undertaking transactions for clients. The commissioner may require a person to satisfy certain capital conditions before registering an investment adviser. The annual fee to register as an investment adviser is \$300, and the annual fee to register as an investment adviser representative is \$50.

Franchises

Under the Maryland Franchise Registration and Disclosure Law (Title 14, Subtitle 2 of the Business Regulation Article), a person that intends to sell franchises within Maryland or to Maryland residents must register its franchise offering with the division. A franchise is an agreement in which a purchaser, on payment of a fee, is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan or system provided by the franchisor.

As part of the registration process, a franchisor must file with the division a disclosure document that discusses all material information necessary for a potential franchisee to make an informed investment decision. A prospective franchisee must receive a copy of the disclosure document at least 14 calendar days before the execution of a binding franchise agreement, 14 days before payment of any consideration that relates to the franchise relationship, or a reasonable request by the prospective franchisee to receive a copy, whichever is earliest.

The fee for an initial registration is \$500, with an annual renewal fee of \$250. The fee to amend a registration statement is \$100, and the fee to apply for an exemption from registration is \$250.

Business Opportunities

The Maryland Business Opportunity Sales Act (Title 14, Subtitle 1 of the Business Regulation Article) regulates the sale of “business opportunities” by requiring the sellers of these arrangements to make certain filings before advertising or making representations to prospective purchasers. Business opportunities are prepackaged small business deals usually offered to novice entrepreneurs through classified advertisements, home seminars, and business opportunity expositions. Typical business opportunity deals involve the sale of vending machines, amusement devices, and greeting card display racks.

Sellers must file a disclosure statement and may be required to post a \$50,000 bond. The disclosure must include the seller’s experience, a description of the actual services that the business opportunity seller will perform for the purchaser, and financing arrangements. The seller must

provide the prospective purchaser with a copy of the disclosure at least 10 business days before a purchaser enters into an agreement.

The initial fee for a business opportunity filing is \$250, and the annual renewal fee is \$100. Amendments to a filing require a \$50 fee.

Interpretive Opinions and “No-action” Letters

The division generates interpretive opinions and “no-action” letters in response to specific inquiries from issuers, broker-dealers, and other firms or individuals about the division’s interpretation of Maryland law. The U.S. Securities and Exchange Commission performs this function at the federal level. The fee for an interpretive opinion issued by the division is \$100.

Chapter 8. Insurance

The insurance industry offers protection against the damaging consequences of an unexpected loss by distributing the risk of that loss among consumers. Nationwide, the business of insurance is principally regulated at the state level. The Maryland Insurance Administration is an independent State agency responsible for oversight and regulation of the industry in Maryland. The administration and its head, the Maryland Insurance Commissioner, participate in the activities of the National Association of Insurance Commissioners, a national standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and five U.S. territories.

This chapter describes the responsibilities of the administration and the regulatory structure of the insurance industry, including the licensing requirements for insurance companies and producers and the process for filing consumer complaints. Further, the chapter provides information about the People's Insurance Counsel Division in the Office of the Attorney General, which represents consumer interests in the areas of homeowners insurance and medical professional liability insurance.

Maryland Insurance Administration

The Maryland Insurance Administration was created in 1993 as an independent unit of State government to administer the regulation of the insurance industry under the Insurance Article. The Maryland Insurance Commissioner heads the administration and is appointed by the Governor for a four-year term.

The administration's regulatory role extends to all aspects of the industry, including oversight over insurance companies (also known as "insurers"), insurance producers (formerly known as "brokers" and "agents"), and other entities and insurance professionals engaged in the business of insurance, as well as the products offered, with the ultimate goal of protecting Maryland consumers. The administration's specific regulatory functions include:

- performing actuarial evaluations, financial audits, financial examinations, and market conduct examinations to ensure the solvency of insurance companies and compliance with State insurance laws;
- determining eligibility for and issuing certificates of authority to insurance companies and licenses, certificates, and registrations to insurance producers and other insurance professionals;
- reviewing rates, policy and contract forms, manuals, and endorsements;
- resolving consumer complaints about insurance coverage; and

- investigating allegations of insurance fraud.

In order to regulate the industry, the administration is organized into functional divisions, including:

- Life and Health Insurance;
- Property and Casualty Insurance;
- the Office of the Chief Actuary;
- Financial Regulation;
- Market Regulation and Professional Licensing;
- Insurance Fraud and Producer Enforcement; and
- Consumer Education and Advocacy.

The insurance industry falls broadly into two major categories with similar but separate laws and regulations governing each type: life and health insurance (including life, annuities, health benefit plans, Medicare supplement insurance, dental plans, health maintenance organization coverage, credit life and health, accidental death, long-term care, and other supplemental health insurance products); and property and casualty insurance (including motor vehicle, homeowners, workers' compensation, fire, burglary, property, casualty, general liability, professional liability, inland marine, commercial multi-peril, fidelity-surety, mortgage guaranty, and title insurance).

Regulatory Structure

Maryland insurance laws require insurers to have certificates of authority issued by the commissioner and to comply with formation and financial standards in order to engage in the insurance business in the State. Insurers must maintain an adequate level of assets, capital, surplus, and reserves. Insurers are prohibited from engaging in unfair or deceptive methods of pricing or marketing insurance policies and must provide notices with specified information to current and prospective policyholders under certain circumstances.

Insurance may be provided by insurers formed under the laws of Maryland ("domestic" insurers), another state ("foreign" insurers), or another country ("alien" insurers). Only an estimated 3% of the insurers operating in Maryland (50 out of 1,478 as of June 2021) are domestic companies; the rest are foreign or alien insurers.

The administration authorizes insurers to write policies in the State. Surplus lines carriers, which are not as closely regulated as authorized insurers, are approved to provide insurance in the State only if the insurance they provide is not available from an authorized insurer. In addition, Maryland allows for the operation of nonprofit health service plans (*e.g.*, CareFirst BlueCross BlueShield), health maintenance organizations, managed care organizations, dental plans, and fraternal benefit societies. Unauthorized insurers are generally prohibited from operating in the State. However, there are exceptions for a variety of activities including nondomestic reinsurance, the fulfillment of obligations made as an authorized insurer, and the services of an adjuster with respect to a claim under a policy that is lawfully solicited, issued, and delivered outside of Maryland.

There are two insurance guaranty corporations in the State that provide protection to consumers from the insolvency of an insurer. The Property and Casualty Insurance Guaranty Corporation, a private, nonprofit corporation created by statute under Title 9, Subtitle 3 of the Insurance Article provides a mechanism for the payment of unpaid property and casualty claims to residents of Maryland who are policyholders of insolvent insurers. The corporation does not pay claims on insurance written on a surplus lines' basis or by a risk retention group or an unauthorized insurer. The Life and Health Insurance Guaranty Corporation, created by statute under Title 9, Subtitle 4 of the Insurance Article, provides similar protection to unpaid health, life, and annuity claims made to insolvent insurers. As a condition of authority to transact business in the State, all insurers that write these types of insurance must be members of the appropriate corporation.

Assessment of Taxes and Fees

All insurers are assessed taxes and fees that the administration collects. A 2% premium tax is imposed on nearly all policy premiums written by authorized insurers. A 3% tax is imposed on all premiums charged for surplus lines insurance by unauthorized insurers. A retaliatory tax is imposed on foreign insurers whose home state or charter requires the payment of a higher rate than that levied by Maryland. Revenues from these taxes are deposited in the State's general fund. The administration may retain its costs to assess and collect the premium tax in an administrative account.

In addition to the taxes imposed on insurers, the administration collects fees for producer filings and licensing, rate and form filings, certificates of authority, financial and market conduct examinations, and fraud prevention. Revenues from filing, licensing, examination, and fraud prevention fees are deposited into the Insurance Regulation Fund, a special fund used to pay for the operations of the administration. The administration also collects fines and penalties, revenues from which are deposited into the general fund.

The Insurance Regulation Fund also receives an assessment levied each year on insurers. The assessment equals 60% of the administration's approved annual budget appropriation. Health insurers pay 40% of the assessment, life insurers pay 26%, and property and casualty insurers pay 34%.

Exhibit 8.1 summarizes the taxes and fees the administration collected in fiscal 2021.

Exhibit 8.1
Maryland Insurance Administration
General and Special Fund Revenues
Fiscal 2021
(\$ in Thousands)

General Fund Revenues:	
Premium Taxes	\$611,591
Retaliatory Taxes	17
Fines and Penalties	878
Total	\$612,486
Insurance Regulation and MIA Special Fund Revenues:	
Insurance Regulatory Fund	\$14,475
Health Care Regulatory Fund	3,235
Company Insurer Licensing Fees	1,752
Agent/Broker Licensing Fees	8,148
Rates and Forms Filing Fees	2,622
Examination Fees	1,507
Fraud Prevention Fees	1,329
Miscellaneous Income	442
Total	\$33,510
Other Special Funds Revenues:	
Health Care Access Fund	\$123,983
Office of People's Counsel Assessment	564
Total	\$124,547

Note: Numbers may not sum to total due to rounding.

Source: Maryland Insurance Administration

Licensing, Examination, Auditing, and Oversight of Insurance Companies

The administration operates various divisions which are responsible for the licensing, examination, auditing, and oversight of insurance companies. The Financial Regulation Division is responsible for the financial oversight of domestic and foreign insurance companies, including financial analyses and examinations of licensed companies and applicants for company licensing. The Market Regulation and Professional Licensing Division is primarily responsible for regulatory oversight of domestic and foreign insurance companies, insurance producers, title agents, public adjusters, and bail bonds. These domestic and foreign insurers include life, health, property, and casualty insurers; health maintenance organizations; managed care organizations; nonprofit health service plans; dental plan organizations; and automobile motor clubs. The administration maintains a comprehensive list of insurers authorized to conduct business in Maryland and each insurer must annually renew its certificate of authority (authority to conduct business in the State).

Insurers must be examined at least once every five years. Through financial examinations (and actuarial examinations for life insurers), the administration scrutinizes the affairs, transactions, accounts, records, and assets of each insurer applying for a certificate of authority. This includes the review of quarterly and annual statements, certified public accountant reports, and premium tax reports. These examinations and audits indicate the financial stability and solvency of insurance companies, including their outstanding reserve liability. Insurers are monitored to ensure their ability to meet obligations to policyholders and to comply with State insurance laws and regulations and approved rates. Examiners seek to identify any company in financial trouble or engaging in activities contrary to Maryland insurance law. Field examiners perform examinations at the home office and branch offices of the insurer. The insurers being examined bear the costs of the examinations.

The administration participates in the National Association of Insurance Commissioners' coordinated zone examinations of out-of-state insurers. Instead of conducting an examination of these insurers, the commissioner may accept a full report, certified by the insurance supervisory official of another state, of the most recent examination of a foreign insurer or an alien insurer.

Exhibit 8.2 summarizes the licensing and auditing activities of the administration in fiscal 2021.

Exhibit 8.2
Licensing and Auditing of Insurers
Fiscal 2021

Licensing of Companies:	
Original Certificates Issued	24
Total Companies Licensed	1,478
Annual Statements Filed:	
Life and Health Companies	435
Property and Casualty Companies	938
Nonprofit Health Services Plans	4
Title Companies	29
Fraternal Insurance Companies	32
Health Maintenance Organizations (HMOs)	20
Managed Care Organizations	8
Provider Sponsored Organizations	1
Risk Retention Groups	103
Dental Plan Organizations (DPOs)	14
Surplus Line Carriers	163
Accepted Unauthorized Reinsurers	52
Workers' Compensation Self-insurers	5
Motor Clubs	24
Companies Examined (Completed)	12

Source: Maryland Insurance Administration

Rates, Policies, and Forms Review

Insurers file rates, policies, and forms with the administration along with policy endorsements and any modifications that the insurers propose to use. The administration only regulates rates by reviewing proposed rate changes that insurers initiate; the administration does not make or initiate rate changes on its own. For lines of insurance other than most property and casualty lines, proposed policy rates must be submitted to and approved by the administration prior to their use (“prior approval” rate making). Proposed rates that are submitted 90 days prior to implementation are deemed approved if not denied within 30 working days after filing; however, this does not apply to health insurance related filings.

For property and casualty insurance (including homeowners, workers’ compensation, and most motor vehicle insurance), insurers are allowed to “file and use” rates without the prior approval of the administration. However, the administration reviews the rates to ensure they are adequate but not excessive. Regulations prescribe a procedure based on an expected loss ratio and percentage increase to determine whether rates are excessive and whether a hearing should be held.

Both rating systems have protections for the public by ensuring that rates are not excessive, inadequate, or unfairly discriminatory and that policy provisions comply with the Insurance Article.

Life and Health Insurance

Life and health insurance includes life, annuities, health benefit plans, Medicare supplement insurance, dental plans, health maintenance organization coverage, credit life and health, accidental death, long-term care, and other supplemental health products. The Life and Health Division and the Office of the Chief Actuary regulate this segment of the market.

The Life and Health Division attempts to ensure the financial stability and solvency of domestic life and health insurers by enforcing all applicable insurance laws. To meet this goal, the division reviews for prior approval all contracts that insurers, health maintenance organizations, nonprofit health service plans, and dental plan organizations want to issue or deliver in Maryland. This review process is for both domestic and nondomestic insurers. Additionally, the division reviews the premium rates for all health and credit life and credit health policies issued or delivered in Maryland.

Further, the division performs review and approval of applications for medical directors of health maintenance organizations and for private review agents. The division is also required by law to review advertising for all long-term care insurance and Medicare supplement insurance.

The division reviews initial rate filings relating to health, dental, credit life and credit health, and HMO coverage to ensure that rates are not excessive, inadequate, or unfairly discriminatory. Under the federal Patient Protection and Affordable Care Act, the division reviews

changes to health benefit plan rates in the small group and individual markets before they are allowed to be used. Health insurance companies must submit consumer-oriented documents to the division about any rate changes in the small group and individual markets so that the public can comment on the proposed rates. When a health insurance company submits a request that is open to public comment, consumers can read the company's justification for the request and submit comments during a 30-day public review period. Rate change requests submitted to the division pertain to a base amount that a health insurance company would like to charge. These changes may not apply to a specific policy, the rates for which can be based on many other factors, including age, area, and health conditions. The Patient Protection and Affordable Care Act requires health insurance companies to submit data on the proportion of premium revenues spent on clinical services and quality improvements, known as the medical loss ratio.

Exhibit 8.3 summarizes the activities of the Life and Health Division in fiscal 2021.

Exhibit 8.3
Life and Health Insurance Regulatory Data
Fiscal 2021

Forms Received:	
Life Insurance	916
Health Insurance	2,901
Annuity	757
HMO/Nonprofit Health Service Plans/DPO	2,661
Credit	3
Rate Filings	0
Actuarial Memos Reviewed	155
Rate Deviations – Credit Insurance	9
Advertising Filings	621
Medical Director/PRA Applications:	
Received	138
Applicants Certified	140

HMO: Health Maintenance Organization

DPO: Dental Plan Organization

PRA: Private Review Agent

Source: Maryland Insurance Administration

Maryland Health Benefit Exchange

The Maryland Health Benefit Exchange is a public corporation and an independent unit of State government that assists individuals and small employers in shopping for and purchasing health insurance that provides certain essential health benefits. While most of the exchange's

operations are conducted independently of the administration, there are several areas in which the administration and the exchange interact. For example, the commissioner is a member of the exchange's board of trustees, may suspend or revoke certificates the exchange issues to individual exchange navigators and may impose penalties on individual exchange navigators. The administration also approves the rates for all products sold through the exchange.

For a full discussion on the Maryland Health Benefit Exchange, please see "Chapter 10. Health Services" of *Volume II – Government Services in Maryland*.

Property and Casualty Insurance

Property and casualty insurance includes motor vehicle, homeowners, workers' compensation, fire, burglary, property, casualty, general liability, professional liability, inland marine, commercial multi-peril, fidelity-surety, mortgage guaranty, and title insurance.

The Property and Casualty Division regulates the rates charged and the forms used by insurers. All licensed insurance companies are required to file with the division policy forms, endorsements, rates, rating plans, and rating rules, and amendments to any of these items. This requirement ensures that rates are not excessive, inadequate, or unfairly discriminatory and that policy provisions comply with the Insurance Article. Under Maryland's competitive rating laws, insurers may use rates for certain lines of insurance at the time they are filed and without prior approval of the administration. Rates subject to the competitive rating laws include those for homeowners' insurance and private passenger motor vehicle insurance. However, rates for surety, title, medical malpractice, and insurance provided by the Maryland Automobile Insurance Fund remain subject to the approval process of the division prior to their use. As a customer service, the Rates and Forms Review Unit provides data for various guides for homeowners and personal automobile insurance. As required by statute, the unit also provides a rate guide for medical malpractice coverage.

Exhibit 8.4 summarizes the activities of the Property and Casualty Division in fiscal 2021.

Exhibit 8.4
Property and Casualty Insurance Regulatory Data
Fiscal 2021

Form Filings	3,240
Rate Filings	1,821
Premium Finance Company Registrations	45
Motor Clubs Operating	23
Risk Purchasing Group Registrations*	704

*There are 704 total purchasing groups; of that number, 665 groups are active.

Source: Maryland Insurance Administration

Consumer Complaint Investigation

The administration is the point of contact for complaints related to life and health insurance and property and casualty insurance. It investigates both consumer complaints and complaints from insurance companies and insurance professionals. In addition to taking action on individual complaints, if the administration discovers a business habit or practice of an insurance company during the complaint investigation, the matter is referred to the Market Regulation and Professional Licensing Division, where it is investigated and may lead to a broader market conduct examination. If the complaint involves a self-insurer (except under specified circumstances, such as fraud for workers' compensation claims) or is not within the administration's scope of authority, the complainant is notified, and the complaint case is closed.

The Life and Health Division investigates complaints pertaining to health insurance, health maintenance organization coverage, life insurance, annuities, and credit insurance. All administration costs and expenses related to the appeals and grievance process are funded through an assessment on the entities subject to the law. Funds collected through the assessment mechanism are deposited to the Health Care Regulatory Fund. The unit resolves complaints regarding payment of claims, as well as complaints about carrier determinations regarding whether a particular service is covered under an insured's contract.

The corresponding Property and Casualty Division investigates motor vehicle, homeowners, title, and other insurance complaints regarding property and casualty insurance policies. Most complaints involve premium increases, cancellations, and nonrenewal of private passenger motor vehicle insurance policies. After these, the majority of complaints involve the denial or unsatisfactory handling of motor vehicle and homeowners' insurance claims.

Exhibit 8.5 summarizes the combined activities of the consumer complaint units in fiscal 2021.

Exhibit 8.5 Consumer Complaint Data Fiscal 2021

Life and Health Complaints:	
Received from Citizens, Providers, and Organizations	2,955
Money Recovered from Concluded Complaints	\$2,911,481
Property and Casualty Complaints:	
Motor Vehicle Insurance Protests Received	2,794
All Other Property and Casualty Complaints	1,791
Money Recovered from Concluded Complaints	\$3,649,872

Source: Maryland Insurance Administration

Market Regulation

The Market Regulation and Professional Licensing Division is primarily responsible for the regulatory oversight of the insurance industry by examining company business practices and investigating insurance producer activities. Market conduct (nonfinancial activity) examinations are performed to assure that insurer trade practices comply with Maryland insurance law. Sales, advertising, marketing, underwriting, rating practices, claims processing, and policyholder treatment are reviewed during an examination to determine their fairness and compliance with the law. The examinations are performed both on-site and at the division's offices. The division assesses insurers for the cost of conducting examinations and assesses administrative penalties for violations.

Exhibit 8.6 summarizes the compliance and enforcement activities of the administration in fiscal 2021.

Exhibit 8.6 Market and Producer Enforcement Investigations Fiscal 2021

Market Conduct Examinations:	
Examinations Opened	6
Examinations Closed	5
Investigations Opened	94
Investigations Closed	138
Orders	11
Producer Enforcement Investigations:	
Investigations Opened	1,645
Investigations Closed	1,336
Revocations Orders	17
Orders Other Than Revocations	41
Total Restitution	\$8,080,565
Total Penalties	\$339,950
Total Per Diem Costs Billed to Insurers	\$546,673

Notes: Restitution and penalty totals include the combined activities of market conduct examinations and producer enforcement examinations. Restitution totals refer to funds returned to Maryland consumers. Penalty totals refer to fines assessed on companies, which are deposited in the State general fund.

Source: Maryland Insurance Administration

Licensing of Insurance Professionals

The administration issues licenses or certificates to persons and individuals that sell or are otherwise involved with the insurance industry. Most commonly, the administration issues an

insurance producer license to each person who sells, solicits, or negotiates insurance contracts. The law also provides reciprocity for nonresident insurance producers wishing to obtain a Maryland license if certain criteria are met. Individual applicants for a license must pass an examination and meet other qualifications set by the administration, including experience and continuing education requirements.

The administration also issues licenses or certificates to a number of other types of insurance professionals, such as insurance advisors, public adjusters, third-party administrators, pharmacy benefits managers, and bail bondsmen. Although the specific requirements for each type of license or certificate vary, each type of professional must register with the administration and meet any education, continuing education, examination, or other standards established by the administration.

Exhibit 8.7 summarizes the administration's licensing activities in fiscal 2021.

Exhibit 8.7
Producers, Advisers, and Others
Licensing and Consumer Services
Fiscal 2021

<u>Individual Licenses/Registrations*</u>	<u>Resident</u>	<u>Non-Resident</u>
Adviser	146	83
Insurance Assistance Individual	0	2
Insurance Producer	35,445	178,629
Motor Club Representative	3,831	4,142
Public Adjuster	157	539
Self-service Storage Producer	11	8
Surplus Lines Broker	222	1,934
Temporary Producer	2	0
Viatical Settlement Broker	45	76
Viatical Settlement Provider	1	0
<u>Business Entity Licenses/Registrations*</u>	<u>Resident</u>	<u>Non-Resident</u>
Insurance Producer	2,670	10,780
Motor Vehicle Rental Corp	3	8
Motor Vehicle Rental Franchisee	0	3
Portable Electronics	2	21
Public Adjuster	22	29
Self-Service Storage Producer	24	18
Surplus Lines Broker	72	687
Third Party Administrator	21	150
Third Party Administrator ERISA Only	25	82
Viatical Settlement Broker	4	28
Viatical Settlement Provider	2	20

* As of July 1, 2021.

Source: Maryland Insurance Administration

Insurance Fraud

The Insurance Fraud and Producer Enforcement Division of the administration investigates complaints of fraudulent insurance acts and, where appropriate, initiates the prosecution of those committing these acts. Insurance fraud has a far-reaching effect on consumers and the national economy, in large part due to the massive size of the insurance industry. The Federal Bureau of Investigation estimates that the thousands of insurance companies in the United States collect nearly \$1 trillion in premiums each year and lose approximately \$40 billion due to insurance fraud. These losses are then passed on to consumers through higher premiums.

During its investigations, the division makes a determination about whether to pursue a criminal or civil case based on numerous factors, such as the alleged offender's criminal history, intent, and position of authority. Criminal cases are referred to a State's Attorney or the Office of the Attorney General for prosecution, while civil fraud sanctions are imposed by the administration. Reports of insurance fraud come from a variety of sources, including law enforcement agencies, prosecutors, other divisions of the administration, other State agencies, and the public, although most referrals come from insurance companies. Civil and criminal penalties imposed by the administration or the courts accrue to the general fund. The division works closely with the Department of State Police, the Workers' Compensation Commission, the Office of the Attorney General, and the offices of the State's Attorneys in all 24 subdivisions. The division also conducts public outreach and awareness programs to inform the public of the cost of insurance fraud and to encourage the reporting of fraudulent acts.

Insurers are required to have an antifraud plan filed with and approved by the division. The commissioner has the authority to issue an order imposing a financial penalty for failing to file an antifraud plan.

Exhibit 8.8 summarizes the activities of the Insurance Fraud Division in fiscal 2021.

Exhibit 8.8
Insurance Fraud
Fiscal 2021

Fraud Complaints Received	5036
Resolution of Complaints	
Closed at Initial Screening	4160
Closed after Initial Investigation	156
Opened for Investigation by Fraud Division	462
Referred to Other MIA Divisions	37
Referred to Law Enforcement	88
Referred to Insurer	28
Pending Awaiting Information	11
Cases and Resolution of Cases Referred To:	
Local State's Attorneys (Criminal Prosecution)	
Cases Referred for Prosecution	16
Investigations Closed by Filing Charges	7
Insurance Commissioner (Civil Sanctions)	
Cases Referred for Civil Order	58
Investigations Closed by Filing Civil Order	58
Office of the Attorney General	
Cases Referred	11
Investigations Closed by Filing Charges	3

Source: Maryland Insurance Administration

Consumer Education and Advocacy Unit

The Consumer Education and Advocacy Unit educates consumers about various insurance products and explains to consumers their rights and obligations under the terms of their insurance contracts. In fiscal 2021, the unit participated in 161 virtual events and 14 in-person fairs, trade shows, and other events around the State where unit team members answered consumer questions about insurance issues and provided educational materials to consumers.

In addition to educating Maryland citizens about insurance issues, the unit developed the Rapid Response Program to help insurance consumers resolve disputes with insurers in a prompt and efficient manner. In fiscal 2021, the unit received approximately 1,300 inquiries.

The unit also operates the Rapid Response Program. The program helps consumers resolve property and casualty claims, such as auto and homeowners' claims, quickly and without having to file a formal written complaint. Commercial lines policies may also use the program. The program also connects individuals who are having difficulty resolving a claim with special representatives at participating companies in an effort to have problems resolved directly and quickly.

People's Insurance Counsel Division

The People's Insurance Counsel Division of the Office of the Attorney General, headed by the People's Insurance Counsel, represents the interest of homeowners and medical professionals. While not part of the administration, the division produces materials to assist consumers in their insurance coverage decisions, reviews complaints filed with the administration to identify patterns in insurance practices that point to larger issues and proposes legislation to strengthen consumer protection laws.

Chapter 9. Health

Maryland's health care system is highly complex and includes more than 19,000 regulated health care facilities and community-based programs in 44 industries and nearly 384,000 regulated health professionals. These facilities, sites, and providers are regulated in some form by the State and, in many instances, in conjunction with the federal government. The State agency primarily responsible for regulating both facilities and providers is the Maryland Department of Health. In addition to health care facilities and providers, the department also plays a significant regulatory role in ensuring food safety in Maryland.

This chapter outlines the regulatory mission of the department; describes the major entities under the department that regulate health care facilities and professionals; discusses the department's role in ensuring the safety of Maryland's food, milk, and dairy supply; and briefly summarizes other agencies involved in the regulation of health care in Maryland, including the Maryland Insurance Administration, the Office of the Attorney General, and the Maryland Institute for Emergency Medical Services Systems. For further information regarding the health services delivered by the Maryland Department of Health and other government entities, see *Volume II – Government Services in Maryland*.

Maryland Department of Health

The mission of the Maryland Department of Health is to promote and improve the health and safety of all Marylanders through disease prevention, access to care, quality management, and community engagement. The department is responsible for helping each person live a life free from the threat of communicable diseases, tainted foods, and dangerous products. Regulatory activities include the prevention, control, monitoring, and treatment of infectious diseases; investigation of disease outbreaks; and protection from food-related and environmental health hazards.

Regulation of Health Care Facilities

The department is responsible for assuring that Marylanders have appropriate access to high-quality health care. Regulation of Maryland's health care facilities and programs is primarily handled by the Office of Health Care Quality, while additional regulation of some facilities is provided by the Health Services Cost Review Commission, the Maryland Health Care Commission, the Maryland Commission on Kidney Disease, and some of the health occupations boards.

Office of Health Care Quality

The Office of Health Care Quality is the agency within the department charged with monitoring the quality of care in Maryland's health care facilities and community-based programs. Through the authority of the Maryland Secretary of Health, the office issues State licenses that authorize a facility or program to operate in Maryland. On behalf of the federal Centers for Medicare and Medicaid Services, the office conducts certification, recertification, and federal Clinical Laboratory Improvement Amendments activities. The office also makes recommendations regarding certification of a provider or supplier to the Centers for Medicare and Medicaid Services; once certified, a provider or supplier may participate in and seek reimbursement from the Medicare and Medicaid programs. Additionally, the office conducts various types of surveys under federal and/or State authority to determine compliance with federal and State law and regulations.

The office regulates health care facilities and programs through the following units:

- ***Assisted Living Unit:*** regulates assisted living programs and adult medical day care centers for the elderly and medically compromised adults;
- ***Clinical and Forensic Laboratories Unit:*** responsible for State licensure of all laboratories that perform tests on specimens obtained from Maryland citizens and for federal certification of all laboratories located in Maryland;
- ***Developmental Disabilities Unit:*** ensures regulatory compliance of community-based providers operated for the benefit of individuals with developmental disabilities (including intermediate care facilities for individuals with intellectual disabilities and forensic residential centers), as well as licenses health care staff agencies and nurse referral agencies;
- ***Federal Unit:*** responsible for State licensure and/or federal certification of freestanding birthing centers, community mental health centers, comprehensive outpatient rehabilitation facilities, correctional health care facilities, cosmetic surgical facilities, federally qualified health centers, freestanding ambulatory surgery centers, freestanding medical facilities, freestanding renal dialysis centers, health maintenance organizations, home health agencies, hospice providers, hospitals, limited private inpatient facilities, major medical equipment providers, outpatient physical therapy providers, portable x-ray providers, residential service agencies, residential treatment centers, rural health clinics, surgical abortion facilities, and transplant centers; and
- ***Long-term Care Unit:*** regulates nursing homes.

State and federal regulations set forth minimum standards for licensure and certification of health care facilities and community-based programs. Providers are surveyed for compliance with State and federal laws and regulations as mandated by those laws and regulations. When

deficiencies are noted, the office issues a notice of noncompliance to the provider. If a provider fails to correct a problem or if the scope and severity are serious, the office may impose sanctions such as civil money penalties, bans on new admissions, other operating license restrictions, or license revocation.

The office issues nonexpiring licenses to specified provider types and collects no licensing fees. **Exhibit 9.1** lists all health care facilities, providers, or programs licensed by the office; the number of inspections (known as surveys) conducted; and the number of complaints investigated by the office in fiscal 2021. Some providers, like developmental disabilities agencies, use a single license to operate multiple sites. Thus, the number of facilities, providers, or programs listed in Exhibit 9.1 is less than the total number of facilities, providers, and programs that the office regulates throughout the State (more than 19,000).

Health Services Cost Review Commission

The regulation of hospitals is unique in Maryland. While the Office of Health Care Quality licenses hospitals to operate and certifies hospitals to participate in and be reimbursed by Medicare and Medicaid, the Health Services Cost Review Commission establishes and regulates rates for inpatient and outpatient services provided at Maryland hospitals.

The commission is an independent State agency responsible for regulating the quality and cost of hospital services to ensure that all State residents have access to high value health care. The commission's vision is to enhance the quality of health care and patient experience, improve population health and health outcomes, and reduce the total cost of health care. The commission establishes rates for all hospital services and helps develop the State's efforts to transform the health care delivery system. The commission has rate-setting authority over approximately 55 facilities, including 45 acute care hospitals.

Exhibit 9.1
Health Care Facilities, Providers, and Programs
Regulated by the Office of Health Care Quality
Fiscal 2021

	Facilities, Providers, or Programs	Surveys Conducted¹	Complaints Investigated
Adult Medical Day Care Centers	122	10	10
Assisted Living Programs	1,672	1,081	1,192 ²
Assisted Living Referrers	41	0	0
Community Mental Health Centers	3	0	0
Comprehensive Outpatient Rehabilitation Facilities	1	0	0
Correctional Health Facilities	10	0	0
Cosmetic Surgical Facilities	5	0	0
Developmental Disabilities Agencies	304 ³	254	3,797 ²
Federally Qualified Health Centers	77	0	0
Forensic Residential Centers	1	1	11
Freestanding Ambulatory Surgery Centers	340	109	9
Freestanding Birthing Centers	2	2	0
Freestanding Medical Facilities	5	0	0
Freestanding Renal Dialysis Centers	175	49	32
Health Care Staff Agencies	593	94	2
Health Maintenance Organizations	7	0	1
Home Health Agencies	56	14	6
Hospices	26	3	11
Hospice Houses	16	0	0
Hospitals	63	216	44
Intermediate Care Facilities for Individuals with Intellectual Disabilities	2	2	21 ²

	<u>Facilities, Providers, or Programs</u>	<u>Surveys Conducted</u> ¹	<u>Complaints Investigated</u>
Laboratories			
Cholesterol Testing Sites	0	0	0
Employer Drug Testing Facilities	250	29	0
Forensic	45	15	0
Health Awareness Testing Sites	60	17	0
Hospital	91	0	1
Independent Reference	148	14	4
Physician Office and Point of Care ⁴	475	167	8
Public Health Testing Sites	34	0	0
Tissue Banks	438	2	0
Limited Private Inpatient Facilities	7	7	2
Major Medical Equipment	201	0	3
Nursing Homes	226	881	2,281 ²
Nurse Referral Agencies	158	12	0
Outpatient Physical Therapy	67	12	0
Portable X-Ray Providers	10	1	0
Residential Service Agencies	1,605	187	99
Residential Treatment Centers	6	0	7
Rural Health Clinics	1	0	0
Surgical Abortion Facilities	11	1	2
Transplant Centers	2	0	0
Total	7,356	3,180	7,543

¹ Includes initial surveys of new providers, renewal and other periodic or planned surveys, and other follow-up surveys not categorized as complaint investigations or self-reported incidents.

² Includes self-reported incidents.

³ The 304 licensed agencies encompass a total of 3,008 sites.

⁴ In fiscal 2021, 5,553 physician office and point-of-care laboratories were licensed to operate in Maryland; however, the vast majority perform tests that are waived under the federal Clinical Laboratory Improvement Amendments and thus most are surveyed only if there is a complaint. In fiscal 2021, the office was responsible for conducting State-only and federal surveys on 475 of such laboratories.

Source: Office of Health Care Quality

In 2014, Maryland entered a five-year contract with the federal government to replace the State's 36-year-old Medicare waiver with the Maryland All-Payer Model Contract that governs hospital rate setting. Under the All-Payer Model, which ran through December 31, 2018, Maryland hospitals transitioned to global budget revenues – an annual revenue target established by the commission for each hospital that considers inflation, changes in population, the hospital's performance on quality and efficiency metrics, and other factors. Maryland was successful under the All-Payer Model, reducing unnecessary readmissions and hospital-acquired conditions, while decreasing the growth in hospital cost per capita. However, the All-Payer Model focused solely on hospitals and not on the broader health care system. Thus, the federal government required

Maryland to submit a proposal for a new model that encompasses *all* of the health care that patients receive, both in hospitals and in the community, and which limits Medicare beneficiary total cost of care growth.

In July 2018, Maryland and the federal Centers for Medicare and Medicaid Innovation agreed to the terms of a new Total Cost of Care Model. The model, effective January 1, 2019, builds on the All-Payer Model and aims to improve population health and health outcomes and reduce the total cost of care for Marylanders. Maryland must achieve the following six annual performance targets:

- ***Annual Medicare Total Cost of Care Savings:*** Maryland must achieve \$300 million in annual Medicare savings through the end of calendar 2023 (at which time a new formula will be determined for the remainder of the model).
- ***Total Cost of Care Guardrail:*** Maryland may not exceed national Medicare growth in total cost of care by more than 1% in any year and/or exceed that growth rate by any amount for two years in a row.
- ***All-Payer Hospital Revenue Growth Per Capita:*** Maryland must keep all-payer hospital revenue growth less than or equal to 3.58% per capita annually.
- ***Reduction in Readmissions for Medicare:*** Maryland must meet or exceed national and prior Maryland Medicare readmissions rates.
- ***Reductions in Hospital-acquired Conditions:*** Maryland must meet or exceed previous Maryland performance on all-payer potentially preventable conditions.
- ***Hospital Revenue under Population-based Payment Methodology:*** Maryland must have at least 95% of regulated hospital revenue under a population-based payment methodology (*i.e.*, global budget revenue) over the course of the model.

Success under the Total Cost of Care Model requires hospital and nonhospital stakeholders to work together to improve outcomes across the health care spectrum and advance population health. Accordingly, the State, in collaboration with the federal government, has developed initiatives aimed at aligning incentives for nonhospital providers and other stakeholders with the goals of the model. The Statewide Integrated Health Improvement Strategy sets goals that the State must meet over the course of the model in the areas of hospital quality, care transformation across the system, and total population health. By setting these goals, the strategy is designed to engage State agencies and private-sector partners to collaborate and invest in improving health, addressing disparities, and reducing health care costs in the State. The State has also worked with its partners at the federal level to establish new programs, including the Maryland Primary Care Program, the Care Redesign Program, and the Episode Quality Improvement Program, which align incentives for nonhospital providers with the goals of the model. For the model to be successful, the State must demonstrate that it has created health improvements and cost savings for Marylanders.

Maryland Health Care Commission

The Maryland Health Care Commission is an independent regulatory agency whose mission is to plan for health system needs; promote informed decision-making; increase accountability; and improve access by providing timely and accurate information on the availability, cost, and quality of services to policy makers, purchasers, providers, and the public. The commission is organized around the following four centers:

- ***Center for Information Services and Analysis:*** Responsible for assembling and managing the State's All-Payer Claims Database, which includes commercial data from privately insured data submitters, as well as Medicaid and Medicare. Among other things, data is used for supporting the Health Services Cost Review Commission in monitoring the Total Cost of Care Model, the Maryland Insurance Administration in its premium rate review process, the Maryland Health Benefit Exchange during open enrollment, and the Prescription Drug Affordability Board. The center is responsible for all analyses using the data, including a series of mandated reports on health care expenditures and the commission's WearTheCost campaign to promote cost transparency.
- ***Center for Quality Measurement and Reporting:*** Responsible for the commission's health care provider quality and performance evaluation mandates. These mandates are intended to increase transparency and informed decision-making among consumers, facilitate improvements in the delivery of care, and support the State's unique hospital rate-setting system. The center maintains the Maryland Health Care Quality Reports website, reports disparities in health and health care, and works to raise awareness of the Quality Reports consumer site among minority and disadvantaged populations.
- ***Center for Health Care Facilities Planning and Development:*** Responsible for developing plans for the supply and distribution of health care facilities and services and regulating the supply and distribution through Certificate of Need and related oversight programs. The center updates the State Health Plan – regulations that establish criteria and standards for considering the need, costs and effectiveness, impact, and viability of health care facility capital projects or service programs. Along with Certificate of Need, the center administers the Certificate of Conformance and Certificate of Ongoing Performance programs, which regulate the development of Percutaneous Coronary Intervention programs and the performance of these programs and cardiac surgery programs. The center also collects information on health care facility services, service capacity, and use of health care facilities. Annual data sets are developed on the services at hospitals, nursing homes, home health agencies, general hospices, assisted living facilities, and adult day care facilities.
- ***Center for Health Information Technology and Innovative Care Delivery:*** Responsible for the commission's health information technology (electronic health records, health information exchange, and telehealth) and advanced primary care initiatives. The meaningful use of health information technology helps to address disparities in health care

delivery by increasing access to care, improving quality of care, and promoting better patient and provider communication. Health information technology data can guide public health surveillance initiatives to target social determinants of health and enhance equity. The center supports adoption of advanced primary care models that shift the focus from quantity of care delivered to improved health outcomes through coordinated care delivery, which focuses on maximizing value in care delivery and lower costs.

At least every five years, the commission updates the State Health Plan, which sets the methodologies, standards, and criteria for Certificate of Need review. The Certificate of Need process was established to ensure that new health care facilities and services were only added to the State as needed. The commission must issue a Certificate of Need before any health care facility can be built, relocated, or modified in the State. All projects requesting Certificate of Need approval are evaluated for consistency with review standards and need projections in the State Health Plan and are evaluated against five additional criteria: need; viability; impact; cost and effectiveness of alternatives; and the applicant's track record in complying with conditions and terms placed on project approvals previously issued to the applicant.

The commission also administers the Maryland Trauma Physician Services Fund, which covers the costs of medical care provided by trauma physicians at Maryland's designated trauma centers for uncompensated care, Medicaid patients, trauma-related on call and standby expenses, and trauma equipment grants. The fund is financed through a \$5.00 surcharge on motor vehicle registrations and renewals.

Maryland Commission on Kidney Disease

A subsection of Maryland's health care facilities – dialysis and transplant centers – are also voluntarily regulated by the Maryland Commission on Kidney Disease. As with hospitals, the Office of Health Care Quality licenses freestanding dialysis centers and certifies the centers to participate in and be reimbursed by Medicare and Medicaid. The commission promotes quality health care in the field of nephrology and transplantation by certifying dialysis and transplant centers, conducting annual surveys to ensure compliance with medical standards, receiving and resolving complaints, and adopting physical and medical standards for the operation of dialysis and transplant centers. The commission certifies approximately 150 dialysis and transplant centers. Commission certification is voluntary; however, a center must be certified by the commission in order to receive reimbursement from the Maryland Kidney Disease Program. The program serves as a payer of last resort established to assist citizens with the costs of treatment for kidney disease.

Other Facilities Regulated by State Health Occupations Boards

Certain health care facilities/entities are regulated by various State health occupations boards, including pharmacies, wholesale distributors, funeral establishments, and crematories.

Pharmacies and Wholesale Distributors

The State Board of Pharmacy regulates the practice of pharmacy, including issuing permits to pharmacies and wholesale distributors.

Pharmacies

A pharmacy permit is required to establish or operate a pharmacy in the State. To qualify for a pharmacy permit, resident pharmacies (pharmacies located within Maryland) must arrange for an opening inspection during which the pharmacy must meet the board's requirements for staffing, equipment, recordkeeping, and prescription dispensing procedures. Once a pharmacy has obtained a permit, the board monitors compliance with these requirements during routine annual inspections. Pharmacies that dispense controlled dangerous substances must also register with the Office of Controlled Substances Administration in the Maryland Department of Health and comply with additional inspections. A pharmacy located out of state that ships, mails, or delivers drugs or devices to Maryland residents must file for a nonresident pharmacy permit.

Wholesale Distributors

Wholesale distributors, which may include manufacturers, warehouses, and some retail pharmacies, must be issued a permit by the board before engaging in the wholesale distribution of prescription drugs or prescription devices into, out of, or within the State.

Funeral Establishments and Crematories

The State Board of Morticians and Funeral Directors licenses and inspects funeral establishments in Maryland. The board also licenses morticians, funeral directors, surviving spouses, and apprentices, as discussed later in this chapter. Generally, a funeral establishment may only be owned by a licensed mortician, funeral director, or surviving spouse; however, a corporation license, of which there are 57 in Maryland, allows a corporation to own a funeral establishment if all services are provided by licensed individuals. New corporation licenses for funeral establishments have not been issued since 1945; only existing licenses may be renewed and sold. As of 2021, there were 296 funeral establishments, 11 restricted establishments, and 40 crematories in Maryland.

The board jointly regulates crematories in conjunction with the Office of Cemetery Oversight. The board issues crematory permits, registers crematory operators, and designates supervisory crematory operators for crematories run by funeral homes, while the Office of Cemetery Oversight regulates crematories located on cemetery grounds.

Medical Cannabis

The Natalie M. LaPrade Medical Cannabis Commission is responsible for the implementation of programs to make medical cannabis available to qualifying patients in a safe

and effective manner. The commission oversees licensing, registration, inspection, and testing related to the State's medical cannabis program and provides relevant program information to patients, physicians, growers, dispensers, processors, testing laboratories, and caregivers. The number of licensed growers is capped at 22, while the number of licensed processors is capped at 28. Although not specified in statute, regulations set a limit of not more than 2 dispensary licenses per State senatorial district, in addition to grower-dispensary licenses awarded to eligible grower applicants. A total of 101 dispensaries are authorized in the State. The commission also registers and regulates ancillary businesses that transport, deliver, or dispose of medical cannabis or medical cannabis waste. The number of ancillary businesses is not limited in regulation or statute and more than 50 are currently authorized by the commission.

Regulation of Health Care Professionals

Within the Maryland Department of Health, there are 20 independent health occupations boards that regulate and discipline nearly 384,000 individual health care professionals. The boards seek to protect the public by ensuring that practicing health professionals are properly credentialed, certified, registered, and/or licensed to provide high-quality services to the citizens of Maryland. Each board also receives, investigates, and resolves complaints about regulated professionals and assists in establishing parameters for the practice of each regulated health profession. All but three of the health occupations boards are exclusively special funded by revenues generated by licensing, registration, and certification fees. The State Board of Long-Term Care Administrators (formerly known as the State Board of Examiners for Nursing Home Administrators), the State Board of Environmental Health Specialists, and the State Board for the Certification of Residential Child Care Program Professionals are supported by the general fund.

Exhibit 9.2 shows the total number of active licensees, registrants, and certificate holders regulated by each board (most of which regulate multiple health occupations and ancillary providers) and the number of complaints investigated by each board in fiscal 2021.

Each of the boards has a statutory termination or "sunset" date that the General Assembly may extend. The boards may also be subject to an evaluation by the Office of Program Evaluation and Government Accountability within the Department of Legislative Services prior to their termination. However, the office may conduct an evaluation only if directed by specified entities or by legislation.

A brief description of the specific practitioners regulated by each board is provided below.

Exhibit 9.2
Active Licensees/Registrants/Certificate Holders and
Complaints Investigated by Health Occupations Boards

	Active Licensees/Registrants/ Certificate Holders¹	Complaints Investigated²
Acupuncture	1,248	1
Audiologists, Hearing Aid Dispensers, Speech-Language Pathologists, and Music Therapists	5,552	27
Chiropractic Examiners	1,685	36
Dental Examiners	15,556	112
Dietetic Practice	2,500	10
Environmental Health Specialists	670	2
Long-Term Care Administrators	511	32
Massage Therapy	1,781	32
Morticians and Funeral Directors	2,295	38
Nursing	229,958	114
Occupational Therapy Practice	5,309	25
Optometry	1,032	15
Pharmacy	22,891	298
Physical Therapy Examiners	9,648	26
Physicians ³	50,014	728
Podiatric Medical Examiners	507	36
Professional Counselors and Therapists	10,659	255
Psychologists	3,886	16
Residential Child Care Program Professionals	1,009	4
Social Work Examiners	17,093	59
Total	383,804	1,866

¹Licensure data as of June 1, 2022.

²Data reflects complaints received and investigated by the board in fiscal 2021.

³Data includes physicians and 12 types of allied health professionals.

Source: Maryland Department of Health, Office of Health Professionals, Boards, and Commissions; and *Fiscal 2023 Governor's Budget Books*.

State Acupuncture Board

The practice of acupuncture involves the use of alternative medicine therapies for the purpose of normalizing energetic physiological functions including pain control, and for the promotion, maintenance, and restoration of health. The State Acupuncture Board licenses and regulates acupuncturists and enforces the Maryland Acupuncture Act.

State Board of Examiners for Audiologists, Hearing Aid Dispensers, Speech-Language Pathologists, and Music Therapists

The State Board of Examiners for Audiologists, Hearing Aid Dispensers, Speech-Language Pathologists, and Music Therapists regulates audiologists, audiology assistants, hearing aid dispensers, speech-language pathologists, speech-language pathology assistants, and music therapists. Audiologists are specialists in the study of normal and impaired hearing, prevention of hearing loss, identification and assessment of hearing problems, and the rehabilitation of persons with hearing impairment. Speech-language pathologists evaluate, treat, and research human communication and its disorders. Hearing aid dispensers are trained to fit and sell hearing aids and other assistive listening devices to minimize hearing loss. Music therapists utilize clinically and evidence-based music therapy interventions to accomplish individualized goals for their patients.

State Board of Chiropractic Examiners

The practice of chiropractic includes the diagnosing and locating of misaligned or displaced vertebrae and, through the manual manipulation and adjustment of the spine and other skeletal structures, treating disorders of the human body. The State Board of Chiropractic Examiners licenses chiropractors and registers chiropractic assistants.

State Board of Dental Examiners

The State Board of Dental Examiners regulates the practice of dentistry by licensing dentists and dental hygienists, certifying dental radiation technologists, and registering and certifying dental assistants.

State Board of Dietetic Practice

Dietitians and nutritionists are experts in food and nutrition who advise individuals on what to eat to lead a healthy lifestyle. The State Board of Dietetic Practice regulates the practice of dietetics and issues dietitian-nutritionist licenses.

State Board of Environmental Health Specialists

Environmental health specialists perform inspections and investigations to secure compliance with environmental and health laws and regulations. The diverse practice areas of the

profession include food safety; air quality; disease investigation and prevention; animal, insect, and rodent control; and lead, well, septic system, swimming pool, and campground inspections. The board licenses environmental health specialists and certifies environmental health specialists-in-training, who typically have the required education but not the necessary experience for a license.

State Board of Massage Therapy Examiners

The State Board of Massage Therapy Examiners registers massage practitioners and licenses massage therapists. If an individual is practicing massage therapy outside of a health care facility, it is deemed to be nontherapeutic massage and the individual practicing must be a registered massage practitioner. Otherwise, in order to practice in a health care facility, an individual must obtain a license.

State Board of Morticians and Funeral Directors

The State Board of Morticians and Funeral Directors licenses morticians, funeral directors, surviving spouses (a legal widow or widower of a licensed funeral director or licensed mortician, whose license was in good standing at time of death, and who at the time of death, wholly or partly owned and operated a mortuary science business), and apprentices. The board issues a small number of one-time only executor licenses, which allow the personal representatives of a deceased mortician's estate to continue to operate a funeral establishment until it is sold, or the personal representative attains other licensure from the board. The board also issues permits to mortuary transport service companies and registers mortuary transporters.

State Board of Nursing

The State Board of Nursing, the largest of all the health occupations boards, regulates registered nurses (including their expanded roles as forensic nurse examiners and workers' compensation case managers), licensed practical nurses, advanced practice registered nurses (including certified nurse midwives, certified registered nurse anesthetists, certified nurse practitioners, and clinical nurse specialists), certified medication aides, certified medication technicians, certified nursing assistants, dialysis technicians, geriatric nursing assistants, licensed electrologists, licensed certified midwives, and licensed direct entry midwives.

State Board of Long-Term Care Administrators

The State Board of Long-Term Care Administrators (formerly known as the State Board of Examiners of Nursing Home Administrators) licenses and regulates nursing home administrators and assisted living managers.

State Board of Occupational Therapy Practice

Occupational therapy uses therapeutic activities to promote independence in daily life roles and to remediate and restore performance abilities. The State Board of Occupational Therapy Practice licenses occupational therapists and occupational therapy assistants.

State Board of Examiners in Optometry

Optometrists provide primary eye care through vision testing, screening of general eye health, and the prescription of eyeglasses, lenses, or contact lenses to correct vision. The State Board of Examiners in Optometry regulates the practice of optometry by licensing optometrists and certifying qualified optometrists (therapeutically certified optometrists) to administer topical ocular diagnostic or therapeutic pharmaceutical agents and remove foreign bodies from the eye.

State Board of Pharmacy

The State Board of Pharmacy regulates the practice of pharmacy by licensing pharmacists, registering pharmacy technicians, and issuing permits for the establishment or operation of pharmacies and for the distribution of prescription drugs or devices (as discussed earlier in this chapter).

State Board of Physical Therapy Examiners

Physical therapy focuses on the prevention of disability and the rehabilitation of patients or clients with a disability. The State Board of Physical Therapy Examiners licenses physical therapists and physical therapist assistants.

State Board of Physicians

The State Board of Physicians regulates the practice of medicine by licensing physicians, as well as the following allied health practitioners: athletic trainers; genetic counselors; naturopathic doctors; nuclear medicine technologists; perfusionists; physician assistants; polysomnographers; psychiatric assistants; radiation therapists; radiographers; radiologist assistants; and respiratory care practitioners.

State Board of Podiatric Medical Examiners

Podiatry is the diagnosis or treatment of disorders of the human foot or ankle, the anatomical structures that attach to the human foot, or the soft tissue below the mid-calf. The State Board of Podiatric Medical Examiners licenses podiatrists.

State Board of Professional Counselors and Therapists

The State Board of Professional Counselors and Therapists regulates the practice of counseling and therapy. The board regulates 12 credentials across five areas of specialization: professional counselors (licensed graduate professional counselors and licensed clinical professional counselors); alcohol and drug counselors (licensed clinical alcohol and drug counselors, licensed graduate alcohol and drug counselors, certified associate counselors – alcohol and drug, certified supervised counselors – alcohol and drug, and alcohol and drug trainees); marriage and family therapists (licensed graduate marriage and family therapists and licensed clinical marriage and family therapists); professional art therapists (licensed graduate professional art therapists and licensed clinical professional art therapists); and licensed behavior analysts. Two board credentials (certified professional counselor and certified professional counselor – alcohol and drug) were repealed in 2008 and 2012, respectively, but practitioners may continue to renew.

State Board of Examiners of Psychologists

The State Board of Examiners of Psychologists ensures that consumers receive quality psychological services by licensing psychologists and approving psychology associates.

State Board for the Certification of Residential Childcare Program Professionals

Residential childcare programs provide 24-hour care within a structured set of services and activities designed to achieve specific objectives relative to the needs of the children served. In Maryland, a residential childcare program must be under the day-to-day management and operation of a certified residential childcare program administrator. The board certifies residential childcare program administrators, acting residential childcare program administrators, and residential child and youth care practitioners (individuals assigned to perform the direct responsibilities related to activities of daily living, self-help, and socialization skills in a residential childcare program).

State Board of Social Work Examiners

The practice of social work involves restoring or enhancing social functioning of individuals, couples, families, groups, organizations, or communities through such means as planning, case management, and advocacy. The State Board of Social Work Examiners regulates the practice of social work by issuing four license types: licensed bachelor social worker; licensed master's social worker; licensed certified social worker; and licensed certified social worker clinical.

Local Health Departments

Local health departments play a large role in delivering health programs and services. These programs and services include regulatory programs delegated to local health departments

by the Maryland Department of Health and the Maryland Department of the Environment for, among other things, licensing and inspecting food processing plants and food service facilities, permitting wells and septic systems, conducting home visits for families affected by lead or asthma, licensing public swimming pools, assisting in enforcement of the State's ban on the use and possession of tobacco products by individuals younger than age 21, enforcing Maryland's indoor smoking ban, and investigating health complaints and concerns.

Ensuring the Safety of Maryland's Food, Milk, and Dairy Supply

The Maryland Department of Health ensures the safety of Maryland's food, milk, and dairy supply through the Office of Food Protection and the Center for Milk and Dairy Product Safety and the work of local health departments. For additional information about the food quality assurance role of the Maryland Department of Agriculture, see "Chapter 5. Agriculture" of this handbook.

The Office of Food Protection works with local health departments, other State agencies, and the federal government to assure the safety of the food supply and to respond to any potential or actual threats to the food supply, including:

- inspecting and enforcing food safety regulations for shellfish plants, crabmeat plants, seafood hazard analysis critical control points, canneries, food manufacturing plants, frozen food plants, ice manufacturing plants, confectionery plants, food warehouses, and soft drink and water bottling plants;
- inspecting and enforcing food processing plants that are not delegated to the local health departments;
- conducting plan review for all food processing plants and chain/franchise food service facilities;
- assisting cottage food businesses and other unlicensed facilities with labeling and other food safety requirements; and
- registering out-of-state bottled water and soft drink products.

The Center for Milk and Dairy Product Safety ensures that all milk, milk products, and frozen desserts are produced, processed, and distributed in compliance with all applicable State and federal laws and regulations, including licensing and certification of dairy farm inspectors; licensing and evaluation of bulk milk hauler/samplers; licensing milk transportation companies; sampling and evaluation of test results for raw and finished dairy products; sanitation inspections of bulk milk tanks; performance of equipment, process, and facility reviews; investigation of dairy-related complaints; and issuance of export certificates of sanitation and free sale for food products manufactured in Maryland.

Other Health Care Regulatory Agencies

While the Maryland Department of Health primarily regulates Maryland's health care delivery system, several other State agencies play critical roles, including the Maryland Insurance Administration, the Office of the Attorney General, and the Maryland Institute for Emergency Medical Services Systems.

Maryland Insurance Administration

The Maryland Insurance Administration regulates health insurance products sold in Maryland and the business of insurance, as well as protecting consumers through regulation and enforcement of the State's insurance laws. The administration investigates complaints about health insurance coverage and reviews and approves rates and contract forms for health insurance policies. The administration also enforces the State's appeals and grievances process that gives residents the right to appeal a decision by their insurance carrier to deny coverage for medically necessary services.

Employers have two major options when providing health insurance to their employees. They can (1) purchase an insured health benefit plan from an insurance company or (2) self-insure by assuming the risk and paying the claims that are filed by their employees for health services. State health insurance regulation applies only to insured health benefit plans, both employer-sponsored plans and individual policies purchased directly by residents from a health insurance carrier. Self-insured plans are regulated by the U.S. Department of Labor's Pension and Welfare Benefits Administration under the guidelines of the Employee Retirement Income Security Act of 1974.

In addition to comprehensive health insurance policies, the administration regulates Medicare supplement policies, long-term care policies, and other types of ancillary health insurance coverage.

For more information about the administration and the regulation of insurance in Maryland, see "Chapter 8. Insurance" of this handbook.

Office of the Attorney General

The Consumer Protection Division of the Office of the Attorney General provides mediation services to consumers to help resolve complaints against businesses and health insurers. The division's Health Education and Advocacy Unit helps consumers resolve billing disputes with hospitals, medical doctors, insurance companies, and other health care providers. The unit also helps consumers who have medical equipment disputes, have been denied coverage, have been denied financial assistance, and have been denied enrollment in, or terminated from, a health plan.

In fiscal 2021, the unit closed 1,642 cases, of which 551 cases involved appeals and grievances. The unit mediated 388 of appeals and grievance cases, 64% were coverage decision

cases, 31% were adverse decision cases, and 5% were eligibility cases. For more information on Maryland's consumer protection laws, see "Chapter 4. Consumer Protection" of this handbook.

Maryland Institute for Emergency Medical Services Systems

The Maryland Institute for Emergency Medical Services Systems oversees and coordinates all components of the statewide emergency medical services system; provides leadership and medical direction; supports emergency medical services system educational programs; operates and maintains a statewide communications system; designates trauma and specialty centers; licenses and regulates commercial ambulance services; and participates in emergency medical services-related public education and prevention programs. The institute provides executive support for the Emergency Medical Services Board in reviewing and approving the budgets for agencies receiving funds from the Maryland Emergency Medical System Operations Fund, developing and promulgating regulations and protocols, proposing emergency medical system legislation, and licensing/certifying and disciplining emergency medical system providers.

The institute oversees a statewide emergency medical services system that includes nearly 23,000 Maryland-certified emergency medical services providers, including emergency medical technicians, cardiac rescue technicians, and paramedics, and fosters the integration of the delivery of prehospital emergency care with 48 hospital emergency departments, nine adult and two pediatric trauma centers; as well as specialty referral centers, primary and comprehensive stroke centers, cardiac interventional centers, and perinatal referral centers. In fiscal 2021, the institute regulated the dispatch of 1,868 helicopter transports for trauma patients by the Maryland State Police Aviation Command Medevac helicopters system. Of these patients, 1,857 (99%) were transported from the scene at the request of the local emergency services and 11 (1%) were transported between hospitals to a higher level of care. In addition to commercial air transport services, the institute regulates commercial ground ambulance services.

For more information on the structure and funding of emergency services in Maryland, see *Volume II – Government Services in Maryland*.

Chapter 10. Alcohol and Tobacco

To protect Maryland consumers, alcoholic beverages are regulated at both the State and local level and tobacco is regulated at the State level. At the State level, alcoholic beverages and tobacco are regulated by the Alcohol and Tobacco Commission. At the local level, alcoholic beverages are regulated by local boards of license commissioners, and in some cases, local independent liquor control boards.

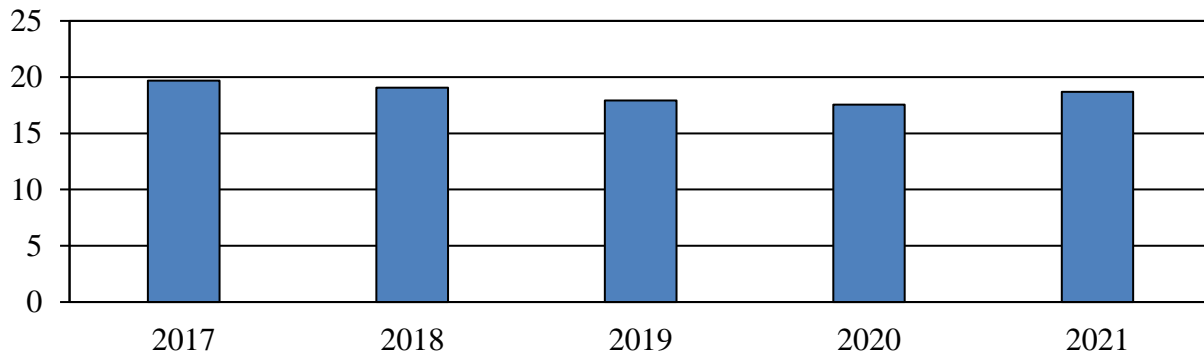
This chapter describes consumption trends, licensing, and specific regulations for businesses engaged in the manufacture, sale, and distribution of alcoholic beverages and tobacco products. For more information about alcoholic beverages and tobacco taxes, see *Volume III – Maryland’s Revenue Structure*.

Consumption Trends

In fiscal 2021, the per capita consumption of alcoholic beverages in Maryland was 18.69 gallons of liquor, wine, and beer. Over the last 20 years, the overall per capita consumption rate of alcoholic beverages in Maryland has declined by 16.3%. This decrease is mainly due to the steady decline in beer consumption. For example, in fiscal 2002, per capita beer consumption was 18.97 gallons; in fiscal 2021, that figure fell to 14.08 gallons. **Exhibit 10.1** illustrates the per capita consumption trend in gallons of liquor, wine, and beer for the last 5 fiscal years.

In fiscal 2021, there was a slight uptick in wholesale deliveries of alcoholic beverages. Wholesale liquor deliveries increased statewide from 11.01 million gallons in fiscal 2020 to 13.13 million gallons in fiscal 2021. During the same period, wholesale beer deliveries increased from 80.67 million gallons to 87.52 million gallons, and wine deliveries increased from 15.18 million gallons to 15.57 million gallons.

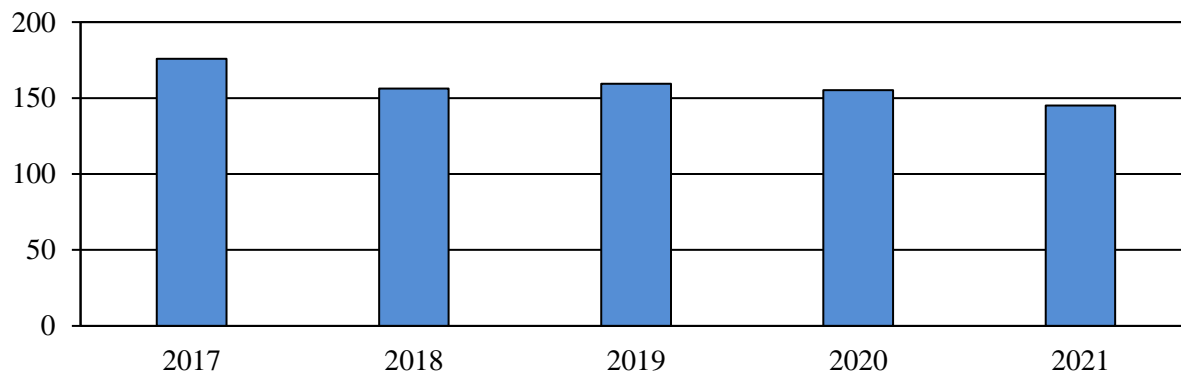
Exhibit 10.1
Per Capita Alcohol Consumption
Fiscal 2017-2021
(In Gallons)



Source: Office of the Comptroller; Alcohol and Tobacco Commission

Similar to overall alcohol consumption trends, cigarette stamp sales (which indicate the approximate number of cigarette packs sold at retail) were approximately 145.1 million in fiscal 2021, a 6.6% decrease from fiscal 2020, as shown in **Exhibit 10.2**. Fiscal 2021 was the ninth year in a row that cigarette stamp sales were below 200 million – a stark contrast to the record levels in fiscal 2003 to 2009, when annual cigarette consumption never fell below 240 million packs and usually reached at least 270 million.

Exhibit 10.2
Cigarette Consumption
Fiscal 2017-2021
(In Millions)



Source: Office of the Comptroller; Alcohol and Tobacco Commission

General Regulation

Alcoholic beverages in the State are regulated through a three-tier distribution system. The system separates ownership and operations among (1) manufacturers; (2) wholesalers; and (3) retailers of alcoholic beverages. The system was designed to avoid “vertical integration” – which occurs when all steps in the supply chain of a commodity are controlled by the same company. The system authorizes, with limited statutory exceptions, manufacturers (tier one) to sell only to wholesalers (tier two); wholesalers to sell only to retailers (tier three); and retailers to sell only to consumers. In general, manufacturers and wholesalers are regulated at the State level while retailers are regulated at the local level.

State Regulation

In 2019, the authority to regulate alcohol and tobacco in the State was transferred from the Office of the Comptroller to the newly created Alcohol and Tobacco Commission. The Office of the Executive Director of the Alcohol and Tobacco Commission monitors and enforces activities related to alcoholic beverages and tobacco licenses, including processing applications for statewide alcohol and tobacco licenses and permits; investigating and preparing cases concerning violations of State alcohol and tobacco laws, rules, and regulations; administering and enforcing the State’s alcoholic beverage and tobacco laws; adopting regulations; analyzing trade practice issues; and producing bulletins and credit control reports. The Comptroller’s Office, in cooperation with the Executive Director of the Alcohol and Tobacco Commission, administers the State’s alcoholic beverage taxes and tobacco tax.

Local Regulation

Alcoholic Beverages

In addition to state regulation, alcoholic beverages are regulated on the local level by one or, in some cases, two entities. More specifically, the Alcohol and Tobacco Commission has established a regulatory framework for local boards of license commissioners and liquor boards to work within and has delegated responsibility for enforcing local laws and regulations to local governments. However, because of the overriding State interest in controlling the sale and consumption of alcoholic beverages, any significant change in local laws must be enacted through State legislation, even if those changes affect only one jurisdiction.

In each of the 23 counties, Baltimore City, and the City of Annapolis, a board of license commissioners regulates alcoholic beverages by issuing licenses to retail licensees, such as operators of liquor stores, restaurants, and bars. In Wicomico County, the board of license commissioners works alongside an independent liquor control board,¹ and in Montgomery and Worcester counties, the boards of license commissioners work alongside county agencies that function as liquor control boards (the Alcoholic Beverage Services and Department of Liquor

¹ Chapter 758 of 2022 repeals the Liquor Control Board for Somerset County effective January 1, 2023.

Control, respectively). The Liquor Control Board for Wicomico County, the Montgomery County Alcohol Beverage Services, and the Worcester County Department of Liquor Control regulate alcoholic beverages by operating their own wholesale distribution systems and retail liquor stores, called dispensaries.

In addition to their licensing functions, each local board of license commissioners is responsible for enforcing laws and regulations including:

- the Sunday sale of alcoholic beverages;
- the prohibition of sales within certain areas within a county or a municipality; and
- the limitation on the number of licenses that can be issued by a particular jurisdiction.

Further, each jurisdiction has a set of restrictions or regulations related to the sale and consumption of alcoholic beverages. Some examples include:

- increasing an annual license fee for a class of license within a local jurisdiction;
- setting the time of day/night, the number of hours, or specified day restrictions for the selling of alcoholic beverages for a class of license within a local jurisdiction;
- specifying the consideration of factors before issuing a new license (*e.g.*, the public need and desire for the license and the impact on the general health, safety, and welfare of the community); and
- restricting the number of licenses of a particular class of license that may be issued within a local jurisdiction.

Tobacco

Unlike alcoholic beverages, local governments do not regulate tobacco products. In *Altadis U.S.A., Inc. et al. v. Prince George's County, Maryland*, 431 Md. 307 (2013), the petitioners challenged the validity of two Prince George's County ordinances regulating the packaging, sale, or other distribution of cigars, contending that the ordinances conflicted with State statutes regulating the packaging and sale of cigars. The Court of Appeals held that State law occupied the field of regulating the packaging and sale of tobacco products, including cigars, and so preempted the two ordinances. While there is not a State law prohibiting local governments from regulating the packaging and sale of tobacco products, *Altadis* prevents them from doing so by implied preemption.

Licensing

Manufacturers and wholesalers of alcoholic beverages, and entities and individuals selling alcoholic beverages at retail, are required to obtain a license issued by the State and/or appropriate local government. Additionally, entities and individuals engaging in the manufacture, wholesale or sub wholesale distribution, and retail sale of tobacco products must obtain a State license.

Alcoholic Beverages

There are nine classes of manufacturing licenses and eight classes of wholesale licenses. The type of license and associated fee depend on the alcoholic beverage involved (*i.e.*, liquor, wine, or beer) as summarized in **Exhibit 10.3**. In addition, the Alcohol and Tobacco Commission also issues various permits for certain activities, including storing or transporting alcoholic beverages; holding alcohol awareness programs for alcoholic beverages license holders and their employees; engaging in bulk private sales of alcoholic beverages; and promoting, selling, or offering for sale alcoholic beverages to manufacturers, wholesalers, or retailers in the State. In fiscal 2021, the Alcohol and Tobacco Commission issued 28,708 permits and collected \$817,785 in permit fees.

Exhibit 10.3
Alcohol Manufacturer and Wholesaler Licenses Issued
Fiscal 2017-2021

	<u>Annual Fee*</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Manufacturer's Licenses						
Class 1 Distillery	Up to \$2,000	26	31	15	29	1
Class 2 Rectifying	Up to \$600	66	39	26	25	1
Class 3 Winery	Up to \$750	3	6	7	4	3
Class 4 Limited Winery	Up to \$200	96	94	108	92	8
Class 5 Brewery	Up to \$1,500	40	48	68	38	6
Class 6 Pub-Brewery	\$500	2	1	1	3	0
Class 7 Micro-Brewery	Up to \$500	29	37	47	23	3
Class 8 Farm Brewery	Up to \$200	16	25	22	21	2
Class 9 Limited Distillery	Up to \$500	2	3	4	2	1
	<u>Annual Fee*</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Wholesalers' Licenses						
Class 1 Beer, Wine, Liquor	\$2,000	54	60	58	61	5
Class 2 Wine and Liquor	\$1,750	30	22	21	22	1
Class 3 Beer and Wine	\$1,500	12	16	11	12	0
Class 4 Beer	\$1,250	8	8	13	8	0
Class 5 Wine	\$1,250	25	21	19	13	0
Class 6 Limited Wine	\$50	77	83	89	70	6
Class 7 Limited Beer	\$50	65	85	97	73	6
Class 8 Liquor	\$100	9	0	28	18	0
Permits						
Storage, transportation, etc.		53,777	53,777	58,285	56,292	28,708
Total		54,345	54,300	58,919	56,806	28,751

*Chapters 359 and 360 of 2021 and Chapters 477 and 478 of 2022 altered the fee structure for most alcoholic beverages manufacturer's licenses by authorizing the Alcohol and Tobacco Commission to set fees subject to specified maximum amounts.

Note: Fiscal 2021 data may reflect an aberration caused by the COVID-19 pandemic and related measures.

Source: Alcoholic Beverages Article, Annotated Code of Maryland; Office of the Comptroller; Alcohol and Tobacco Commission

The six most common classes of retail licenses issued by the 23 counties, Baltimore City, and the City of Annapolis are shown in **Exhibit 10.4**. Retail classes of licenses are issued for the sale of various combinations of beer, wine, and liquor, depending on the jurisdiction. An "on-sale" license authorizes consumption of purchased alcoholic beverages on the business' premises (e.g., in a restaurant). An "off-sale" license, in turn, authorizes the sale of alcoholic beverages off the business premises, but prohibits the consumption of alcoholic beverages on those premises.

Exhibit 10.4
Local Retail Licenses Issued*
Fiscal 2017-2021

		<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Class A	Off-sale (Carry-out packaged containers)	1,629	1,543	1,527	1,226	1,537
Class B	On- or off-sale (Hotels, Restaurants)	3,434	3,621	3,596	3,169	3,369
Class C	On-sale (Clubs)	538	554	530	486	793
Class D	On- or off-sale (General)	1,014	993	1,019	842	946
Caterers	On- or off-sale	427	484	52	0	376
Class BD-7	On- or off-sale (Baltimore City)	98	27	5	22	73
Total		7,140	7,222	6,729	5,745	7,094

*Local governments also issue other types of retail licenses.

Source: Alcoholic Beverages Article, Annotated Code of Maryland; Office of the Comptroller; Alcohol and Tobacco Commission

Tobacco

The sale of tobacco products, including electronic smoking devices such as electronic cigarettes and vape pens, is also regulated in Maryland. A tobacco product is defined as any product that is intended for human inhalation, absorption, ingestion, smoking, heating, chewing, dissolving, or any other manner of consumption that is made or derived from or contains tobacco or nicotine. Tobacco products includes cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, snus, accessories used to consume a tobacco products.

An excise tax is levied on all cigarettes and other tobacco products consumed by residents; for cigarettes, this is demonstrated by a tax stamp that appears on all packs. A person acting as a manufacturer, wholesaler, sub wholesaler, or vending machine operator of tobacco products must obtain a license before conducting business in the State. The types of cigarette licenses issued in fiscal 2017 through 2021 are summarized in **Exhibit 10.5**.

Exhibit 10.5
Tobacco Licenses Issued
Fiscal 2017-2021

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Cigarette Licenses					
Manufacturer	16	16	16	15	13
Wholesaler	46	49	45	41	38
Sub wholesaler	43	39	3	3	25
Vending Machine Operator	1	0	0	0	0
Storage Warehouse	1	1	1	1	0
Other Tobacco Products Licenses					
Wholesaler	46	43	50	43	39
Manufacturer	9	8	4	7	3
Storage Warehouse	1	0	1	0	3
Electronic Smoking Devices Licenses					
Manufacturer	0	5	6	26	22
Wholesaler Distributor	0	6	3	4	40
Wholesale Importer	0	2	1	1	1

Note: Fiscal 2021 data may reflect an aberration caused by the COVID-19 pandemic and related measures.

Source: Office of the Comptroller; Alcohol and Tobacco Commission

The minimum price of cigarettes sold in the State is restricted by the Maryland Cigarette Sales Below Cost Act. This Act prohibits a retailer or wholesaler from intentionally injuring a competitor by selling cigarettes at a cost that is less than the cost to the retailer or wholesaler, respectively. Similarly, a retailer may not purchase cigarettes from a wholesaler at a cost that directly or indirectly is less than the cost to the wholesaler by any means, including offering, accepting, inducing, or attempting to induce a rebate in price or a concession of any kind in connection with the sale or purchase of cigarettes.

The minimum age for an individual to purchase or be sold tobacco products is 21, except if the individual is an active-duty member of the military. A person who unlawfully distributes a tobacco product to an underage individual is subject to various civil and criminal penalties under State law.

Electronic Smoking Devices

An electronic smoking device is defined as a device that can be used to deliver aerosolized or vaporized nicotine to an individual inhaling from the device. The term includes an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vape pen, vaping liquid, and any component, part, or accessory of such a device regardless of whether the component is sold separately, including any substance intended to be aerosolized or vaporized during use of the device. The term does not include a drug, device, or combination product authorized for sale by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act or a battery or battery charger when sold separately.

A holder of a cigarette or other tobacco product license is authorized to manufacture, distribute, or sell electronic smoking devices in the same capacity as the person is licensed for cigarettes or other tobacco products without obtaining a separate electronic smoking devices license. Three electronic smoking devices licenses authorize the sale of electronic smoking devices to consumers under specified circumstances: the manufacturer, retailer, and vape shop vendor licenses. State law expressly authorizes the holder of an electronic smoking device manufacturer license to sell electronic smoking devices manufactured by the licensee directly to a consumer if the consumer purchases or orders the devices through the mail or an electronic network.

Remote Tobacco Sellers

A person located outside of Maryland must be a licensed remote tobacco seller in order to sell premium cigars or pipe tobacco to consumers in the State. A premium cigar is defined as a cigar that (1) has hand-rolled wrappers made from whole tobacco leaves where the filler, binder, and wrapper are made of all tobacco, and may include adhesives or other materials used to maintain size, texture, or flavor or (2) is designated as a premium cigar by the executive director by regulation. An applicant for a remote tobacco seller license must identify the premium cigars and pipe tobacco that the applicant intends to sell and ship into the State, utilize third-party age verification for purchases and deliveries, and consent to being subject to the State tobacco tax.

Chapter 11. Transportation

An efficient transportation system is essential to helping businesses grow, communities thrive, and people earn a livelihood. Due to its unique position near the Chesapeake Bay, the Atlantic Ocean, the nation's capital, and major distribution routes along the East Coast, Maryland's transportation system is critical to the region's economic vitality and quality of life. As Maryland's population grows, so does the demand for service on most modes of transportation, particularly highways and transit.

The Maryland Department of Transportation is responsible for ensuring that the State's transportation system – highways, railroads, mass transit, and port and aviation networks – continues to serve the transportation needs of all Marylanders safely and efficiently. The department plans, finances, constructs, maintains, and operates all modes of the State's transportation systems. The units within the department, which are organized by mode of transportation, and the independent Maryland Transportation Authority, as listed in **Exhibit 11.1**, conduct the department's regulatory activities. Exhibit 11.1 also displays each unit's fiscal 2023 appropriations for operating and capital expenditures.

This chapter focuses on the regulatory functions of the department (involving highways, motor vehicles, railroads, port and marine terminals, and aviation) and the authority (involving toll facilities). Other State agencies involved in the regulation of the transportation system – namely the Department of Labor and the Public Service Commission – are also discussed.

For detailed information on the departments and the authority's operations and programs, see *Volume II – Government Services in Maryland*. For detailed information on revenues received and generated by the department, see *Volume III – Maryland's Revenue Structure*.

Exhibit 11.1
Transportation Business Units and Maryland Transportation Authority
Fiscal 2023 Appropriations Operating and Capital Expenditures
(\$ in Millions)

State Highway Administration	\$1,679.8
Motor Vehicle Administration	245.1
Maryland Transit Administration	1,703.0
Washington Metropolitan Area Transit Authority	784.5
Maryland Port Administration	291.6
Maryland Aviation Administration	296.8
Office of the Secretary	630.2
Maryland Transportation Authority ¹	1,098.6
Total Appropriations	\$6,729.6

Note: The above figures include all funds. Appropriations for the State Highway Administration include highway user revenues, and appropriations for the Office of the Secretary include debt service. Numbers may not sum to total due to rounding.

¹ Maryland Transportation Authority facilities are funded entirely by tolls and other authority revenues. The authority does not receive an annual appropriation in the State budget.

Source: *Fiscal 2023 Governor's Budget Books*; Department of Legislative Services

Highways – State Highway Administration

The State Highway Administration regulates the construction and maintenance of Maryland's State highways and roads. Counties and municipalities are responsible for the construction and maintenance of local (nonnumbered) roads. The administration is responsible for maintaining more than 5,200 miles (constituting over 17,300 lane miles) of interstate, primary and secondary roads, and more than 2,500 bridges. In addition, the State has designated 18 byways that draw focus to Maryland's scenic beauty, history, and culture. These byways encompass almost 2,200 miles of roads and can be found in every region of the State.

The State is geographically divided into seven engineering districts, each responsible for its own routine maintenance, traffic services, and construction supervision. However, the Baltimore City Department of Transportation is responsible for providing these services in Baltimore City. A district engineer represents the administration at the district level in most public matters. District engineers make recommendations regarding improvements in traffic operations to the Federal Highway Administration, the Maryland Department of Transportation, the State Highway Administrator, other State agencies, local governments, and the public.

Entrances to Highways

The administration regulates several types of permits related to highway access, grading, transportation, and construction. The permits are issued through the seven district offices. Businesses and individuals requiring highway access or causing an increase or change in traffic must obtain a permit. To that end, a business desiring to change the use or occupancy of an existing facility may need a permit if the change affects highway entry flows or volumes. District Access Management Teams issue permits for the construction of approved entrances, street connections, and highway capacity improvements.

Along with the permit application, a person must obtain a performance bond equal to 150% of project costs within the State highway right-of-way. In some cases, the district may require additional documents, such as letters from adjacent property owners, or additional payments, such as traffic signal fees. The recipient of a permit must also maintain a safe alternative pedestrian path at the work site if the work done under the permit will be performed near certain transit stations. A permit will not be issued until relocation of each utility affected by the project is authorized. In fiscal 2021, the districts issued a combined 118 permits that generated approximately \$646,000 in roadway improvements associated with access improvements.

The district offices are also responsible for the regulation and permitting of certain residential driveway access, utility work, and other construction activity.

Vehicle Weight and Size Limits

The administration, through the Motor Carrier Division, enforces stringent standards on the height, length, and width of transport vehicles. These requirements are specified in **Exhibit 11.2**; however, various exemptions and exceptional hauling permits authorizing larger loads for specific products exist. Maryland also strictly regulates vehicle weight and has adopted the federal bridge formula and table, commonly known as the “Bridge Table” or “Bridge Formula.” Based on research and experience gained by Maryland, other states, and the federal government, the Bridge Table is designed to minimize the damage to bridges and pavement caused by a heavy load that spans too short a distance between the axles of a vehicle. There are over 5,300 bridges in the State.

Exhibit 11.2
Maximum Dimensions of Transport Vehicles in Maryland

<u>Vehicle</u>	<u>Length</u>	<u>Width</u>
Single Unit Truck, Bus (private), Class M Motor Home	40 ft. in general. 45 ft. for bus or motor home on an interstate, designated State highway, or shortest route between specified locations.	102 inches unless special conditions apply. ¹ Can exceed 102 inches with a permit (for State highways) or special permission from local authorities (for local highways).
Tractor-trailer Combination	No overall combination length for truck tractor and semi-trailer. Trailer max. is 48 ft. and 53 ft. on designated interstate, State highway, or shortest route between specified locations.	Same as above
Tractor-double Trailer Combination	28 ft. per trailer	Same as above
Cargo Carrying Power Unit in Combination	62 ft. combined length	Same as above
Any other combination	55 ft.	Same as above
Auto or Boat Transporter	65 ft. (80 ft. for stinger-steered)	Same as above
Saddle- and full-mount combination	97 ft.	Same as above
Bus (publicly owned)	Rigid body – 41 ft. 3-axle articulated – 60 ft.	Same as above
Other	35 ft.	Same as above

¹ The administration or local authority may prohibit highway use by a vehicle exceeding a certain width if that use would endanger road users, cause excessive road deterioration, or harm adjacent property.

Source: Maryland Department of Transportation; Title 24, Subtitle 1 of the Transportation Article

Outdoor Advertising

To erect an outdoor advertising sign along a State highway, a person may need to obtain approval from the appropriate city or county under its zoning laws and from the administration. A State sign permit is required for all advertising signs within 500 feet of the State highway system, except within a municipality. This requirement allows the administration to ensure that signs are properly maintained, do not clutter highways, and do not create a safety hazard, and to preserve the scenic value of Maryland highways for travelling motorists.

A State sign permit is not required if the sign (1) advertises the sale or lease of property on which the sign is located; (2) advertises a business and is within 100 feet of a building used for, or an entrance to, that business; (3) advertises a Maryland historic shrine, or a county or church fair; (4) advertises a political position or candidate; or (5) advertises the temporary sale of seasonal produce where it is grown and located.

An off-premise advertising sign is prohibited along a federal primary aid highway and the National Highway System unless it is in (1) a commercial or industrial area; (2) an urban area and located more than 660 feet from the edge of the right-of-way; or (3) an urban area and is 660 feet or less from the nearest edge of the right-of-way, is located in specified commercial or industrial zones, and has received a permit from the administration. Federal/State agreements and laws specify the size, lighting, and spacing requirements for billboards in these areas. Federal and State law also prohibits new off-premises advertising signs along designated scenic routes, except under limited circumstances.

Anyone who receives compensation for renting, erecting, or maintaining outdoor advertising signs must obtain an outdoor advertising license from the administration. There is no charge for the license. Outdoor advertising sign permit fees are \$1.00 per advertising face and must be renewed annually. Currently, there are approximately 600 licenses and 3,100 permits issued.

Installation/Alteration of Traffic Controls and Informational Signs

If a person wants to have traffic controls (*e.g.*, traffic signals, pavement markings, or signs) or roadway lighting installed, altered, or removed from the State's primary or secondary highway system, the person must petition the administration through the appropriate local district office. If the district office approves the request, it is referred to the administration's Office of Traffic and Safety for final approval. Traffic controls are implemented in accordance with the Manual on Uniform Traffic Control Devices, published by the Federal Highway Administration, to ensure uniformity nationwide.

Residential and commercial land developers pay for the installation and five years of projected electric costs for the installation of a traffic signal at an access road. At an intersection where a State highway intersects a local highway, the administration installs and maintains any needed traffic signal. Local jurisdictions install and maintain traffic signals on local highways.

The Office of Traffic and Safety also administers the Specific Service Signing Program, through which qualifying entities may request informational signs on eligible highways to inform the public of the availability of gas, food, lodging, or camping. These signs are also subject to applicable federal standards. The businesses identified on the signs are responsible for the full administrative and operational costs of purchasing, installing, and maintaining the signs.

Motor Vehicles – Motor Vehicle Administration and Public Service Commission

With the exception of some for-hire transportation services, vehicle services in Maryland are regulated by the Motor Vehicle Administration. Established in 1910, the administration serves customers through a network of customer service offices, electronic kiosks, the Internet, a telephone customer service center, and vehicle emissions inspection program stations. The Public Service Commission, in addition to regulating electric, gas, and other public utilities, also regulates:

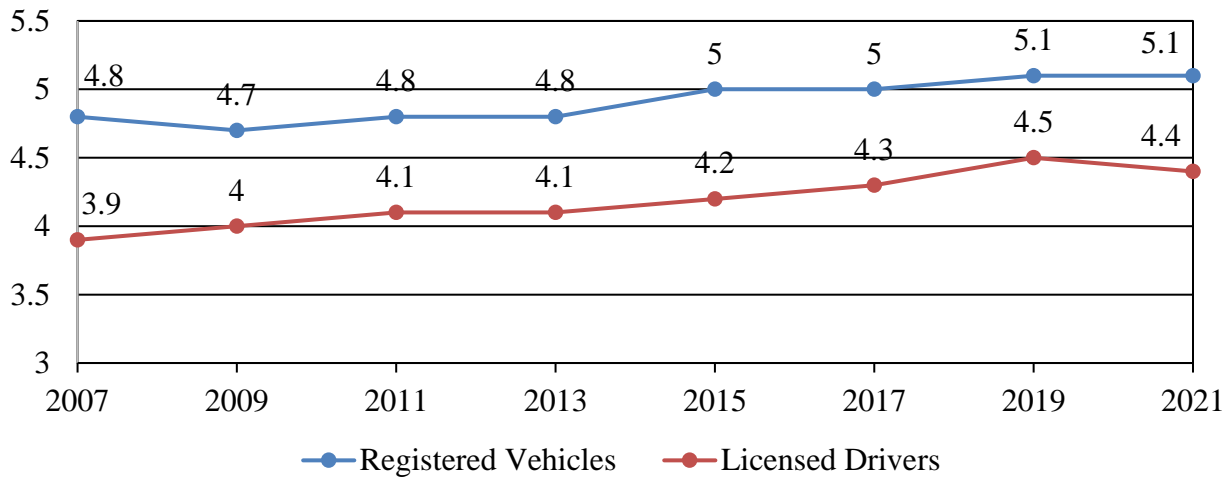
- passenger motor vehicle common carriers engaged in the transportation for-hire of person (sedans, limousines, and buses) except those carriers of passengers that come within the jurisdiction of the Washington Metropolitan Area Transit Commission;
- taxicabs in Baltimore City, Baltimore County, Charles County, Cumberland, and Hagerstown; and
- transportation network companies (*e.g.*, Uber and Lyft).

For further information regarding public utilities regulated by the commission, see “Chapter 12. Public Utilities” of this handbook.

Driver’s Licenses and Other Services

The administration operates driver’s license programs for all classes of commercial and noncommercial motor vehicles. This responsibility includes examining all new drivers; issuing driver’s licenses, learner instructional permits, and moped operator permits; and providing information on classifications of driver’s licenses and age requirements for drivers. **Exhibit 11.3** displays the number of licensed drivers and registered vehicles from calendar 2007 to 2021.

Exhibit 11.3
Licensed Drivers and Registered Vehicles
2007-2021
(In Millions)



Source: Motor Vehicle Administration

The administration provides many services that protect the public, address environmental concerns, raise revenues for the State, and ensure the integrity of repair facilities. Specified revenues collected by the administration are deposited in the Transportation Trust Fund and used to build and maintain the State's highways, bridges, airports, mass transit, port facilities, and railroads.

Other services provided by the administration include:

- issuing electronic credentials to individuals who hold a current, valid, State-issued driver's license or identification card;
- registering and titling vehicles;
- issuing tags and permits for individuals with disabilities;
- issuing, upon request, voluntary self-disclosure cards to individuals with developmental disabilities;
- providing photo identification cards for nondriver residents;

- regulating motor vehicle dealers, vehicle rental companies, and driver education schools; and
- administering the compulsory insurance compliance program, vehicle emissions inspection program, and driver safety program.

The administration licenses all motor vehicle dealers, salespersons, manufacturers, and distributors. It also licenses title service agents, wreckers, scrap processors, professional driving schools, and driving school instructors and controls the issuance of a special mobile equipment vehicle registration. The administration jointly administers the vehicle emissions inspection program with the Maryland Department of the Environment.

Since 1987, Maryland has participated in the Driver License Compact with numerous other states and the District of Columbia. Under the compact, member states report convictions of vehicle and traffic law offenses to the violator's home state; all convictions from compact states are posted to the Maryland record. Maryland also participates in the Nonresident Violator Compact, which standardizes methods to process nonresident violators who fail to comply with outstanding moving traffic summons (*e.g.*, failure to appear in court). The Administrative Adjudication Division is responsible for placing and removing most of the common restrictions and penalties that may apply to a person's driver's license.

The administration is also responsible for issuing State driver's licenses and personal identification (ID) cards and as a result is responsible for implementing the federal REAL-ID Act. This federal Act requires federal agencies to accept, for official federal purposes only, driver's licenses and ID cards that meet certain standards. The purpose of the Act is to increase the security of state-issued forms of identification. The federal Act also requires proof of legal presence and provides that licenses and ID cards from states that are not in compliance will not be accepted by federal agencies for official federal purposes, including boarding airplanes or entering federal buildings.

Maryland is 1 of 17 states (including the District of Columbia) that allow customers who cannot demonstrate lawful status to apply for a driver's license or ID card. Maryland offers both a REAL-ID compliant driver's license and ID card and a noncompliant driver's license and ID card. For the compliant card, in addition to demonstrating residency and identification, a new applicant is required to provide a verifiable Social Security number and to demonstrate proof of lawful presence in the United States. For a noncompliant card, a new applicant must present proof of age and identity using official government documents (*e.g.*, a foreign passport), proof of Maryland residency, and a certification from the Comptroller that the applicant has filed Maryland income taxes for the previous two years. These cards are marked "NOT ACCEPTABLE FOR FEDERAL PURPOSES" on the face of the card and with a restriction code on the back of the card.

Individuals who verify citizenship or lawful status are eligible to receive one of the documents for a period of up to eight years as determined by the administration, or for only as long

as the individual's lawful status remains valid. Examples of acceptable documentation to prove lawful presence include a valid unexpired U.S. passport, a certified copy of a birth certificate, a consular report of birth abroad issued by the U.S. Department of State, a valid unexpired permanent resident card issued by the U.S. Department of Homeland Security, a certificate of naturalization or citizenship issued by the U.S. Department of Homeland Security, an unexpired foreign passport with a valid unexpired U.S. visa affixed and an approved I-94 form documenting the driver's most recent admittance into the United States, and other documents that may be added based on federal law.

See *Volume III – Maryland's Revenue Structure* for a discussion of fuel and titling taxes.

Truck Safety and Commercial Drivers' Licenses

State and federal laws aimed at ensuring commercial truck safety have increased in scope over the last decade. State law allows the temporary seizure of vehicles for inspection, weighing, or measuring, and sets penalties for failure to stop for an inspection or weighing. In calendar 2021, the Maryland State Police conducted over 56,000 roadside inspections of commercial trucks with 10,007 vehicles taken out of service.

Federal law prohibits a person from operating a commercial motor vehicle without first obtaining a license. To obtain a commercial license, the driver must submit a valid medical certification from a certified medical provider, pass a comprehensive written examination, and pass a road test in the vehicle class for which the license is being issued.

Vehicle Emissions

The vehicle emissions inspection program within the administration tests vehicle emissions for carbon monoxide, hydrocarbons, and oxides of nitrogen to meet the standards established in the federal Clean Air Act. The on-board diagnostics test is required for all model year 1996 and newer passenger vehicles and light-duty trucks with a gross vehicle weight rating of 8,500 pounds or less, and all model year 2008 and newer heavy-duty vehicles with a gross vehicle weight rating from 8,501 pounds to 14,000 pounds. The idle tailpipe test is required for all model year 1977 to 1995 vehicles with a gross vehicle weight rating from 8,501 to 26,000 pounds and all model year 2008 and newer heavy-duty vehicles with a gross vehicle weight rating from 14,001 to 26,000 pounds. Finally, a gas cap test is required for all model year 1977 to 1995 vehicles with a gross vehicle weight rating from 8,501 to 26,000 pounds. Vehicles in the State must be tested every two years and the cost is \$14 at the administration's emissions testing stations. The following qualifying vehicles, however, may use a vehicle emissions inspection testing kiosk for a reduced inspection fee of \$10:

- model year 2005 and newer light-duty vehicles that have a gross vehicle weight rating under 8,500 pounds, with a valid inspection notice; and

- model year 2008 and newer heavy-duty vehicles that have a gross vehicle weight rating between 8,501 and 14,000 pounds, with a valid inspection notice.

Vehicles exempt from emissions inspection testing include:

- model year 1995 or older vehicle with a gross vehicle weight rating under 8,500 pounds;
- new vehicles or qualified hybrid vehicles less than 36 months after first being registered in the State;
- vehicles owned by individuals age 70 or older or with certain disabilities who drive 5,000 miles or less each year;
- emergency vehicles;
- certain vehicles weighing more than 26,000 pounds;
- vehicles powered solely by diesel or electric;
- zero emission vehicles;
- school vehicles and passenger buses;
- motorcycles;
- certain farm vehicles;
- historic or antique vehicles and street rods; and
- vehicles owned by an active-duty member of the U.S. armed services who has received certain military orders for deployment.

Diesel vehicles weighing more than 10,000 pounds are subject to spot roadside testing.

If a vehicle fails the test, the owner can qualify for a waiver from additional tests if \$450 worth of repairs are made to the vehicle within 30 days before the test or within 120 days following the initial test. The administration may enforce the program through administrative sanctions, including suspension of the vehicle registration; denial of vehicle registration renewal; or confiscation of the vehicle registration plates.

For-hire Transportation – Public Service Commission

Regulation of motorized passenger services (taxicabs in five local jurisdictions and for-hire motor vehicle companies operating in intrastate commerce in Maryland) is the responsibility of the Public Service Commission. A taxicab company that operates in Baltimore City, Baltimore County, Charles County, or the cities of Cumberland or Hagerstown, and any company that provides passenger-for-hire service in the State, including a transportation network company (such as Uber or Lyft), must have a permit issued by the commission.

Exceptions to the permit requirement for common carriers include:

- transportation of school children to and from public and private school (the Motor Vehicle Administration regulates school bus drivers);
- van pool operations;
- taxicabs that are required to have another type of permit;
- public transportation systems in local jurisdictions;
- shuttle bus service operated by the University of Maryland, College Park; and
- motor vehicles used by a privately owned transportation company exclusively to provide transportation system services under a contract with a local jurisdiction or a unit of State government.

Taxicabs located in jurisdictions that are not regulated by the commission are regulated at the local level in some jurisdictions. The following jurisdictions license or permit taxicab companies: Anne Arundel (City of Annapolis); Carroll (City of Westminster); Frederick (City of Frederick); Harford; Howard; Montgomery; Prince George's; and Worcester (Town of Ocean City) counties.

A taxicab driver in the jurisdictions regulated by the commission or a for-hire motor vehicle driver in the State is required to have a valid for-hire driver's license issued by the commission. A transportation network operator must have an equivalent credential, a transportation network operator's license, obtained through an application filed with the commission by a transportation network company.

In addition to various other requirements related to safety, customer relations, and vehicle maintenance, all three forms of for-hire transportation regulated by the commission are subject to minimum insurance requirements. A taxicab or for-hire motor vehicle company may elect to use a surety policy, of an amount approved by the commission, instead of insurance. A transportation network operator, a transportation network company on the behalf of the transportation network

operator, or a combination of both must maintain primary motor vehicle insurance that recognizes that the individual is a transportation network operator or otherwise uses a motor vehicle to transport passengers for hire and covers the operator while the operator is providing transportation network services.

Railroads – Maryland Transit Administration and Department of Labor

Two Class I freight railroads, seven Class III short line freight carriers, one switching/terminal railroad, and one passenger railroad serve Maryland with a total of 886 miles of active track. The major rail carriers and the mileage they serve in Maryland are listed in **Exhibit 11.4**. Federal and State regulations govern the operation of rail services, with input from nongovernmental bodies.

Regulatory requirements are imposed principally at the federal level by the Surface Transportation Board, the Federal Railroad Administration, and the Federal Transit Administration. The Maryland Transit Administration is responsible for operating and maintaining rail freight services and public commuter buses, the Baltimore area metro subway, Maryland Area Regional Commuter trains, and light rail systems. The Division of Labor and Industry in the Department of Labor enforces State requirements dealing with railroad safety. Due to federal preemption, the Public Service Commission has limited regulatory authority over railroads. Guidance is also provided by the Association of American Railroads.

For detailed information on the services provided by the Maryland Transit Administration, see *Volume II – Government Services in Maryland*.

Exhibit 11.4 **Mileage of Major Railroad Companies Operating in Maryland** **Fiscal 2022**

CSX Transportation	557
Norfolk Southern	259
National Railroad Passenger Corp. (Amtrak)	158
Canton Railroad	16
Tradepoint Rail	12
Maryland and Delaware Railroad	96
Maryland Midland	65
Carload Express Delmarva Central Railroad	56
Winchester and Western Railway	2
Total	1,210

Note: CSX Transportation, Norfolk Southern, and National Railroad Passenger Corp. operate on tracks owned by themselves, other railroads, and the Maryland Department of Transportation. Therefore, the total operating mileage for all carriers in the State will always be higher than the active rail miles in the State.

Source: Maryland Department of Transportation; Maryland Transit Administration

Railroad Safety and Health

Maryland's Railroad Safety and Health Program is administered by the Division of Labor and Industry in the Department of Labor, rather than the Maryland Department of Transportation. The program promotes safety and health in the railroad industry by seeking to reduce accidents, deaths, and injuries to persons, as well as property damage. The division's Railroad Safety and Health Unit performs inspections and administers programs to:

- enforce federal safety regulations for equipment, locomotives, track, operating practices, and signal and train control;
- enforce requirements for clearance and walkway safety, and sanitation on railroad trains; and
- investigate railroad property and personal injury accidents and investigate citizen and employee complaints relating to railroads.

The unit investigated 11 railroad accidents and incidents in fiscal 2021, none of which resulted in fatalities. A telephone recording system enables the prompt reporting of train accidents and serious injuries that occur at night, on a weekend, or on a holiday.

Ports and Marine Terminals – Maryland Port Administration

The Maryland Port Administration supervises the activities at marine terminal facilities located at Dundalk, Seagirt, North and South Locust Point, the Intermodal Container Transfer Facility, the Fairfield and Masonville Automobile Terminals, and the Hawkins Point Terminal. The administration also owns Baltimore's World Trade Center office building located at the Inner Harbor. Broadly, the functions of the administration include:

- constructing and maintaining publicly owned terminal facilities;
- analyzing cargo flow patterns and projecting future facility needs;
- improving shipping access channels and security infrastructure;
- coordinating with federal and other State agencies in harbor and channel dredging projects;
- constructing and maintaining dredged material placement facilities;
- issuing permits for pier construction in the harbor area or disposal of dredge material on administration property; and
- adopting regulations that address hazardous materials entering or leaving port facilities.

The administration markets the Helen Delich Bentley Port of Baltimore throughout the world. The port links Maryland's agricultural, industrial, and maritime resources to a global network of business activities and has a vital role in Maryland's economic development. In 2021, the total dollar value of foreign commerce that moved through the port's public and private terminals was \$61.3 billion. The public terminals handle most of the port's general cargo, while the private terminals handle most of the bulk commodities, such as coal and salt.

The administration also has expanded its terminal operations to accommodate passenger cruise ships. The Port of Baltimore offers home port cruises on two major cruise lines – Carnival and Royal Caribbean, with destinations along the East Coast and in the Caribbean. Prior to the COVID-19 pandemic there were on average over 90 home port cruises. The Centers for Disease Control and Prevention's no sail order shut down the cruise industry in March 2020 and cruises did not resume at the Port of Baltimore until September 2021. More than 60 home port cruises took place in fiscal 2022 and cruise operations are expected to return to pre-pandemic levels in fiscal 2023.

For more detailed information on the administration and the marine terminal facilities it supervises, see *Volume II – Government Services in Maryland*.

Aviation – Maryland Aviation Administration

The Maryland Aviation Administration is responsible for encouraging and assisting the development of aviation statewide for the benefit of residents, businesses, and visitors. The administration owns and operates the Baltimore/Washington International (BWI) Thurgood Marshall Airport and the Martin State Airport. Responsibilities of the administration include the development of a statewide aviation system plan to address the public need for airport facilities and services.

BWI Marshall is the twenty-second busiest airport in the United States and is currently the busiest in the Baltimore-Washington region. Before the COVID-19 pandemic BWI Marshall served more than 26 million passengers annually, with an average of more than 300 daily flights and nonstop service to 93 domestic and international destinations. Due to the ongoing pandemic, in fiscal 2021 BWI Marshall provided service to 13 million passengers, with more than 240 daily flights and nonstop service to 76 destinations. The airport expects to return to pre-pandemic levels in fiscal 2023.

BWI Marshall is also a major transportation resource and economic development engine for Maryland, creating and supporting over 106,000 jobs and more than \$9.3 billion in business revenue.

BWI Marshall maintains a comprehensive aviation noise abatement and mitigation program. The BWI Marshall Noise Abatement Plan and Airport Noise Zone includes a wide variety of strategies that are intended to reduce noise impacts for communities around the airport while maintaining efficient airport operations. Noise abatement includes operational procedures,

such as aircraft arrival and departure procedures, and a preferential runway use system intended to direct aircraft operations over less populated areas, where and when possible. Other elements of the noise abatement plan include land use restrictions and programs for land acquisition and soundproofing. The administration also monitors noise levels and airport operations to evaluate these programs.

Toll Facilities – Maryland Transportation Authority

The Maryland Transportation Authority is the governing body for the State’s toll facilities. Since 1971, the authority has been responsible for constructing, managing, operating, and improving the State’s toll facilities, as well as for financing new revenue producing transportation projects. All of the authority’s projects and services are funded through tolls paid by the customers who use the authority’s facilities. The authority maintains its own trust fund and is financially and legally independent from the Maryland Department of Transportation.

The authority is governed by a nine-member board of directors, consisting of the Secretary of Transportation, who serves as the chair of the board, and eight individuals appointed by the Governor. The authority is self-supporting and finances its transportation facility projects, including the operation, maintenance, and improvement of toll facilities, through revenue bonds and toll revenues. Additional income is derived through concession contracts with vendors that operate the Maryland House and Chesapeake House Service Plazas on the John F. Kennedy Memorial Highway (I-95 north of Baltimore City). In fiscal 2021 the authority generated about \$456 million in toll revenues and \$5 million from concessions. While this is less than the \$675 million in toll revenues and \$6.7 million in concessions generated before the pandemic in fiscal 2019, the authority anticipates returning to pre-pandemic levels in fiscal 2023.

The authority operates eight toll facilities – four bridges, two tunnels, and two turnpikes – that are located in three regions of the State. The authority also owns and operates I-395 in Baltimore City. In addition, the Maryland Transportation Authority Police are responsible for law enforcement at the authority’s highways, tunnels, bridges, BWI Marshall, and the Port of Baltimore.

- | | |
|-----------------|---|
| North: | John F. Kennedy Memorial Highway (I-95)
Thomas J. Hatem Memorial Bridge (Harford County – Susquehanna River U.S. 40) |
| Central: | Baltimore Harbor Tunnel (I-895)
Fort McHenry Tunnel (I-95)
Francis Scott Key Bridge (Baltimore I-695) |
| South: | Harry W. Nice/Thomas “Mac” Middleton Bridge (Potomac River U.S. 301)
William Preston Lane, Jr. Memorial Bridge (Chesapeake Bay Bridge U.S. 50/301)
InterCounty Connector (ICC/MD 200) |

All eight toll facilities are now exclusively electronic, cashless facilities, with two standard payment options – E-ZPass and pay-by-plate. The authority charges no service fee for E-ZPass accounts and new and replacement E-ZPass transponders are free. The authority offers various discount plans under the E-ZPass program, and E-ZPass users generally receive a discount over the standard toll rate. Pay-by-plate tolling allows drivers to register a vehicle plate and a form of electronic payment that will be debited with each use of the facility.

In addition, the authority is required to adopt a program of video tolling. Under the program, an owner or operator of a vehicle that passes through a toll facility without an E-ZPass account, without sufficient funds in an E-ZPass account, or without using the pay-by-plate option is not subject to a civil or criminal penalty but is instead mailed a notice of video toll due. The owner or operator has at least 30 days to pay the video toll, which is 150% of the actual toll, and will receive a discount for paying the toll before the invoice is mailed and if payment is made within a predetermined time. An owner or operator who fails to timely pay the video toll is subject to a civil citation and penalty (which may not be assessed until 15 days after the deadline to pay the video toll), for which the person may pay or elect to stand trial. Failure to pay a video toll, or subsequent civil citation, or to contest liability subjects the motor vehicle in question to refusal or suspension of the registration. The authority may waive any portion of a video toll or civil penalty and must waive a civil penalty associated with a video toll if the toll is paid in accordance with the authority's Customer Assistance Plan as approved on February 24, 2022.

Under that plan, the authority implemented an eight-month grace period for people with outstanding tolls and civil penalties. More specifically, all outstanding civil penalties are waived for motorists who pay their unpaid tolls by November 30, 2022.

Hazardous Materials Restriction

Vehicles carrying bottled propane gas (in excess of 10 pounds per container and maximum of 10 containers), bulk gasoline, explosives, a significant amount of radioactive materials, or certain other hazardous materials are prohibited from using the Fort McHenry or Baltimore Harbor tunnels. Vehicles carrying certain explosives or radioactive materials must have permission from the authority to cross an authority toll bridge. A full listing of prohibited materials can be obtained from the authority's subtitle in the Code of Maryland Regulations (COMAR 11.07.01.01, *et seq.*).

Chapter 12. Public Utilities

The Maryland Public Service Commission regulates public service companies and is charged with ensuring an adequate and reliable supply of utility services at just and reasonable rates. Public service companies, also known as public utilities, provide utility services such as natural gas, electricity, telecommunications, water, sewage disposal, and for-hire transportation.

This chapter discusses the commission's organization, regulatory authority, and regulated services, as well as other special programs and unregulated services. Further, the chapter briefly describes the Office of People's Counsel, which represents residential and noncommercial interests relating to utilities before the commission; the Maryland Energy Administration, which promotes energy efficiency and the development of renewable energy sources; and the Power Plant Research Program, which assesses the environmental impacts of proposed power plants and transmission lines.

Organization of the Public Service Commission

The commission consists of five commissioners appointed by the Governor, with commissioners serving five-year staggered terms. Five major work units carry out the commission's administrative and regulatory duties:

- Office of General Counsel;
- Public Utility Law Judge Division;
- Office of the Executive Secretary;
- Consumer Affairs Division; and
- Office of the Executive Director.

The Office of General Counsel provides legal advice, represents the commission in external administrative proceedings, defends commission orders in State and federal courts, and supervises enforcement of the commission's rules, regulations, and filing requirements. The office also responds to Public Information Act requests and leads or participates in special projects as directed by the commission.

The Public Utility Law Judge Division conducts formal proceedings in matters referred by the commission and files proposed orders with the commission. Division proceedings typically involve applications for construction of power plants and high-voltage transmission lines; rates and other matters for gas, electric, and telephone companies; purchased gas fuel rate adjustments; matters relating to bus, passenger common carrier, water, and sewage disposal companies; plant

equipment and depreciation; and consumer complaints not resolved at the administrative level. During 2021, the commission delegated to the division 57 cases, of which 38 related to transportation matters. In 2021, the division held 99 hearings and issued 60 proposed orders.

The Office of the Executive Secretary, as the administrator of the commission's daily operations and recordkeeping, is responsible for case management, order preparation, purchasing and procurement, regulations, tariff maintenance, fiscal and budget management, regulation development, and the Equal Employment Opportunity Program. The office establishes the commission's docket, maintains official records, and carries out the commission's directives regarding the assignment and completion of duties within the commission. The executive secretary is also a member of a team of policy advisors to the commission. The office contains separate administrative, fiscal, and information technology divisions.

The Consumer Affairs Division investigates and responds to consumer inquiries and complaints relating to gas, electric, water, and landline telephone services and resolves disputes between consumers and utility companies. Operating within this division, the Dispute Resolution team mediates disputes under the jurisdiction of the commission and the Compliance and Enforcement Unit tracks complaint patterns to monitor utilities and third-party energy suppliers for regulatory compliance. In 2021, the division investigated 1,869 consumer complaints, including 1,258 that involved utility gas and electricity issues and 427 that involved third-party retail energy suppliers.

The Office of the Executive Director coordinates the work of the commission's technical staff in analyzing utility filings and operations, presenting testimony in formal and informal proceedings, and supporting the commission's regulatory oversight activities. The technical staff provides expertise on accounting and financial issues; enforces electric utility compliance with national reliability and safety standards; is responsible for ensuring hazardous liquid and gas pipeline safety; and conducts economic, financial, and policy analyses relevant to utility regulation. The office oversees the seven divisions of the commission's technical staff:

- accounting investigations (audit of utility books);
- electricity (regulation and analysis relating to electricity);
- telecommunications, gas, and water (regulation and review of rate and tariff filings);
- energy analysis and planning (analysis of long-range plans related to electric reliability and energy efficiency);
- staff counsel (direction and coordination of the technical staff's position in matters pending before the commission), which is distinct from the Office of General Counsel;
- transportation (enforcement of laws and regulations pertaining to safety, rates, and services of the passenger-for-hire industry); and

- engineering (monitoring and inspection of the operations of electric, water, and sewage disposal plants and natural gas and hazardous liquid pipelines).

Regulatory Authority of the Public Service Commission

The commission exercises jurisdiction over electric distribution companies and electricity suppliers, gas distribution companies and gas suppliers, combination gas and electric distribution companies, telecommunications companies, water companies, sewage disposal companies, combined water and sewage disposal companies, common carriers (passenger-for-hire motor vehicle companies, vehicles, and drivers, including transportation network companies and operators; railroad companies; and certain taxicab companies and driver permits), and intrastate pipelines. Commission jurisdiction over railroad companies is secondary to federal jurisdiction. **Exhibit 12.1** shows the public service entities regulated by the commission as of December 31, 2021.

The commission's jurisdiction is limited to services that are provided within Maryland. Services between Maryland and one or more other states fall under the jurisdiction of federal entities, including the Federal Energy Regulatory Commission, which regulates the interstate and wholesale activities of gas and electric utilities; the Federal Communications Commission, which regulates interstate telephone service; and the U.S. Department of Transportation, which retains limited jurisdiction over interstate commercial carriers and related services.

The commission is best known for its role in setting utility rates for public service companies. State law authorizes the commission to hear and decide matters regarding, among other matters: (1) rate adjustments through tariff proceedings; (2) applications to exercise or abandon public utility franchises; (3) applications to modify the type or scope of utility services provided; (4) the issuance of securities by public service companies; (5) mergers and acquisitions of gas and electric companies; (6) adoption and enforcement of new rules and regulations; (7) the quality of utility and common carrier services; and (8) the construction and modification of power plants. In addition to these functions, the commission collects and maintains records and reports of public service companies; reviews plans for service; inspects equipment; audits financial records; handles consumer complaints; defends commission decisions on appeal to State and federal courts; and intervenes in relevant cases before federal courts and regulatory agencies.

Exhibit 12.1
Public Service Entities Regulated by the Public Service Commission
as of December 31, 2021

Electric Distribution Companies	10
Gas Distribution Companies	7
Combined Gas and Electric Distribution Companies	2
Electric and Gas Suppliers	640
Telecommunications Companies	159
Water and Combined Water and Sewage Disposal Companies	25
Passenger-for-hire Motor Vehicle Companies	931
Passenger-for-hire Vehicles	3,467
Passenger-for-hire Drivers	2,913
Taxicab Associations*	20
Taxicab Permits*	1,221
Taxicab Drivers*	624
Transportation Network Companies	4
Transportation Network Operators' Vehicles	523,144
Transportation Network Operators (Drivers)	445,967
Toll Bridge Companies	1

*As authorized by statute, the commission issues taxicab permits and taxicab driver's licenses in Baltimore City, Baltimore County, Cumberland, and Hagerstown. Since Charles County has chosen not to regulate taxicabs operating in the county, the commission has jurisdiction over their activities.

Source: Public Service Commission

Public Utilities Regulated by the Public Service Commission

The commission regulates public utilities on both a general and a utility-specific basis. General regulation includes (1) requiring public utilities to obtain the commission's authorization to begin, alter, or abandon franchise operations; (2) ensuring the quality of utility and common carrier service; (3) requiring public utilities to submit applications for approval of rates and charges, unless otherwise exempt; and (4) requiring the protection and education of consumers. The commission must also generally approve the issuance of stocks, bonds, and other securities by public utilities incorporated in Maryland. The commission assesses an annual fee on all public utilities to pay the expenses of the commission and the Office of People's Counsel. The assessment is based on the estimated annual operating budgets of the commission and the office.

The following section describes the commission's utility-specific regulatory requirements for:

- electric distribution companies, gas distribution companies, and combined gas and electric distribution companies;
- water companies, sewage disposal companies, and combined water and sewage disposal companies;
- telecommunications companies; and
- transportation companies.

For information regarding taxation of these entities, see *Volume III – Maryland's Revenue Structure*.

Electric Distribution Companies, Gas Distribution Companies, and Combined Gas and Electric Distribution Companies

Electric distribution companies, gas distribution companies, and combined gas and electric distribution companies provide services in defined service territories in compliance with specific regulations of the commission. Areas that these regulations, that have the force of law, govern include (1) engineering standards; (2) records and reporting requirements; (3) metering, including commission testing and authorization; and (4) the companies' treatment of customers. The commission has engaged in substantial consumer protection activity regarding the service provided by competitive electricity suppliers.

Natural Gas

In the Maryland natural gas market, the commission regulates gas distribution companies, including monitoring retail competition and customer choice, to ensure that the companies provide safe, reliable, and affordable gas service. The commission regulates several gas distribution companies, the largest of which are Washington Gas Light Company and Columbia Gas of Maryland, and two combined gas and electric distribution companies, Baltimore Gas and Electric Company and the Easton Utilities Commission.

In the larger distribution territories, customers have been able to choose from multiple competitive gas suppliers since the mid-1990s. As of December 2021, competitive gas suppliers served about 18% of the approximately 1.1 million residential accounts, 34% of the approximately 80,000 firm service commercial and industrial accounts, and 82% of the approximately 810 daily metered and interruptible accounts, representing about 53% of total system volume.

Electricity

The commission relies on several divisions within the Office of the Executive Director to evaluate alternatives when considering options for maintaining a reliable electric system. These alternatives include new generating capacity, power purchases, energy conservation and efficiency, cogeneration, and renewable energy resources. The commission evaluates these alternatives in an effort to ensure that adequate and reliable service is provided to electric customers at the lowest system cost.

The commission also considers necessary features in evaluating utility system planning and operations. These features include (1) source diversity, reliability, dispatch ability, and other factors of risk; (2) the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of these savings over time; and (3) the treatment of demand and supply resources on a consistent and integrated basis.

Major Electric Companies: Electric companies distribute electricity in defined service territories under State-granted franchises. Maryland has four large investor-owned electric companies: Baltimore Gas and Electric Company; Potomac Electric Power Company; Delmarva Power and Light Company; and the Potomac Edison Company. The first three investor-owned electric companies are all parts of Exelon Corporation, an international energy company headquartered in Chicago, Illinois. Potomac Edison is a part of First Energy Corporation, an energy company headquartered in Akron, Ohio. There are two principal electric cooperatives in Maryland: the Southern Maryland Electric Cooperative; and the Choptank Electric Cooperative, which operates on the Eastern Shore. While the commission exercises full authority over the Southern Maryland cooperative, its regulatory oversight of Choptank is limited. There are also two out-of-state cooperatives that serve small portions of Maryland: A&N Electric Cooperative; and Somerset Rural Electric Cooperative. There are five municipal electric companies: Berlin Municipal Electric Plant; Easton Utilities Commission; City of Hagerstown Light Department; Thurmont Municipal Light Company; and Williamsport Municipal Electric Light System.

Electric Restructuring and Competitive Supply: After several years of debate in the legislature and in regulatory circles, legislation was enacted in 1999 to restructure the electricity industry in Maryland. Under the Electric Customer Choice and Competition Act, electric restructuring's primary feature consisted of "customer choice" for customers of all investor-owned electric companies, along with customer protections, a new electric universal service program for low-income customers, and environmental protections that addressed a restructured industry framework.

Prior to restructuring, each electric company provided three main services through a vertically integrated monopoly: the generation of electricity; the transmission of that electricity on high-capacity lines to distribution networks; and the distribution of the electricity to customers. Each of the electric companies then "bundled" these three services and provided them to its customers within its geographically defined exclusive service territory. Restructuring took the generation component (electricity supply) out of this bundled service package, allowing customers to purchase as a commodity the electricity generated by any licensed source ("customer choice")

and have the electricity delivered over the transmission and distribution lines of their electric company. Customers also retained the option to continue receiving electricity supply sold by the electric distribution company as their electricity supplier under “standard offer service.”

Standard offer service is electricity that customers purchase from their electric company, the still-regulated utility that distributes electricity to customers in its service territory. The electric company purchases electricity in bulk and makes it available, at a price that varies by customer class, to any customer who (1) does not choose a new (competitive) electricity supplier; (2) has not been offered customer choice; (3) contracts for competitive electricity supply that is not delivered; or (4) has been denied service by an electricity supplier. Under this obligation to serve, the cost of standard offer service is set at a market price sufficient to provide the electric company with the opportunity to recover verifiable, prudently incurred costs to procure or produce the electricity, plus a reasonable return.

The procurement of supply for standard offer service is accomplished through a series of bidding auctions during the year for blocks of supply. The standard offer service product must (1) use a series of rolling two-year contracts auctioned twice each year and (2) include cost-effective energy efficiency and conservation measures. Also, the names of successful bidders in the auction must be disclosed.

It is important to note that under the 1999 Act, while the commission no longer regulates the price of electricity as a commodity, the commission still fully regulates the safety and reliability of the electric distribution system as well as reviewing and approving the siting and construction of electric generating stations and transmission facilities throughout the State.

Due to a number of factors, including the length and level of prices under rate caps and regulatory uncertainty, the retail competitive market in Maryland started slowly. For several years, few competitive electricity suppliers offered residential retail products in the State, although more suppliers entered the market for commercial and industrial customers. However, over two decades since the 1999 Act, one-sixth of residential customers and more than one-third of commercial and industrial customers are enrolled in electric choice, as shown in **Exhibit 12.2**. Customers in the larger service territories often have a choice of upwards of 100 electricity suppliers.

Exhibit 12.2
Competitive Electric Supply Enrollment
As of December 31, 2021

<u>Utility</u>	<u>Residential</u>		<u>Commercial and Industrial</u>		<u>Total</u>	
	<u>Accounts</u>	<u>% of Total</u>	<u>Accounts</u>	<u>% of Total</u>	<u>Accounts</u>	<u>% of Total</u>
Potomac	24,398	9.8%	12,127	32.8%	36,525	12.8%
BGE	251,196	21.0%	48,771	36.9%	299,967	22.6%
Delmarva	19,712	10.8%	11,644	34.7%	31,356	14.5%
PEPCO	91,035	16.8%	19,761	38.4%	110,796	18.7%
SMECO	4,320	2.8%	408	2.6%	4,728	2.8%
Total	390,661	16.8%	92,711	34.4%	483,372	18.6%

BGE: Baltimore Gas and Electric Company
PEPCO: Potomac Electric Power Company
SMECO: Southern Maryland Electric Cooperative

Source: Public Service Commission

Other Energy Programs

In addition to its oversight of the gas and electric industries, the commission is also involved in other energy-related programs, including the renewable energy portfolio standard, the transmission planning process at the PJM Interconnection, LLC, the Regional Greenhouse Gas Initiative, and the EmPOWER Maryland Program.

Renewable Energy Portfolio Standard: Maryland's renewable energy portfolio standard was first enacted in 2004 to facilitate a gradual transition to renewable sources of energy. The commission oversees compliance with the standard. Electric companies and other electricity suppliers must submit renewable energy credits equal to a percentage specified in statute each year or else pay an alternative compliance payment equivalent to their shortfall. The percentage generally relates to the amount of sales of electricity generated from renewable sources as compared to total electricity sales for the year. Over the history of the program, the requirements of the renewable energy portfolio standard have been met almost entirely through renewable energy credits, with negligible reliance on monetary alternative compliance payments.

The renewable energy portfolio standard operates on a tiered system that includes specific carve-outs for solar energy, offshore wind energy, and post-2022 geothermal systems, with corresponding credits for each tier and carve-out. Tier 1 sources include, among others, onshore and offshore wind, qualifying biomass, geothermal, small hydroelectric plants of less than 30 megawatts, and waste-to-energy. Tier 1 solar sources include photovoltaic cells and residential

solar water-heating systems commissioned in fiscal 2012 or later. Tier 2 includes only larger hydroelectric power plants other than pump storage generation.

In recent years, the General Assembly has passed several bills to expand and alter the renewable energy portfolio standard percentage requirements. The percentage requirements as of 2022 are shown in **Exhibit 12.3**.

Exhibit 12.3
Annual Renewable Energy Requirements

<u>Year</u>	<u>Solar</u>	<u>Post 2022 Geothermal</u>	<u>Offshore Wind*</u>	<u>Other Tier 1</u>	<u>Tier 2</u>	<u>Total</u>
2022	5.50%	N/A	1.36%	23.24%	2.50%	32.60%
2023	6.00%	0.05%	2.03%	23.82%	2.50%	34.40%
2024	6.50%	0.15%	2.01%	25.04%	2.50%	36.20%
2025	7.00%	0.25%	2.01%	26.24%	2.50%	38.00%
2026	8.00%	0.50%	1.99%	27.51%	2.50%	40.50%
2027	9.50%	0.75%	1.98%	29.27%	2.50%	44.00%
2028	11.00%	1.00%	1.96%	29.04%	2.50%	45.50%
2029	12.50%	1.00%	1.94%	32.06%	2.50%	50.00%
2030+	14.50%	1.00%	0.60 – 1.94%	32.56% – 33.9%	2.50%	52.50%

*This percentage includes only the commission-approved offshore wind energy carve-out from Order No. 88192. This does not include the additional 1,200 MWs of capacity set forth by the General Assembly.

Source: Public Service Commission

Transmission Planning Process at PJM: PJM Interconnection, LLC is a regional transmission organization that coordinates the movement of wholesale electricity in all or parts of 13 states and the District of Columbia under the jurisdiction of the Federal Energy Regulatory Commission. Certain states within the PJM region, including Maryland, have experienced relatively higher electricity prices attributable to transmission congestion, which restricts access to low-cost energy from other areas. PJM's markets respond to price signals attributed to congestion. Over time and in response to federal proceedings, PJM has developed a number of market mechanisms that address how to value energy efficiency and electricity demand management, promote the availability of electricity from renewable and other nonfossil sources, and encourage the development of local energy resources as alternatives to energy imports.

The commission monitors activities at PJM, actively participates in federal regulatory proceedings associated with the bulk power system and wholesale markets and conducts annual proceedings to hear from Maryland electric companies regarding the steps they are taking to ensure grid reliability within the regional landscape.

Regional Greenhouse Gas Initiative: The Regional Greenhouse Gas Initiative is an organization of approximately a dozen (membership varies) northeastern and mid-Atlantic states that is designed to reduce CO₂ emissions from power plants and other significant emitters through an emissions cap that decreases over time. Participating states primarily use quarterly auctions to distribute allowances to electric power plants. Maryland's share of auctioned CO₂ allowances supports conservation and energy efficiency programs and provides low-income energy assistance to electric customers. For more information regarding the Regional Greenhouse Gas Initiative, see "Chapter 3. Environmental Protection, Health, and Safety" of this handbook.

EmPOWER Maryland Program: The EmPOWER Maryland program requires electric companies to propose cost-effective energy efficiency and conservation programs and services designed to reduce per capita energy consumption and total peak load. Using 2007 as a base year, the 2008 legislation that created the program established an overall per capita State goal of achieving a 15% reduction in electricity consumption and a 15% reduction in peak demand by the end of 2015. By that time, the State's electric companies had achieved 99% of their energy consumption goal and 100% of the peak demand goal. The goals of the original program have since been extended and updated by commission order and subsequent legislation. Chapter 38 of 2022 increased the annual energy savings requirement beyond the then-current 2.0% savings goal, beginning in 2025.

Water Companies, Sewage Disposal Companies, and Combined Water and Sewage Disposal Companies

Approximately two dozen private companies provide water services, sewage disposal services, or both to Maryland residents. Under State law, a private water or sewage disposal system for public use may not be constructed without prior approval of the commission. The approval process includes a review of all proposed financing plans for the system. Additionally, State law subjects all proposed rate changes by these companies to review and approval by the commission. Government agencies and municipalities are exempt from these reviews.

The commission also reviews interjurisdictional water supply activities. For example, a county or municipality may supply water to another county, sanitary district, or municipality. The entity receiving the water may submit a written application requesting the commission to fix or alter the water rates. The commission may then fix or alter these rates, effectively treating the supplying county or municipality as a water company.

Finally, the commission has the authority to alter rates for interjurisdictional sewage disposal. Any county or municipality may generally submit a written application requesting the commission to fix or alter rates for sewage disposal service supplied within the county or municipality by another county or municipality. The commission may then fix or alter these rates, effectively treating the supplying subdivision as a sewage disposal company.

Telecommunications Companies

In regulating telecommunications services, the commission reviews tariff filings and rate revisions, authorizes telephone and telegraph companies to provide new service offerings, and regulates local telephone service companies. The commission also monitors the quality of service by these providers and the administration of telephone numbering resources; administers the certification of payphone providers; and monitors low-income telecommunication services, enhanced 9-1-1 service, and telecommunications relay services. Verizon Maryland, Inc. is the traditional provider of local telephone service in virtually all of Maryland but faces competition from competitive local exchange carriers.

Transportation Companies

The commission enforces laws pertaining to the safety, rates, and service of transportation companies operating in Maryland by analyzing rate filings and service offerings, monitoring the operations of transportation companies, and inspecting vehicles to ensure that they comply with safety regulations. The commission also regulates the issuance of permits and licenses for passenger-for-hire companies; for-hire railroad companies; taxicab permits in Baltimore City, Baltimore County, Charles County, Cumberland, and Hagerstown; and transportation network company permits and operator licenses. For more detailed information regarding transportation services, including taxicabs and motor carrier companies, and the regulation of the transportation industry, please refer to “Chapter 11. Transportation” of this handbook and *Volume II – Government Services in Maryland*.

Utilities and Related Services Not Regulated by the Public Service Commission

Although the commission regulates more than a dozen types of utilities, several similar industries and services are either unregulated or are regulated by other government entities. **Exhibit 12.4** displays the most common utility-related industries and services that are not regulated by the commission. These include cable television, home heating oil, Internet service providers, municipally owned water companies, propane/bottled gas, and wireless telecommunications.

Exhibit 12.4
Utility-related Industries and Services Not Regulated
by the Public Service Commission

Cable Television	Subject to various federal statutes and the rules and regulations of the Federal Communications Commission (FCC). Regulated by various local municipal or county governments through franchising agreements.
Home Heating Oil	Unregulated in Maryland.
Internet Service Providers	Subject to various types of regulation by FCC and the Federal Trade Commission (FTC). Unregulated under Maryland law.
Municipally Owned Water Companies	Local municipalities are direct service providers.
Propane/Bottled Gas	Unregulated in Maryland.
Wireless Telecommunications	Subject to licensure by FCC and deceptive practices enforcement by FTC. Unregulated under Maryland law.

Source: Public Service Commission

Cable Television

The commission does not regulate the rates, terms, conditions, or service quality of cable television in Maryland. Instead, cable systems are largely regulated by federal law, the rules and regulations of the Federal Communications Commission, and various local governing bodies through franchising agreements. Local municipal and county governments grant franchises to cable companies operating within their boundaries, charge licensing and franchising fees for rights-of-way, and address complaints concerning service interruptions, signal quality, and basic cable service rates.

For information regarding the structure, powers, and revenue sources of local government in Maryland, see *Volume VI – Maryland Local Government*.

Home Heating Oil

Due to ample competition in the industry, the commission does not regulate home heating oil companies. Consumers in contractual disputes with home heating oil providers may contact the Consumer Protection Division of the Office of the Attorney General.

Internet Service Providers

Internet service providers are not regulated by the commission. The Federal Communications Commission and the Federal Trade Commission coordinate efforts to regulate Internet service providers and investigate consumer complaints. Consumers may contact the Consumer Protection Division of the Office of the Attorney General to address contractual disputes with providers. Consumers may also report cases of suspected fraud to the Internet Crime Complaint Center of the Federal Bureau of Investigation.

Municipally Owned Water Companies

In regulating water companies, the commission's authority applies only to privately owned, for-profit companies that are authorized to provide service within a specified service territory. The commission does not typically regulate municipally owned water companies providing water within their own jurisdictions, nor does it set rates for the Washington Suburban Sanitary Commission, a State-chartered entity that provides water and sewage disposal service in Montgomery and Prince George's counties.

Propane/Bottled Gas

As with home heating oil, the commission does not regulate bottled propane or gas due to sufficient competition in the industry. Consumers in contractual disputes with propane or bottled gas providers may contact the Consumer Protection Division of the Office of the Attorney General.

Wireless Telecommunications

Wireless or cellular telecommunications services, as well as Voice-over-Internet Protocol services and international and interstate telephone services, are not regulated by the commission. Cellular telephone companies are specifically excluded from the definition of a "telephone company" under the Public Utilities Article. The Wireless Telecommunications Bureau of the Federal Communications Commission licenses cellular telephone companies, while the Federal Trade Commission handles actions for deceptive marketing or fraudulent investment schemes.

Related State Entities

Office of People's Counsel

While the commission is the administrative agency that regulates the distribution and supply of utility services, the Office of People's Counsel, an independent State agency established in 1924, represents residential interests relating to utilities. The People's Counsel is appointed by the Attorney General. The office represents residential and noncommercial customers before the commission and other State and federal agencies in actions related to electricity, natural gas, telephone, water and sewage disposal, and transportation services. In determining whether the interests of residential and noncommercial users are affected, the Office of People's Counsel is required to consider the public safety, economic welfare, and environmental interests of the State and its residents, including the State's progress in meeting its greenhouse gas emissions reductions goals.

Maryland Energy Administration

The Maryland Energy Administration is an independent unit of State government with a mission to promote affordable, reliable, and cleaner energy for Maryland residents. The administration's strategic goals include increasing Maryland's energy efficiency and energy conservation; reducing State agency energy consumption; improving the energy efficiency of local governments, nonprofits, and businesses; increasing electricity generation fuel diversity through the increased use of in-state renewable energy; and diversifying Maryland's transportation network by encouraging the use of electric vehicles. To reach these goals, the administration manages financial incentive programs for residents and businesses such as the Residential Clean Energy Rebate Program and participates in programs such as the Regional Greenhouse Gas Initiative and the EmPOWER Maryland Program.

Power Plant Research Program

The Power Plant Research Program in the Department of Natural Resources was established in 1971 as the Power Plant Siting Program to explore issues related to siting nuclear power plants. Over time, the program has evolved to assess the environmental impacts on air quality, ground and surface water, and wetlands associated with all proposed electric power plants and transmission lines. The program is charged with ensuring that Maryland meets its long-term electricity demands at reasonable cost while protecting the State's valuable natural resources.

Based on the program's findings, the department makes recommendations to regulatory bodies such as the commission during licensing and permitting proceedings. The activities of the program include (1) predicting the impact of proposed new generating facilities; (2) evaluating the acceptability of proposed transmission line routes; (3) assessing the impact on existing generating facilities; (4) forecasting future demand for electric power; and (5) investigating information gaps through a long-range research program.

The program is funded through an environmental surcharge assessed on each kilowatt-hour of electric energy distributed in the State, which is paid by electric companies. In turn, the electric companies collect the surcharge from electricity customers. The resulting revenues are placed in the Environmental Trust Fund. In addition to the program, the environmental surcharge provides support to the Maryland Energy Administration, for the study of the production or conservation of electric energy, and to the Chesapeake Bay Trust to support energy conservation projects through the Chesapeake Conservation Corps Program. Chapter 393 of 2019 extended the environmental surcharge through fiscal 2030.

Chapter 13. Sports

Maryland regulates thoroughbred and standardbred (harness) racing, boxing, professional wrestling, kickboxing, and mixed martial arts to maintain the integrity of these sporting events and to protect participants and the public interest. The Maryland Racing Commission and the State Athletic Commission, both under the Maryland Department of Labor, oversee and enforce the State regulation of these activities.

This chapter discusses the regulatory structure governing these sports, the functions of the regulatory bodies, and the State's role in licensing sports agents. For more information on sports wagering and fantasy gaming competitions, see *Volume III – Maryland's Revenue Structure*.

Thoroughbred and Standardbred (Harness) Racing

Maryland Racing Commission

Since 1920, the Maryland Racing Commission has regulated horse racing in the State and sought to protect and promote the public interest in all matters pertaining to horse racing and wagering. The commission has established pari-mutuel betting as the only legal system of wagering on horse races on racetracks over which the commission has jurisdiction. Pari-mutuel betting is a system of betting in which those who successfully bet on horses that finish in specified positions share the mutuel pool. The commission is responsible for regulating, with few exceptions, the conduct of all pari-mutuel betting and other aspects of horse racing in the State. The commission:

- approves racing dates;
- approves specific types of wagering and collects wagering taxes;
- regulates the size of the purse and stake and the price of admission;
- regulates the charge made for an article or service sold at the meets; and
- oversees drug testing laboratories, which protect the integrity of horse racing for the benefit of the betting public and competing jockeys.

Licensing

An individual, association, or corporation involved with horse racing must be licensed by the commission. The commission licenses owners, trainers, assistant trainers, jockeys, veterinarians, farriers, stable employees, mutuel employees, track employees, and vendors. A

person engaged in racing in the State under an assumed name must register with the commission for permission to use the name. The commission may suspend or revoke the license of a person engaged in racing within the State who violates State racing laws or commission rules and regulations. The number of horse racing licenses issued from calendar 2017 through 2021 is summarized in **Exhibit 13.1**.

Exhibit 13.1
Thoroughbred and Standardbred Horse Racing Licenses
Calendar 2017-2021

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Thoroughbred Licenses	6,646	6,384	5,640	5,960	5,759
Standardbred Licenses	1,488	1,335	1,201	1,160	1,030
Total Licenses	8,134	7,719	6,841	7,120	6,789

Source: Maryland Racing Commission

Maryland is also part of the Interstate Compact on Licensure of Participants in Live Racing with Pari-Mutuel Wagering, also known as the National Racing Compact, which reduces the cost and paperwork involved in acquiring licenses for those who participate in racing in several states. Maryland owners and trainers are eligible for a compact license, which is issued by a compact committee composed of racing officials from the member states.

Funding

Special Funds

The commission has regulatory authority over several funds related to horse racing and breeding. The Maryland-Bred Race Fund was created in 1962 under the direction of the Maryland-Bred Race Fund Advisory Committee to develop an incentive program to encourage the improvement of thoroughbred breeding and racing. The Maryland Standardbred Race Fund was created in 1971 to promote the breeding of standardbred horses in the State. Both funds are supported, in part, by an assessment on each track licensee of a portion of the mutuel pool of all horse races. The funds are then distributed as purse money and awards to owners and breeders. In fiscal 2021, the Maryland-Bred Race Fund received approximately \$6.0 million in revenue and the Maryland Standardbred Race Fund received approximately \$1.5 million in revenue.

The Maryland Jockey Injury Compensation Fund, established in 1985 as a nonprofit organization, provides a blanket workers' compensation insurance policy for thoroughbred

jockeys who are licensed by the commission while participating in specified live racing or training activities at Maryland racetracks. The fund is supported by an assessment levied on licensed thoroughbred owners and trainers. In fiscal 2021, the Maryland Jockey Injury Compensation Fund received approximately \$302,000 in revenue.

Video Lottery Terminal Revenue

Historically, the horse racing industry in the State was financed solely by the receipts from controlled legalized gambling on horse racing and periodic financial enhancements provided to the industry to supplement declining revenues from wagering on races. Since 2010, however, revenue from video lottery terminal proceeds have been distributed to help sustain the horse racing industry. Racing receives support from video lottery terminal revenues as follows:

- Purse Dedication Account – 6% to enhance horse racing purses and funds for the horse breeding industry, not to exceed \$100 million annually; and
- Racetrack Facility Renewal Account – 1% for construction and capital improvements to racetrack facilities, not to exceed \$20 million annually.

Of the funds distributed to the Purse Dedication Account, 80% go to the thoroughbred industry and 20% to the standardbred industry. Further, of the funds allocated for purses, 89% go to purses and 11% are designated for the Maryland-Bred Race Fund and the Maryland Standardbred Race Fund. In fiscal 2021, the Purse Dedication Account received approximately \$67.8 million in video lottery terminal proceeds and the Racetrack Facility Renewal Account received approximately \$8.9 million from video lottery terminal proceeds.

Taxes and License Fees

The State collects revenue in the form of pari-mutuel wagering taxes and license fees from horse racing. In fiscal 2021, the State received approximately \$1.1 million in revenue from pari-mutuel taxes. For further information regarding horse racing taxes and fees, see *Volume III – Maryland’s Revenue Structure*.

Live and Simulcast Racing

Maryland offers three types of horse racing in the State – thoroughbred, standardbred, and steeplechase racing. Thoroughbred racing is held at mile tracks: Laurel Park in Prince George’s County and Pimlico Race Course in Baltimore City and at the Timonium Race Course in Baltimore County during the Maryland State Fair. Standardbred racing is held at two racetracks: Rosecroft Raceway in Prince George’s County; and Ocean Downs Racetrack in Worcester County. Steeplechase racing is held at Fair Hill Races in Cecil County. By law, Fair Hill Races is permitted to have up to eight race days per year. Thoroughbred and standardbred tracks do not have a limit on the number of races they may conduct per year. **Exhibit 13.2** depicts the number of thoroughbred and standardbred race dates from calendar 2017 through 2021.

In addition to wagering on live races, an individual may wager on races simulcast from around the country to any of the State tracks or off-track betting facilities. At the end of 2021, there were nine off-track betting locations (also known as simulcast betting facilities) operating in the State: Riverboat on the Potomac; Hollywood Casino; Horseshoe Casino; MGM National Harbor Casino; Pimlico Race Course (when not conducting live racing); Timonium Fair Grounds; and establishments in Boonsboro, Frederick, and Hampstead.

Exhibit 13.2
Live and Simulcast Racing Dates
Calendar 2017-2021

<u>Thoroughbred Racing</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Laurel Race Course					
Live	150	158	162	134	98
Simulcast Only	213	206	201	38	160
Total	363	364	363	172	258
Pimlico Race Course					
Live	12	12	12	6	59
Simulcast Only	351	350	255	177	196
Total	363	362	267	183	255
Timonium Race Course					
Live	7	7	7	0	7
Simulcast Only	3	3	3	0	3
Total	10	10	10	0	10
Total Live*	170	178	182	140	164
Total Simulcast	567	559	459	215	359
Thoroughbred					
Total	737	737	641	355	523
* Includes one day of live racing at Fair Hill in 2017, 2018, and 2019.					
<u>Standardbred (Harness) Racing</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Rosecroft Raceway					
Live	59	59	59	45	60
Simulcast Only	302	302	302	27	118
Total	361	361	361	72	178
Ocean Downs Racetrack					
Live	47	48	47	41	44
Simulcast Only	317	313	317	226	190
Total	364	361	364	267	234
Total Live	106	107	106	86	104
Total Simulcast	619	615	619	253	308
Standardbred					
Total	725	722	725	339	412

Source: Maryland Racing Commission

Boxing, Wrestling, Kickboxing, and Mixed Martial Arts

The Maryland State Athletic Commission, established in 1920, sets forth the rules and regulations for boxing, professional wrestling, and kickboxing contests (which includes competitions, exhibitions, matches, performances, and shows) and for mixed martial arts contests (which includes competitions, matches, performances, and shows). The commission licenses the participants and other persons involved in these sports and is responsible for regulating the direction, management, and control of these events.

In addition, the commission adopts regulations concerning ticket sales, facilities and equipment, and contractual relationships between promoters or managers and boxers, wrestlers, kickboxers, or mixed martial arts contestants. Health and safety regulations established by the commission include standards for contestant physicals, ophthalmologic and neurologic health, medical suspensions, and promoter/contestant safety responsibilities. The commission also regulates the drug testing of contestants.

The commission may impose penalties, including injunctive relief, on a person that violates State laws related to boxing, wrestling, kickboxing, or mixed martial arts.

Licensing

An individual must have a license to participate in or act as a manager, referee, judge, second (a corner individual for combative sports), matchmaker, or promoter in a boxing, kickboxing, wrestling, or mixed martial arts contest. Initial and annual license fees include \$150 for a promoter; \$25 for a matchmaker or manager; \$15 for a judge or referee; and \$10 for a boxer, wrestler, kickboxer, mixed martial arts contestant, or second. The licenses issued by the commission in fiscal 2018 through 2022 are summarized in **Exhibit 13.3**.

Exhibit 13.3
Licensing of Boxing, Wrestling, Kickboxing, and Mixed Martial Arts
Fiscal 2018-2022

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
Licenses Issued	608	1,077	1,056	129	918
Shows Supervised					
Boxing	5	12	7	0	6
Wrestling	50	47	37	13	65
Kickboxing	0	0	0	0	0
Mixed Martial Arts	4	4	3	0	2
Medical Examinations					
Boxers/MMA Contestants	276	744	540	0	318
Wrestlers	500	1,175	925	455	1,625
Investigations	3	10	9	2	4
Administrative Actions	52	126	172	4	94

Source: State Athletic Commission

Boxing and Wrestling Tax

Except in certain limited situations, a boxing and wrestling tax is imposed on each live or telecast (pay-per-view cable or satellite transmission broadcast, subscription television broadcast, or closed circuit telecast) boxing, kickboxing, wrestling, or mixed martial arts event. For live events, the boxing and wrestling tax is the greater of \$200 or 10% of the gross receipts from the event. For telecast events, the boxing and wrestling tax is 10% of the gross proceeds from the event. The boxing and wrestling tax is paid by the promotor of an event to the Comptroller. For fiscal 2022, the Comptroller collected approximately \$216,000 in boxing and wrestling taxes.

Sports Agents

The Maryland Department of Labor licenses individual and corporate athlete agents who seek to represent student-athletes. An athlete agent is defined as a person who enters into an agency contract with a student-athlete or directly or indirectly recruits or solicits a student-athlete to enter into an agency contract. A student-athlete is defined as an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in any intercollegiate sport. A student-athlete includes an individual who is or was a member of a high school sports team.

Except in certain limited circumstances, to act as an athlete agent in the State, a person must obtain a license from the department. Licensure of athlete agents requires the disclosure of an applicant's training, experience, education, and legal history. The application fee for an athlete agent license is \$25, and the biennial license fee is \$1,000. As of July 2022, there were 21 individuals licensed as athlete agents.

Maryland's athlete agent law largely conforms with the licensure requirements to uniform state standards produced by the National Conference of Commissioners on Uniform State Laws. Accordingly, agents licensed in other states that have adopted the uniform act may use a certificate of registration or licensure from the other state as application for Maryland licensure or renewal.

An athlete agent may not enter into an agency contract before a student-athlete's final intercollegiate or high school regular season or post season game. An agency contract must contain specific language that advises the student-athlete of the consequences of signing a contract with an athlete agent. Contracts must be available for inspection by the State and must be filed with the athletic director of the educational institution of the student-athlete.

Specified prohibited activities on the part of an athlete agent are subject to criminal penalties of a fine not exceeding \$10,000 or imprisonment not exceeding one year, or both. In addition, agents are subject to reprimand, suspension, or revocation of a license for engaging in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. Civil penalties of up to \$25,000 for violation of the subtitle may be assessed.

Chapter 14. Occupational and Professional Licensing

The quality of services that individuals and entities provide in business occupations and professions affects public health, safety, and welfare. To ensure minimum standards of competency, the following State agencies regulate a significant number of businesses, occupations, and professions in the State:

- Maryland Department of Labor;
- Department of State Police;
- Office of the Attorney General;
- Court of Appeals; and
- Department of Public Safety and Correctional Services.

The regulatory functions of these State agencies are accomplished through various occupational and professional boards, commissions, and programs. The laws regulating these professions are found primarily in the Business Occupations and Professions Article and the Business Regulation Article. This chapter describes the general functions of the various occupational and professional regulatory entities and, by State agency, the specific responsibilities of each regulatory entity. Health occupations are discussed in “Chapter 9. Health” of this handbook.

For more detailed information on licensure and registration requirements of specific occupations, see the website of the regulatory entity or State agency responsible for oversight of the business or occupation.

General Functions

The general functions of the various regulatory entities include reviewing applications; administering examinations; issuing licenses, permits, registrations, or certificates; and investigating complaints from the public. Each regulatory entity has the authority to issue licenses, permits, registrations, or certificates based on standards specified in State law and established by the regulatory entity. Generally, through fees charged for the licensing, permitting, registration, or certification process, each regulatory entity raises revenue to offset the cost of regulation. In some cases, costs are averaged across similar entities based on calculations performed by the Secretary of Labor. For several regulatory entities, the fees collected are deposited into a special fund and some or all revenue excesses may not revert to the State’s general fund.

Each regulatory entity may deny, suspend, or revoke certain licenses, permits, registrations, or certificates if an applicant or holder of a credential is convicted of a felony or a misdemeanor that is directly related to the fitness and qualification of the applicant or holder to practice the regulated activity. Each regulatory entity also has the authority to impose penalties against individuals who commit prohibited acts, such as practicing without the requisite authority to do so. Penalties include fines, imprisonment, or both.

Most regulatory entities in this chapter are subject to the Maryland Program Evaluation Act. The Act is used by the General Assembly as a mechanism to monitor and evaluate approximately 60 regulatory boards, commissions, and other activities and units of the Executive Branch of State government. The Department of Legislative Services may evaluate entities subject to the Act as directed by the Legislative Policy Committee, the Joint Audit and Evaluation Committee, the Executive Director of Legislative Services, the Director of the Office of Policy Analysis, the Director of the Office of Program Evaluation and Government Accountability, or by legislation. Many of the regulatory entities have a fixed date for termination that may be extended through legislation requested by the entity.

For each of the regulatory entities described in this chapter, **Exhibit 14.1** details the total number of licenses (and other credentials) issued in fiscal 2021, including both initial and renewal licenses, as well as the total related revenue obtained in that year. Most licenses must be renewed every two years.

Exhibit 14.1
Occupational and Professional Licensing Data
Fiscal 2021

Occupation/Profession	Licenses Issued	Revenue Collected	Occupation/Profession	Licenses Issued	Revenue Collected
Accountants	10,775	\$558,722	Pilots and Docking Masters	74	\$16,375
Architects	4,012	316,928	Plumbers	6,946	239,220
Barbers	3,455	167,885	Private Detective Agencies*	81	18,636
Cemetery Operators	442	42,800	Private Detective Agencies and Security Guard Agencies (joint)*	207	103,833
Certified Interior Designers	173	13,148	Private Detectives*	1,246	28,526
Cosmetologists	36,549	723,135	Private Home Detention Monitoring	4	700
Electricians	3,409	104,195	Professional Engineers	12,144	847,029
Elevator Contractors and Elevator Mechanics	651	128,550	Professional Land Surveyors	369	27,891
Foresters	143	14,120	Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors	1,642	375,575
Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors	10,634	265,970	Real Estate Brokers and Salespersons	29,811	2,348,915
Home Builder Sales Representatives	712	92,000	Secondhand Precious Metal Object Dealers and Pawnbrokers	198	53,760
Home Builders	1,574	783,000	Security Guards*	10,279	240,274
Home Improvement Contractors	11,494	2,595,606	Security Systems Agencies*	358	55,869
Individual Tax Preparers	1,241	124,100	Security Systems Technicians*	2,054	92,674
Landscape Architects	558	43,942	Security Guard Agencies*	91	30,075
Lawyers	1,183	1,237,890	Stationary Engineers	2,119	121,070
Locksmiths	133	29,925			

*Partial-year data has been annualized for licenses issued by the Department of State Police.

Source: Maryland Department of Labor, Court of Appeals of Maryland, Office of the Attorney General, Department of State Police, and Maryland Department of Public Safety and Correctional Services

Maryland Department of Labor

Several divisions of the Maryland Department of Labor regulate a significant number of businesses, occupations, and professions. The Division of Occupational and Professional Licensing administers regulatory programs that govern the practice of a wide variety of occupations and professions in the State through its many boards, offices, commissions, units, and other licensing structures. Generally, a license issued by the department must be renewed every two years.

Except for the State Athletic Commission and the licensure of sports agents (described in “Chapter 13. Sports” of this handbook), the division’s regulatory entities are described in this chapter. The Office of the Commissioner of Financial Regulation regulates mortgage lenders, mortgage loan originators, and various other lending/financial entities, which, along with the other regulatory functions of the division, are described in “Chapter 7. Financial Services Industry” of this handbook.

Accountants

The State Board of Public Accountancy regulates and licenses individuals acting as certified public accountants and issues permits to business entities that provide public accountancy services. Practicing certified public accountancy means, among other things, to (1) conduct an audit or (2) provide a written certificate or opinion offering positive or negative assurance or full or limited assurance on the correctness of the information or on the fairness of the presentation of the information in certain documentation.

To qualify for a license, an applicant must meet certain educational and experience criteria and pass the Uniform Certified Public Accountant Examination. Additionally, a firm that has an office in the State and either uses the title of “CPA” or “CPA firm” or performs certain services must have a permit issued by the board. To qualify for a permit, a firm must meet certain requirements depending on the type of firm.

Barbers and Cosmetologists

The State Board of Barbers regulates and licenses barbers, and the State Board of Cosmetologists regulates and licenses cosmetologists. A person who wishes to operate a barbershop or beauty salon must obtain a permit from the appropriate board. Permits may also be held for mobile barbershops or beauty salons, provided the applicant (1) holds a permit to operate a nonmobile barbershop or beauty salon and (2) owns or leases the motor vehicle or trailer in which the mobile barbershop or beauty salon will be located. A person may operate a beauty salon as a limited practice beauty salon and offer cosmetology services limited to providing esthetic services, hair services, nail technician services, or blow-drying services if the required limited practice permit is obtained.

Practicing barbering means cutting, styling, relaxing, body waving, shampooing, or coloring hair; shaving or trimming a beard; massaging a face; or designing, fitting, or cutting a hairpiece. Practicing cosmetology means beautifying, cleaning, or embellishing hair; arching or dyeing eyebrows; dyeing eye lashes; providing esthetic services; or providing nail technician services. To qualify for a barber, master barber, barber-stylist limited, cosmetologist, senior cosmetologist, or a limited cosmetologist license, an applicant must meet certain training and experience requirements and pass an examination. For cosmetology license renewals, a licensee must satisfy a continuing education requirement.

Cemeteries

The Office of Cemetery Oversight regulates the operation of cemeteries, including those offering perpetual care and preneed burial contracts, and certain crematories. An individual must be registered with the office before operating a cemetery, crematory, or providing burial goods. A corporation, limited liability company, or partnership must obtain a permit before operating a cemetery, crematory, or burial goods business.

To qualify for a registration, an applicant must meet specified age and character requirements, affiliate with a business that is operated by a registrant or permit holder, and demonstrate that the cemetery, crematory, or burial goods business with which the applicant is associated is financially stable. To qualify for a permit, a business entity must designate a registered cemeterian, crematory operator, or seller as the individual responsible for the oversight of each cemetery, crematory, or burial goods business and comply with other requirements.

Bona fide, religious nonprofit cemeteries that do not sell preneed goods are exempt from registration and permitting requirements, as are several other types of cemeteries. Morticians, funeral directors, funeral homes, and certain crematory operations are also exempt because they are regulated by the State Board of Morticians and Funeral Directors. For information about the board, see “Chapter 9. Health” of this handbook.

Elevator Contractors and Elevator Mechanics

The Elevator Safety Review Board regulates and licenses elevator contractors, elevator mechanics, elevator renovator contractors, elevator renovator mechanics, and accessibility lift mechanics. The board is also authorized to consult with engineering authorities and organizations concerned about safety codes regarding regulations related to elevator safety and qualifications for elevator contractors and mechanics.

To qualify for a license, an applicant must meet certain education and work requirements and, in most cases, pass an examination. Successful completion of certain training programs may satisfy the education and examination requirements.

Foresters

The State Board of Foresters regulates and licenses foresters. Forestry means the application of scientific techniques to the planting, conservation, protection, and management of trees and related resources for their continuing use, whether found in large numbers in forests, woodlands, and woodlots, or in small groupings and as individual trees in suburban or urban settings.

To qualify for a license, an applicant must meet specified experience and education criteria. An individual who meets the education criteria but not the experience requirements for a license may practice forestry without a license if the individual practices under responsible charge of a licensed forester. To qualify for a renewal license, a licensee must complete at least eight hours of continuing education courses in forestry during each renewal period beyond the first.

Home Improvement Contractors and Salespersons

The Maryland Home Improvement Commission regulates and licenses home improvement contractors and salespersons. The commission regulates numerous categories of home improvement, including the addition to, alteration, conversion, improvement, modernization, remodeling, repair, or replacement of any building that is used as a residence or dwelling place for up to three family units.

To qualify for a contractor or salesperson license, an applicant must first pass an examination. An applicant for a contractor license must demonstrate financial solvency by providing a credit report or paying for the commission or the commission's designee to obtain a credit report, meet trade experience or educational training criteria, and provide a certificate of general liability insurance in the amount of at least \$50,000. Applicants must also pay \$100 to the Home Improvement Guaranty Fund, which compensates homeowners for actual monetary losses due to poor workmanship or failure to perform a home improvement contract.

Individual Tax Preparers

The State Board of Individual Tax Preparers regulates and registers individual tax preparers. Providing individual tax preparation services means to prepare, advise, or assist in the preparation of, or assume final responsibility for, another person's preparation of a federal or State income tax return.

To register with the board, an individual must meet specified age and character requirements, be a high school graduate, and pass an examination equivalent to the Special Enrollment Examination prepared by the Internal Revenue Service.

Locksmiths

A business must be licensed by the Secretary of Labor before the business and employees of the business may provide locksmith services in the State. Providing locksmith services means, among other things, repairing, rebuilding, rekeying, repinning, recombining, adjusting, or installing mechanical, electrical, or electromechanical locking devices, safes, vaults, or safe deposit boxes. It also includes opening safes, vaults, or safe deposit boxes by a means other than that intended by the manufacturer of such locking devices.

To obtain a license, an owner of a business, or the owner's designee, must apply to the Secretary of Labor. Before an individual may begin to work for a licensee as an employee, the licensee must submit the name of the individual and the individual must undergo a State and national criminal history records check and pay all associated fees. An applicant must be at least 18 years old. A licensed locksmith must maintain general liability insurance in the amount of at least \$300,000, with appropriate coverage for the practice of the business.

Pilots

The State Board of Pilots regulates and licenses individuals who pilot vessels on the navigable waters of the State to ensure the safety of the pilotage services. The board sets, by regulation, the training and experience requirements for a bay pilot, including requirements for individuals who previously held a docking master license. Providing pilotage means piloting a vessel when the vessel is underway on the navigable waters of the State, including when the vessel is towing or being towed by another vessel.

The board issues four types of licenses – unlimited, 40-foot draft limited, 36-foot draft limited, and 32-foot draft limited. The board does not provide a reciprocal licensing process for out-of-state licensees. To qualify for a license, an applicant must meet certain skill, training, and experience criteria. The board determines requirements for pilots-in-training to enter the piloting profession and oversees the pilots-in-training program. To ensure the adequacy of the equipment needed by the pilots, the board administers a Maintenance and Replacement Fund that is funded by the Association of Maryland Pilots from the collection of pilotage fees and charges. The Public Service Commission sets pilotage charges.

Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors

The State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors regulates and licenses/certifies real estate appraisers, appraisal management companies, and home inspectors.

Real Estate Appraisers

Providing real estate appraisal services means making an appraisal of real estate or preparing or signing an appraisal report in connection with a federally related transaction, as defined in the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989. The commission provides three classifications of real estate appraiser license/certification: licensed; certified residential; and certified general. Minimum criteria for the licensing and certification of appraisers are subject to federal standards.

Appraisal Management Companies

Providing appraisal management services means to directly or indirectly, on behalf of a lender, financial institution, client or other entity (1) administer an appraisal panel or (2) recruit, retain, or select appraisers, among other things. An owner of an appraisal management services company must register with the commission, be of good character and reputation, submit to a background investigation, and pay a registration fee. Registration fees collected by the commission are transmitted to the Appraisal Subcommittee of the Federal Financial Institutions Examinations Council, in accordance with federal legislation.

Home Inspectors

Providing home inspection services means providing a written evaluation of one or more of the components of an existing residential building. To qualify for a home inspector license, an applicant must meet certain training and educational criteria and maintain general liability insurance of at least \$150,000. Continuing education is required for each renewal after the first.

Real Estate Brokers and Salespersons

The State Real Estate Commission regulates and licenses real estate brokers, associate real estate brokers, and real estate salespersons.

Providing real estate brokerage services means doing or consulting in certain activities in exchange for compensation, including (1) selling, buying, exchanging, or leasing any real estate or collecting rent for the use of any real estate for another person and (2) assisting another person to locate or obtain for purchase or lease any residential real estate, among other things. To qualify for a real estate broker license, an associate real estate broker license, or a real estate salesperson license an applicant must meet certain educational and experience criteria and pass an examination. All licensees must complete continuing education requirements for a license renewal, including a course in ethics.

The commission administers the Real Estate Guaranty Fund that bonds all licensees and compensates individuals for certain monetary losses due to acts or omissions involving real estate transactions. All licensees must pay an initial fee of \$20 at the time of original licensure to support the guaranty fund.

Secondhand Precious Metal Object Dealers and Pawnbrokers

The Secondhand Precious Metal Object Dealers and Pawnbrokers Licensing Unit regulates and licenses secondhand precious metal object dealers and regulates pawnbrokers in counties without local pawn laws.

A precious metal object dealer is an individual who (1) acquires commercially from the public or trades commercially with the public in secondhand precious metal objects; (2) arranges for the sale or delivery of a secondhand precious metal object on behalf of a person who does not hold a dealer's license for compensation; or (3) generally, a pawnbroker. A pawnbroker is an individual who engages in pawn transactions, including (1) loaning money on deposit or pledge of personal property or other valuable thing or (2) purchasing personal property or other valuable things on condition of selling the same personal property back at a stipulated price.

An applicant for a license to be a dealer or a pawnbroker is required to submit their name to the Secretary of Labor for a criminal history records check. Before being hired as an employee of a pawnbroker or dealer, individuals must also submit their names to the Secretary for a criminal history records check. Many counties in the State have local ordinances and zoning laws that apply to secondhand precious metal object dealer locations and pawn shops. A pawnbroker is not required to obtain a State license if the pawnbroker is located in a county that regulates pawnbrokers and the pawnbroker does not act as a dealer.

Design Professional Licensing Boards

Five boards under the Division of Occupational and Professional Licensing compose the design professional licensing boards: the State Board of Architects; the State Board of Examiners of Landscape Architects; the State Board of Certified Interior Designers; the State Board for Professional Engineers; and the State Board for Professional Land Surveyors. The boards have fee-setting authority, and all licensing proceeds are deposited into the State Occupational and Professional Licensing Design Boards' Fund. The five design boards have agreed to average their direct and indirect costs and charge the same fees for licenses and permits.

To practice a design profession (other than certified interior design) or represent itself as practicing a design profession, a business must first obtain a permit. A firm may provide design professional services for itself or an affiliate without a permit. Each design board has enforcement authority against firms that fraudulently or deceptively obtain or use a permit.

Architects and Landscape Architects

The State Board of Architects regulates and licenses architects, and the State Board of Examiners of Landscape Architects regulates and licenses landscape architects.

Practicing architecture means providing any service or creative work with regard to an addition to, alteration of, or construction of a building or an integral part of a building that requires

education, training, and experience in architecture. To qualify for a license, an applicant must meet certain educational and experience criteria and pass an examination. If an applicant has practical work experience and academic training that the board considers appropriate, the applicant is exempt from meeting the degree requirement. A licensed architect seeking renewal or reinstatement of a license must complete at least 24 hours of continuing education credits over two years.

Practicing landscape architecture means providing any service or creative work in the analysis or design of land and natural resources that requires training and experience in the application of the biological, physical, mathematical, and social sciences and performing design coordination of a project or portion of a project. To qualify for a license, an applicant must meet certain combinations of educational and experience criteria and pass an examination.

Certified Interior Designers

The State Board of Certified Interior Designers certifies individuals who use the title “certified interior designer” or the term “certified interior design services” on any card, device, sign, stationery, or other means of identification or communication. Interior design services include the planning and design of interior spaces not materially related to or materially affecting building systems.

To qualify for certification, an applicant must meet certain educational and experience criteria and pass an examination prepared by the National Council of Interior Design Qualification. To qualify for renewal of a certificate, the certification holder must complete at least 10 hours of continuing education per two-year term.

Professional Engineers

The State Board for Professional Engineers regulates and licenses professional engineers. Professional engineers practice engineering, which means providing any service or creative work that requires education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design.

To qualify for a license, an applicant must meet certain educational and experience criteria and pass an examination in (1) the fundamentals of engineering and (2) the principles and practice of engineering. The applicant must take the principles and practice examination in the discipline in which the applicant’s education and experience were gained. To qualify for renewal after the first, a licensee must demonstrate continuing professional competency.

Professional Land Surveyors

The State Board for Professional Land Surveyors regulates the practice of land surveying and property line surveying by licensing professional land surveyors and property line surveyors. Practicing land surveying means providing or offering to provide professional services that require

the application of special mathematical principles, physical and applied sciences, and relevant laws to authoritatively determine the accurate and precise location of a feature, object, or boundary of real property, regardless of the technology of method used. Property line surveying means practicing land surveying except for the performance of land surveying services that involves the preparation and design of plans for road and street grades, sediment and erosion control measures, and storm drainage and stormwater management systems.

To qualify for a land surveyor license or a property line surveyor license, an applicant must meet certain educational and experience criteria and pass an examination. To qualify for a renewal license, licensees must fulfill continuing professional competency requirements. Although a property line surveyor may renew a license, the board stopped issuing new property line surveyor licenses in 1990.

Occupational Mechanical Licensing Boards

Four boards under the Division of Occupational and Professional Licensing compose the occupational mechanical licensing boards: the State Board of Electricians; the State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors; the State Board of Plumbing; and the State Board of Stationary Engineers. The boards have fee-setting authority, and all licensing proceeds are deposited into the State Occupational Mechanical Licensing Design Boards' Fund.

Electricians

The State Board of Electricians regulates and licenses master, journeyman, and apprentice electricians. Providing electrical services means providing a service in the electrical trade, including installing, repairing, maintaining, erecting or altering any electrical equipment, wiring, fixture, appliance, apparatus, raceway, conduit or system that generates, transmits, transforms, or uses electrical energy in any form for light, heat, power, or communication.

To qualify for the master or journeyman electrician license, an applicant must meet certain experience requirements and pass an examination, unless the individual is eligible for an experience or examination waiver. The board may allow an applicant for a master electrician license up to three years of credit toward the experience requirement if the board determines that the applicant has completed a formal course of study or professional training in electrical installation comparable to the required experience. To renew a license, a licensee must meet continuing education requirements.

As of July 2021, local jurisdictions may no longer issue local licenses to provide electrical services. However, local jurisdictions may either (1) issue a registration to provide or assist in providing electrical services only if the requirements at the local level are as stringent or more stringent than State standards or (2) require a State license to provide or assist in providing electrical services in the jurisdiction. If a local jurisdiction requires an applicant to register, the State license serves only as a mechanism to assist the licensee in obtaining a local registration.

Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors

The State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors regulates and licenses persons who provide such services. The board enforces a code that sets minimum standards for installing, altering, remodeling, maintaining, and repairing heating, ventilation, air-conditioning, and refrigeration systems.

The board issues six types of licenses: master, master restricted, limited contractor, journey, journey restricted, and apprentice. To qualify for each type of license, an applicant must meet certain experience requirements and, except in certain cases for journey licenses, pass an examination. A holder of a master, master restricted, or limited contractor license must maintain at least \$300,000 in general liability coverage and \$100,000 in property damage insurance coverage.

Several counties and municipalities in the State have license, permit, or inspection requirements that apply to heating, ventilation, air-conditioning, and refrigeration projects. The board is required to enter into a cooperative agreement with a county for the county to enforce the code adopted under the statute.

Plumbers and Gas Fitters

The State Board of Plumbing regulates and licenses plumbers and natural gas fitters. The board issues several types of licenses and certifications – master plumber, journey plumber, apprentice plumber, master natural gas fitter, journey natural gas fitter, apprentice natural gas fitter, and propane gas fitter. The board also issues limited licenses that allow licensees to provide plumbing services only in specified areas of the State and requires that plumbing inspectors for the State, a county, or a local government meet specified qualification standards.

Providing plumbing, natural gas, or propane gas services generally means installing, maintaining, removing, or otherwise altering the relevant piping, appliances, and fixtures. Applicants for licensure or certification must meet certain experience and training criteria and master and journey license applicants must pass an examination. A holder of a master or limited master license must maintain at least \$300,000 in bodily injury and \$100,000 in property damage insurance coverage.

Stationary Engineers

The State Board of Stationary Engineers regulates and licenses individuals throughout the State who work with physical plant machinery of buildings. Formerly the Board of Examining Engineers in Baltimore City, the board was instituted in the interest of safety and efficiency in the operation, use, and inspection of steam and power generators, heating plants, hosting machines, pressure vessels, and related equipment. Providing stationary engineer services means to oversee the operation of a power plant, plant of machinery, or boiler, each generating pressure of more than 15 psi and operating at 30 or more horsepower.

The board issues five classifications of stationary engineer licenses depending on the horsepower of the plant machinery or boiler and where the plant machinery or boiler is located. To qualify for a license, an applicant must meet certain experience criteria and pass a written examination.

Department of State Police

In addition to enforcing public safety laws, the Department of State Police regulates private detective agencies and private detectives, security guard agencies and security guards, and security system agencies and security system technicians. A license issued by the department must be renewed every three years.

Private Detective Agencies, Private Detectives, Security Guard Agencies, and Security Guards

The department regulates and licenses private detective agencies. A person must be licensed by the Secretary of State Police as a private detective agency before the individual or business entity may provide private detective services in the State. In addition, an individual must be certified by the Secretary as a private detective before the individual may personally provide any private detective services. Several exceptions exist for the licensing and certification requirement if other conditions are met. To qualify for a private detective agency license, an applicant must meet certain character, age, and experience requirements, undergo a State and federal criminal history records check, and comply with other application requirements. An applicant that intends to employ at least five private detectives must obtain \$1.0 million of liability insurance.

The department also regulates and licenses security guard agencies that are hired to protect individuals or property and individual security guards who are employed by security guard agencies. To qualify for a license or certificate, an applicant must meet certain character, age, and experience requirements and undergo a State and national criminal history records check, among other requirements. A security guard agency that intends to employ at least five people as security guards must obtain \$1.0 million general liability insurance. The department may also issue a joint private detective agency/security guard agency license.

Security Systems Agencies and Security Systems Technicians

The department regulates and licenses security systems agencies and registers security systems technicians who personally provide security systems services. Security systems services involve physically installing, maintaining, or repairing a security system on the premises of a person's residential or commercial property or responding to an alarm sounding from a security system.

To qualify for a security systems agency license or a security systems technician's registration, an applicant must meet specified character and age requirements, undergo a State and national criminal history records check, and comply with other application requirements. Further, an applicant must obtain \$50,000 in general liability insurance.

Office of the Attorney General, Court of Appeals, and Department of Public Safety and Correctional Services

In addition to enforcing the consumer protection laws, the Consumer Protection Division of the Office of the Attorney General has a unit that regulates home builders and home builder sales representatives. The Court of Appeals regulates lawyers, and the Department of Public Safety and Correctional Services regulates private home detention monitoring agencies. Generally, a license issued by these regulatory entities must be renewed every two years, except for the Court of Appeals, which regulates lawyers and requires annual fees.

Home Builders and Home Builder Sales Representatives

The Home Builder Registration Unit in the Consumer Protection Division of the Office of the Attorney General regulates and registers home builders and home builder sales representatives. A home builder is a person that builds new homes or that enters into contracts to provide new homes. Registration is required for each legal entity that operates as a home builder. A home builder sales representative is an individual employed by a home builder to act as the builder's representative with consumers. The building and permits department of a county may not issue a building permit to an unregistered home builder.

The division maintains the Home Builder Guaranty Fund to compensate consumers who suffer an actual loss based upon the failure of a registered home builder to complete or correct defects in a new home.

Lawyers

The State Board of Law Examiners regulates admissions to the Bar in Maryland, subject to the ultimate authority of the Court of Appeals for regulating the practice of law and the conduct and admission of attorneys.

To practice law in Maryland, an individual must meet pre-legal and legal education requirements, report a qualifying score on the Multistate Professional Responsibility Exam, complete the Maryland Law Component, and earn a qualifying score on the Uniform Bar Exam in Maryland. An applicant must also undergo a detailed character investigation.

The Court of Appeals operates the Client Protection Fund of the Bar of Maryland, which is used to reimburse losses caused by lawyer theft of client or fiduciary funds. Lawyers admitted

to the Maryland Bar must pay annual fees to the Client Protection Fund and the Attorney Grievance Commission.

Private Home Detention Monitoring Agencies

The Maryland Commission on Correctional Standards of the Department of Public Safety and Correctional Services regulates and licenses private home detention monitoring agencies. Such agencies monitor individuals who are placed in home detention, generally in lieu of incarceration, pursuant to a court order.

To qualify for a license to operate an agency that provides monitoring services for a fee, an applicant must undergo a State and national criminal history records check, obtain a \$2,500 bond, submit proof of general liability insurance of at least \$100,000, and meet other application requirements. Further, the applicant must submit three statements of good character and reputation and a statement that training on monitoring equipment was obtained. Each individual the agency intends to employ as a home detention monitor must also undergo a State and national criminal history records check. To qualify for renewal, an agency must demonstrate compliance with employer tax obligations and other requirements.