Initial Report of Governor Hogan's

REGULATORY *Reform* COMMISSION

2015 Report

MARYLAND

"We need to change Maryland's onerous and unpredictable regulatory environment. Businesses require regulatory certainty and even-handed enforcement, so that they can do the longer-term planning critical to growth and success."

Larry Hogan
Governor

Letter to the Governor

Dear Governor Hogan,

On July 9, 2015, you established through Executive Order the Regulatory Reform Commission and asked the Commission to examine and make recommendations over the next three years on how Maryland government can become more efficient and responsive to the citizens and businesses of this state. Thank you for the opportunity and honor to serve on the Commission. The Commission has worked diligently, and is pleased to present the first of three reports with its initial findings and recommendations.

First, the Commission wants to applaud your leadership in recognizing that Maryland is a great state that can be even greater with a common-sense, proactive, and customer service focused approach to improving the state's regulatory and business climate.

As part of its outreach, the Commission held a series of six regional meetings throughout the state beginning in Baltimore City on September 10th and concluding 33 days later in Cambridge on October 13th. More than 450 citizens participated during the more than 24 hours of hearings. In addition, more than 200 comments and suggestions were submitted through the Regulatory Reform Commission website.

At every meeting, citizens across Maryland shared suggestions for improvements and expressed gratitude that state government had made the effort to listen to them. Although the Commission had expectations of hearing almost exclusively specific regulatory recommendations, the fact is that the vast majority of citizen and business testimony dealt with the need to change the culture of state agencies and the way they interact with the public. It is to these concerns that our primary recommendations are focused. While citizen input did provide some specific regulations for review, which are referenced in this report, the Commission found that Maryland's current agency and regulatory structure is a far bigger impediment than any single regulation. The Commission plans to extensively examine Code of Maryland Regulations next year and report on its findings in its 2016 report.

The Commission respectfully submits this initial report and looks forward to working with you and the citizens of Maryland to improve Maryland's business climate and the lives of all citizens.

Sincerely,

James A. Soltesz
Co-Chair

Abba David Poliakoff
Co-Chair

Commission Members

Lt. Governor Boyd K. Rutherford (ex officio) is the 9th Lt. Governor of Maryland. Previously he has served as Associate Administrator for the U.S. General Services Administration, Assistant Secretary for the U.S. Department of Agriculture, and Secretary of the Maryland Department of General Services, in addition to years of private legal and business experience.

James A. Soltesz (co-chair) is the chief executive officer of Soltesz, LLC and responsible for all operations including day-to-day management decisions and implementing long- and short-term plans. His role involves leading the development and execution of the company's long-term strategy with a focus on creating lasting value for clients and staff.

Abba David Poliakoff (co-chair) is a member of the law firm Gordon Feinblatt LLC, chairman of its Securities Practice and Israel Practice Groups, and a member of the firm's Business Law department. He is a member of a number of Boards and community organizations, and active in the business community.

Susan J. "Suzy" Ganz is the CEO and Principal Shareholder of Lion Brothers Company, Inc., the leading designer and manufacturer of apparel identity. She has been responsible for transitioning Lion from a commodity producer to a recognized innovator in the apparel industry.

Jay Steinmetz is the CEO of Barcoding Inc., the nationally recognized leader in data-capture solutions. Steinmetz founded Barcoding, Inc. in 1997.

Henry Gilford III is chief executive of Gilford Corporation and oversees the corporation's strategic management, marketing, and business development. He also has executive responsibility for firm operations including planning, estimating, project management, marketing, staffing, recruiting, financial management, and field operations.

William B. Grant, Esq., CFP, has been the chairman and chief executive officer of First United Bank & Trust since 1996.

Jennifer Rhodes is a lifelong farming resident of Queen Anne's County and is the Extension Educator, Agriculture and Natural Resources, at the University of Maryland Extension, in Queen Anne's County.

Joseph G. Baldwin has been a full-time employee for Reliable Contracting since 1986. He was named President/CEO in 2002 and represents the company's third generation of family leadership.

Howard "Blackie" Bowen has been the president of Ewing Oil Company Inc. since 1988. Bowen served as a director at Centra Bank, Inc. He serves as a member of the Farmers Mechanics Bank Board and as a director of the Maryland Public Policy Institute.

James T. Brady is currently a director of Dunbar Armored Inc. and has previously served as a director of T. Rowe Price Inc., McCormick & Co. Inc. and Constellation Energy Group. He also serves as a Regent of the University System of Maryland and a Trustee of Stevenson University.

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Executive Summary and Major Themes

Following on Governor Hogan's commitment to a more customer-oriented, business friendly regulatory environment, the Commission submits the following recommendations for the Governor's consideration based on the extensive outreach and feedback received by the Commission from citizens and businesses throughout the State. The recommendations of the Commission are summarized below:

- The Commission recommends that Governor Hogan undertake a comprehensive review of Maryland's state government structure, its regulatory environment, responsibilities, and functions with the goal of reorganizing state government to improve efficiency, accessibility, technology, customer service and adaptability to a rapidly changing business environment.
- The Commission unearthed a compelling systemic problem within state government agencies regarding overlapping regulatory authority and interagency communication. This overlapping regulatory jurisdiction of multiple state agencies causes unnecessary delays and expense for many applicants and a considerable loss of productivity for state employees/agencies. In 1969 and 1970, Governor Marvin Mandel led a complete restructuring of Maryland state government by taking the existing 248 different agencies and departments and combining them into 11 departments. Governor Mandel's restructuring brought Maryland state government into the 20th century. Forty-five years later, the state's governmental structure is again convoluted and lacks continuity. It is time to bring Maryland government into the 21st century.
- The Commission finds that state, local, and federal agencies have multiple areas of overlapping authority. All levels of government are required to review permit applications, while local and state governments have professional licensing authority -- this causes unnecessary confusion.
- The Commission recommends the establishment of customer service standards of excellence through an Executive Order and a statewide Customer Service Operations Center to provide Maryland residents with a One-Stop Shop for inquires and referrals. The Center should have a central call number, a website and dedicated staff. This will enable state agencies to better serve citizens and businesses as they navigate permit and license applications. A One-Stop Shop will act as a clearinghouse for businesses to obtain information about processes, application status and other issues. When businesses and individuals get answers in a timely fashion, it enhances regulatory predictability.
- The Commission recommends that the Governor direct all state agencies to maximize the use of electronic filings and to report on their progress every six months. Agencies need to be held accountable if the State is to evolve and continue to foster a positive, interactive business environment that views the business community as a partner, not an adversary.
- The Commission recommends that all state agencies examine the efficiencies and effectiveness that a 3rd-party certification and review process would offer agencies in terms of increased efficiency, cost savings, regulatory and public safety point of view.
- Many businesses and professional licensees are required to submit plans, applications or forms to state agencies for review. It may take weeks to receive feedback from a state agency. The Commission recommends that the State establish clear standards for agency communication, application guidelines, set a firm time limit for review completion and ensure that reviews are sufficiently detailed to minimize unnecessary delays and frustrations.
- The Commission received many comments regarding the State's continuing education requirements for professional licensing. Comments on these regulations ranged from imposing significant costs to providing little value to the profession. The Commission recommends that state agencies conduct a comprehensive review of all continuing education requirements to examine if these obligations are consistent with industry standards in other states, whether they are meaningful, or if reduction or elimination would pose a risk to the public.
- The Commission heard extensive testimony about problems caused by regulatory requirements and monitoring by multiple state agencies for a single project. In this situation, the Commission recommends that a lead state agency be designated to coordinate the entire state regulatory process for the customer.

Section I:

Releasing the Potential of the Free State

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Commission and Duties

Maryland Regulatory Reform Commission

Governor Larry Hogan has consistently stated that one of the major goals of the Hogan-Rutherford administration is to transform Maryland into a business-friendly state, thereby enabling Maryland to attract, retain, and foster the development of businesses and create jobs. To help accomplish this, Governor Hogan signed an Executive Order on July 9, 2015, constituting the Maryland Regulatory Reform Commission. The goals of the Commission are to: (1) communicate with the business community and identify issues relating to state government regulations that impose unreasonable burdens upon employers operating in the state, and (2) recommend to the Governor solutions to those issues and to reform business regulations in this state.

The Governor appointed Lt. Governor Boyd Rutherford as an ex-officio member of the Commission, and Abba D. Poliakoff, of Baltimore City, and James A. Soltesz, of Montgomery County, as co-chairs. The Governor also appointed a diverse group of Commission members from various regions of the state with differing backgrounds, all of whom are experienced in business. The Commission began its preliminary work in August, planning for six public meetings in different regions of the state in order to give all Marylanders an opportunity to appear in person, to tell their stories, and make their recommendations to the Commission for reforming the state's regulatory environment.

Focus of the Commission

The Commission's overriding goal is to identify issues resulting in an unreasonable regulatory burden and climate upon employers operating in this state, while acknowledging the balance required to protect and preserve the health, safety, and welfare of Marylanders.

In that regard, the Commission's regulatory review falls into two major categories:

- First, as to substantive regulations, the Commission seeks to identify regulations that are redundant, duplicative, unreasonable, unnecessary, burdensome or obsolete, and to moderate, eliminate or better relate them to protect the interests that they were designed to safeguard.
- Second, as to process, the Commission seeks to simplify, streamline and shorten the regulatory process by, among other things, shortening review times, eliminating duplicative filings and procedures, and instituting a customer service and customer-friendly environment.

An improved business environment makes Maryland more attractive to employers and promotes job creation. Streamlined or diminished regulation reduces the costs of doing business and permits companies to focus their resources on their own growth, which can accelerate business development, enhance access to capital, increase employment opportunities in the State, and strengthen Maryland's tax base.

Commission Outreach

At its inception, the Commission was tasked with holding a series of public outreach meetings around the State in order to meet people in their home communities and listen to issues presented regarding how the regulatory environment affects their businesses. Concurrently, the Governor also directed all agency heads to evaluate their regulations, streamline their processes and better serve the people in a manner that, while protecting the interests of Maryland residents and safeguarding their interests, accommodates the regulatory concerns expressed by employers.

In addition, letters were sent on behalf of the Governor to major business organizations; local chambers of commerce; trade associations; a wide range of individuals and businesses holding licenses; business groups in the state representing thousands of businesses; section counsels of the Maryland State Bar Association; and a large number of employers. The letters asked for recommendations for improving the regulatory environment. The Commission also reached out to all county executives and many of the local elected officials and requested their participation in the Commission's process.

To provide the public with easier and better access to the Commission, and enhance public participation, a website was created so that comments and recommendations could be submitted directly to the Commission. The website address is regulatoryreform.maryland.gov, and the email address is regulatory.reform@maryland.gov.

The Need to Change Maryland's Business Climate for the Better

The Human Cost of Bureaucratic Indifference

At the Commission's last public outreach meeting in Cambridge, an Eastern Shore citizen shared her experience with government bureaucracy and how cumbersome regulations costs much more than just lost profits, time and productivity. It also has a tremendous human cost as well. Onerous regulations and ambivalent customer service attitudes have devastating effects on the lives of hard-working Marylanders, and this needs to be recognized.

A citizen, who owns a business that builds marinas, lamented the substantial trickle-down effect of state agencies failing to work with businesses and constituents in a timely manner, with her and her husband experiencing repeated regulatory delays in obtaining the necessary permit approvals. At one point, an agency representative declared to her, "we don't work on snow days." This type of customer service failure, the blatant lack of compassion, hurts not just businesses, but has a profound effect on personal lives. She discussed, tearfully, that she and her husband needed to work through Thanksgiving and Christmas just to meet their monthly obligations, and she felt that the State did not care to help them and their business succeed. She discussed the regulatory requirement to reapply for a permit because it had expired, and that it took two weeks to hear back from this particular state agency. Stories like hers are unacceptable, and the state has a responsibility to be more sensitive and responsive to its citizens.

One of the most frequent complaints aired by Maryland employers is the unfriendly regulatory environment toward business. This concern, in addition to Maryland's tax policy, is cited as the greatest deterrent to the growth of business in the state. Indeed, *Forbes*' "Best States for Business" list currently ranks Maryland as 33rd among all states, including 33rd in business costs, 35th in economic climate, and 40th in regulatory environment. By comparison, Virginia, a frequent competitor for business, is ranked first in the category for regulatory environment.

A September 2015 report by Moody's Analytics entitled "How Maryland Measures Up" notes that Maryland has been the beneficiary of the federal government employing a high percentage of Maryland's workforce. Nevertheless, the report notes, because of the duration and the severity of the recession, federal government hiring was not sufficient to make up for the losses. Moreover, federal government employment has actually been falling. Consequently, the report notes, "while the federal government can keep Maryland's head above water, it cannot, in the current environment of austerity, be a strong growth driver." In fact, over the last 10 years, Maryland performed below average in its peer group in job and income gains, coming in stronger than only New Jersey and Pennsylvania. Maryland's strong reliance on federal government employment, and lack of strong credentials for facilitating development and growth of business in the state, must be addressed and corrected in order to place Maryland on strong footing for the future of our state's economy.

According to the report, Maryland ranks 26th among states in creating university-based startups and 37th in job creation. While Maryland is "well positioned in science and technology and, therefore, seemingly poised to prosper as an innovation economy," the entrepreneurial position of the state does not fare well.

Overarching Themes

The Commission heard from Marylanders from every corner of the state. Many stories and comments echoed or touched on themes that led Governor Hogan to run for office in the first place. The Commission heard the following common themes:

Maryland State Government, as Currently Constituted, is Outdated. In a number of ways, Maryland government has failed to keep pace with a rapidly changing 21st-century business environment. There are occupational and professional licenses that have been in place for more than 50 years, and there is little flexibility to adapt. Changing or updating professional licensing takes a herculean legislative effort. In addition, state agencies are using antiquated technological systems that date back to the 1980s, and cannot connect internally with other State agencies or externally with local governments or with the businesses with which they interact.

Customer Service is Severely Lacking and is an Impediment to Progress. It is no secret that Maryland's state government has long held a glaring bureaucratic, uncooperative reputation. A State agency's "customer" can be external (a business or a citizen) or internal (another state agency or a local government, for example). This is a systemic, cultural disease that needs to be eliminated. Response times are inconsistent and often, it requires communication with an elected official to get the wheels turning.

Confusing, Unclear Permit and Licensing. The Commission found that there are often multiple layers of professional licens-

ing and permit requirements. This serves as an impediment or a deterrent to people entering a profession, impedes businesses that seek opportunities to expand and grow their operations, puts up significant barriers to businesses completing projects on time and results in significant cost increases. Also, the manner in which new rules and regulations are implemented is concerning.

Emphasis on Non-Compliance and Penalties. Many business owners have protested that state regulators focus on finding reasons why something cannot be done, when in fact the emphasis should be on how (if possible) it may be legally accomplished. Similarly, there is an attitude of enforcement and penalization. The difference is huge -- the state should assist with compliance.

Unpredictable Regulatory Environment. Maryland agencies are responsible for adopting new rules, regulations and policies. This is often done in a silo, with little input from stakeholders. Simply posting a proposed regulatory action on the agency's website is severely insufficient. Business owners are busy making ends meet and have limited time to review multiple agency websites hoping to understand the impact of a rule change. The state's regulators need to conduct outreach much earlier in the rule, regulation or policy adoption process. This will afford businesses a better, more predictable regulatory environment. In addition, interaction with businesses should be simplified, and dialogue increased. Better communication with stakeholders will yield a friendlier, more manageable and predictable business climate.

The Opportunity

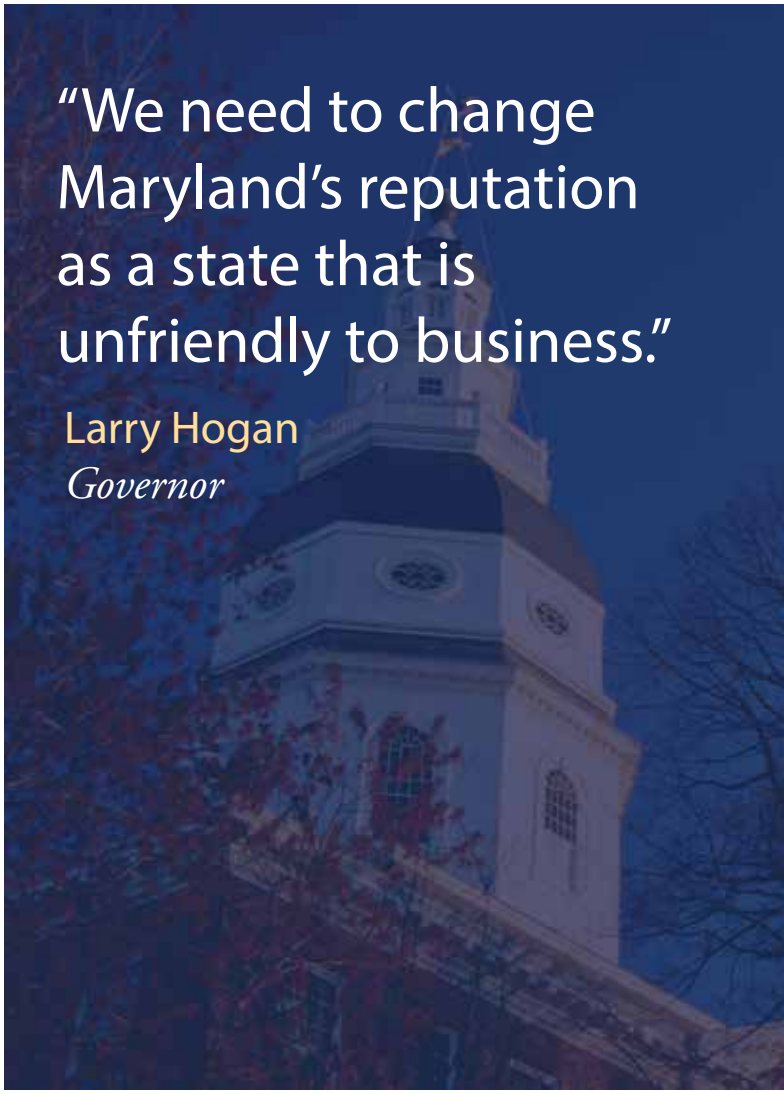
This report focuses on Maryland's regulatory environment and how best to position the state to be perceived as an attractive place for businesses to locate and prosper. The Commission reviewed extensive research conducted by several unbiased groups, which evaluate and rank states on various aspects of starting and operating a business, to help guide us in our recommendations.

The objectives that the Commission is seeking are direct, unambiguous and measurable. Quite simply, Maryland should be ranked as one of the best states in the country for businesses to flourish and create more jobs and opportunities.

In addition to recommendations on regulation streamlining and changes, the culture, vision and actions from state government should project Governor Hogan's message that Maryland is "Open for Business." Suggested changes in the regulatory environment, which help employers obtain permits and licenses faster and with less hassle, will reinforce the message above. Maryland has the opportunity to demonstrate a business friendly environment with a positive, proactive, "can-do attitude" throughout state government.

State agencies must win the trust of the business community by conveying an attitude of teamwork and cooperation. A "What can we do to help you?" message and approach will set the stage for job growth, wage growth, and economic development for the future.

The regulatory environment in the state needs to be simplified, streamlined, and the burden lessened on business. This interim report is not intended to harm any of Maryland's wonderful resources, nor lessen the protection of its citizens. There are simply better ways to regulate businesses and the business environment.



Section II

Outreach – Marylanders Voice Their Insights, Frustrations and Suggestions

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Public Outreach Meetings | The Executive Order establishing the Commission required that the Commission hold public outreach meetings in different regions of the state to ensure that Marylanders from across the state would be able to have their voices heard. The regions covered were: Central Maryland (Baltimore City), Suburban Maryland (College Park), Northern Maryland (Havre de Grace), Western Maryland (Hagerstown), Southern Maryland (Waldorf), and Eastern Maryland (Cambridge).

The meetings garnered strong attendance with each regional meeting outpacing the previous. The feedback and gratitude from Marylanders was incredible. Each meeting was scheduled for three hours, with most lasting four hours or more. Dozens of citizens were able to provide comments and those unable to comment publicly due to time constraints shared their personal stories with members of the Commission after the meetings. More than 450 citizens delivered their comments in over 24 hours of public meetings. Below is a summary of the public outreach meetings, featured presentations, elected officials in attendance, and general themes and comments.

Central Maryland (Baltimore City)

Date: September 10, 2015
Time: 10:00 AM – 1:00 PM
Location: Baltimore City Community College
Address: 2901 Liberty Heights Avenue, Baltimore, MD 21215

Meeting Summary and Themes

The Regulatory Reform Commission conducted the first public outreach meeting in Baltimore City at the Liberty Heights Campus of the Baltimore City Community College. Co-Chairs Abba Poliakoff and Jim Soltesz introduced the Commission members and described the charge of the Commission, its three-year existence, and the focus on producing a "first round" of regulatory suggestions.

A number of elected officials and economic development experts joined the Commission for this first meeting in one of Maryland's critical economic areas:

Steve Schuh, Anne Arundel County Executive, described ways that his administration is working to streamline county government, including hiring a consulting firm to review the permitting process with a goal of cutting the time frame in half. He made six specific recommendations to the commission: (1) reduce the overall tax burden on businesses, (2) reduce income tax, (3) facilitate a faster permitting process and reduce red tape, (4) cease the practice of picking economic winners and losers, (5) address stormwater management, as the 2025 mandate from the Environmental Protection Agency is unrealistic, and (6) review outdated philosophies that have allowed school populations to grow too big and impose school size limits on counties.

Doug Howard, President, Carroll County Board of Commissioners, reflected on his time as a small business accountant for 25 years and noted that regulations can be a double-edged sword. He encourages government to ask the question "What are we trying to accomplish?" in regard to every regulatory proposal. Serious concerns in Carroll County include cumbersome school construction building requirements and the need for more innovative ideas to be implemented. There is also tremendous concern regarding the best available technology requirements for public and private construction projects as well as onerous bike lane requirements.

> "Bring together all related agencies so you 'know before you go.'"
>
> Doug Howard

William Cole, President and CEO, Baltimore Development Corporation, stressed the need for concurrent (local and state) reviews for permitting so businesses are not waiting for one review to be completed before moving on to the next.

Will Anderson, Director, Economic & Workforce Development for Baltimore County Government, encouraged coordination, cooperation and concurrent reviews in a question-and-answer period with Commission members.

Bob Hannon, President and CEO, Anne Arundel Economic Development Corporation, highlighted best practices in Anne Arundel County including two-hour weekly Monday meetings with developers to discuss project status and pre-development meetings involving key agencies.

Michael Kelly, Executive Director, Baltimore Metropolitan Council, expressed concern regarding the Maryland Department of the Environment potentially adding additional air quality layers, which would exceed the federal standards.

Fran Schmidt, CEO, Northern Anne Arundel County Chamber of Commerce, shared concerns about the subjective enforcement of certain regulations.

William Riedel, Maryland Association of Appraisers, wants to have more interaction and updates from the Maryland Commission of Real Estate Appraisers, Appraisal Management Companies and Home Inspectors. He wants to eliminate "gotcha" disciplinary actions and would like "warnings" to be an available violation. He also discussed the manner in which the Maryland Commission of Real Estate Appraisers, Appraisal Management Companies and Home Inspectors staff has consistently failed to communicate new rule changes to industry representatives.

Michael O'Halloran, State Director, National Federation of Independent Business, discussed the importance of customer service and the need for a predictable regulatory environment.

Nathan Willner, President, MD-DC Creditors Bar Association, urged a review of debt collectors licenses and the added burden placed on law firms that practice in this area.

"Members want to know what to expect when starting a business."

Michael O'Halloran
National Federation of Independent Business

Capital Region (College Park)

Date: September 17, 2015
Time: 10:00 AM – 1:00 PM
Location: University of Maryland, College Park, Adele H. Stamp Student Union
Address: 1021A Union Lane, College Park, MD 20742

Meeting Summary and Themes

The Capital Region meeting took place at the University of Maryland in College Park. Joined by local government representatives, small business owners, and policy groups, the Commission received more insight into Maryland's unfriendly business climate. Department of Labor, Licensing, and Regulation Secretary Kelly Schulz attended and was able to assist constituents on licensing issues and concerns raised regarding the Maryland Board for Professional Engineers. Business owners asked the Commission to encourage the use of third-party reviews and move the State into the 21st century by moving more paperwork online. Concerns were raised regarding the number of continuing education credits required for engineers as well as the need to encourage Minority Business Enterprises to obtain forester's licenses. Additional comments focused on the need for stronger licensing enforcement, flexibility in the energy code, and a review of the bonding requirements for subcontractors.

Below is a sampling of the comments that were made to the Commission:

Pradeep Ganguly, Executive Vice President, Prince George's County Economic Development Corporation, promoted the county's one-stop shop for regulatory matters and stated that Maryland will benefit from the elimination of excessive and redundant regulations.

Lawrence Twele, CEO, Howard County Economic Development Authority, expressed the need for a "Yes" customer service attitude and believes the State needs to commit to a fast track process for more speedy reviews.

Brad Frome, Assistant Deputy Administrative Officer for Prince George's County, Economic Development and Public Infrastructure, requests a review of access permits and believes they should be county-based.

Jorge Ribas, President & CEO, Mid-Atlantic Hispanic Chamber of Commerce, Inc., reiterated the complaints regarding Maryland's business climate and excessive certifications that increasingly require knowledge unrelated to the actual job.

Alan Schneider, Secretary, Howard County Citizens Association, shared a story about a retired couple who wanted to build a two-car garage that took $50,000 and two years, and a woman who owns 50 acres and was unable to build a home for her son due to excessive regulations.

Nick Zaiac, Policy Analyst, Maryland Public Policy Institute, urged a review of occupational licenses, including those issued to sports agents, barbers, interior designers, senior cosmetologists, and cosmetologists, estheticians, makeup artists, and nail technicians.

Business Owner Comments:

"Guides are used as bright line rules; either use it as a guide, or change the rules!"

"Maryland Occupational Safety and Health inspectors are looking for fines, not to help. They would rather shut you down than work it out."

"Inspectors are rewarded for fines."

"It's a cultural issue – it depends on how the regulation is enforced."

"Comments come on the last day of a 60-day review period," and "the comment process is being used to 'kick the can down the road.'"

"We need a deadline for a final resolution, not for a response."

"Regulators need to want to work with business owners."
Business Owner

Northern Maryland (Havre de Grace)

Date: September 24, 2015
Time: 10:00 AM – 1:00 PM
Location: Decoy Museum
Address: 215 Giles Street, Havre de Grace, MD 21078

Meeting Summary and Themes

The Havre de Grace Decoy Museum located on the Chesapeake Bay hosted the Commission meeting. Joined by Lt. Governor Boyd K. Rutherford, the Commission continued to hear concerns about business climate and customer service. Citizens in this area expressed how much they care about the land and environment, while stressing that Maryland has to be friendlier to businesses and must work to make them feel wanted.

Marylanders shared their concerns regarding the costly and cumbersome Certificate of Need process. There was also difficulty in obtaining lab permits from the Department of Health and Mental Hygiene that were expedited once an elected official got involved. The citizens believe this can be addressed with an online portal that distributes the appropriate information to state agencies.

Issues regarding the access permit process, unreturned phone calls from State agencies, and unnecessary bike lines with special reflective striping that connect to nowhere were raised. Other areas mentioned included the $300 business filing fee, fire suppression system requirements for open air barns, the best available technology requirements in non-critical areas.

More comments from elected officials listed below:

Barry Glassman, Harford County Executive, asked the Commission to review the stormwater management review process, as the current three-step process adds a month or more to projects and slows business expansion. He also believes the ability to use a plan for multiple lots would speed up the review process and reduce costs. County Executive Glassman also touched upon the need for local flexibility with the building code and is concerned that food truck vendors face more onerous regulations than restaurant owners especially in regard to fire suppression systems.

Tari Moore, Cecil County Executive, offered micro and macro examples of burdensome regulations facing her constituents including the costly retrofitting needed for fire suppression

systems in mobile homes. She also raised concerns about the added costs associated with best available technology requirements for septic systems. Additional items mentioned by the County Executive included cost-prohibitive stormwater plans that are triggered if more than 5,000 sq. ft. are disturbed, and slow permitting turnaround time from the State.

Bill Short, Kent County Commissioner, agrees that best available technology septic systems are needed for critical areas, but cited an example of an additional $16,000 in cost to add a bedroom to a home.

Jim Moran, Queen Anne's County Commissioner, questioned the investment costs versus the return on investment in regards to wind turbines in Maryland. Mr. Moran requested a review of Priority Funding Areas and provided suggestions for how to streamline the process.

Western Maryland (Hagerstown)

Date: September 30, 2015
Time: 10:00 AM – 1:00 PM
Location: Volvo Group Trucks
Address: 13403 Volvo Way, Hagerstown, MD 21742

Meeting Summary and Themes

The Commission's fourth regional outreach meeting was held at Volvo's impressive 1.5 million-sq. ft. powertrain plant in Hagerstown. Citizen participation was high and the concerns were numerous. Testimony focused on the length of time needed for State Highway Administration access permits with ongoing traffic studies and ambiguous policies, the general cost of doing business in Maryland, and a less-than-helpful attitude when dealing with State and local regulators.

Builders and economic development officials were particularly upset by the cost associated with the State's adoption of the latest building codes, including $4,000 for new books and the need to adapt to the significant changes. They mentioned that Georgia is using the 2006 building codes and most other states are two or three code revisions behind Maryland. Many comparisons were made regarding the cost of doing business in Maryland versus West Virginia, including an example of the same new home costing $35,000 more to build in Maryland.

A citizen shared his experience on starting a food truck in the State and mentioned the numerous hoops that had to be jumped through, including, multiple inspections, obtaining a state tax license, and paying $1,000 to each jurisdiction in which he wished to operate. He also emphasized the need for more flexibility to be able join flower and crab vendors on state roads.

Other areas of concern centered around the poor attitude and rigidity of inspectors with Maryland Occupational Safety and Health and the State Fire Marshal, while many also highlighted the overall slow response times of regulators in local jurisdictions.

Additional input from elected officials or their representatives:

Helen Propheter, Director, Frederick County Office of Economic Development, shared customer service improvements that are taking place in the county including timely reviews and their Business Friendly Improvement Areas.

Jake Shade, Allegany County Commissioner, relayed that it takes less time to acquire land and complete building in West Virginia than it does to get a permit in Maryland.

Business Owner Comments:

"Some regulations don't have any demonstrated need or benefit."

"One size doesn't fit all."

"I needed to prove that the truck was 'rodent proof.' "

Regarding licensing of a company that is classified as an engineering company: "We are being fined for not having a permit that we can't get."

Senator Andrew Serafini mentioned the lack of flexibility in the building code and will introduce legislation to allow local governments the ability to opt out of parts of the building code.

Delegate Neil Parrott discussed the drawn-out permitting process for a local Wal-Mart that took two years to approve. He stressed the need to eliminate bureaucracy and to institute firm deadlines.

Southern Maryland (Waldorf)

Date: October 7, 2015
Time: 10:00 am – 1:00 pm
Location: Jaycee's Community Center
Address: 3090 Crain Hwy, Waldorf, MD 20601

Meeting Summary and Themes

The Southern Maryland regional meeting took place at Jaycee's Community Center in Waldorf. The Commission was joined by local elected officials, county officials, and small business owners. The Secretary of Agriculture Joseph Bartenfelder along with Maryland Insurance Administration Commissioner Al Redmer were in attendance. Citizens presented a wide range of issues to the Commission members. Emphasis was placed on making state highway access permits less time-consuming. There was also a suggestion to make the Maryland Department of Transportation's Office of Procurement act more quickly on approving professional services proposals. One individual stressed that the state needs a stronger pre-emption law and to create another division in the Department of Agriculture to manage nutrient management. Additional comments included more efficient permitting processes and reevaluating fees in the building industry.

A number of elected officials and county officials joined the Commission to voice their concerns:

Delegate Matt Fisher discussed the business personal property tax. He mentioned the $300 fee is more than what it would cost to hire a CPA to fill out the papers. He went on to stress that to pay the tax every single year on equipment is incredibly burdensome and causes businesses not to invest in new equipment. He recommended to get rid of the tax.

Delegate Matt Morgan addressed the issue of commercial septic systems, specifically Code of Maryland Regulations 26.04.02.04(f)(2). Currently the Maryland Department of the Environment requires buildings to have a separate septic system. He stressed this cuts back on the ability to develop business in rural areas.

Business Owner Comments:

Regarding Priority Funding Areas – "If you don't agree, it becomes a 'comment area.' "

Regarding Health Care Licensing – "We needed permits to open, but the inspection wouldn't occur until we were open."

Regarding DHMH, Behavioral Health Administration – "They need to change their attitude; we won't take money from the state because of the requirements they impose."

"There is an inconsistency in the state acceptance of local standards."

"Some agencies suffer from mission creep."

"When the regulations change, let licensees know."
"The government doesn't work on snowy days – but people do."

"MDE changes its mind, and then fines [the owner], and that requires people to fight."

"We need a true cost benefit analysis for new regulations."

Delegate Seth Howard spoke to the commission members on state highway access permits. He stated he wants a more cohesive message on following guidelines--specifically on bike lanes and lane-widening.

Peter Murphy, Charles County Commissioner President, commented on streamlining regulations for businesses. He would like to initiate a conversion to an electronic system, hoping to reduce the time it takes for state agencies to process applications. Currently it takes 18 months to process a development application.

Darryl Brown, Charles County Economic Development Officer, stressed there is no overall, comprehensive county review of business regulations. He proposed initiating a strategic economic development plan for the County. This would include surveying businesses and establishing focus groups.

Chris Kaselemis, St. Mary's County Director of Economic Development, asked the Commission to look at rules governing critical areas law. He believes this makes development challenging. He also addressed aquaculture and said it takes too long for the Maryland Department of the Environment to issue permits.

Eastern Maryland (Cambridge)

Date: October 13, 2015
Time: 10:00 am – 1:00 pm
Location: Hyatt Regency
Address: 100 Heron Boulevard, Cambridge, MD 21613

Meeting Summary and Themes

The Eastern Maryland regional meeting took place at the Hyatt Regency in Cambridge. The Commission was joined by local elected officials, county officials, Chamber of Commerce members, farmers, and small business owners. A major theme from the meeting was a need to make housing more affordable. Many believe requiring sprinkler systems in homes hinder this. Another major deterrent citizens voiced was the best available technology septic systems. Members of the poultry industry. One individual referenced the nutrient trading program, stating its lack of benefits. Another member from the poultry industry proposed a need for a cost-benefit analysis for regulations.

Elected officials and county officials voiced their concerns to the Commission:

Senator Steve Hershey began remarks by stating that the previous administration tried to limit development and economic opportunity. He highlighted the need to create a better balance between protecting the environment and fostering economic growth. He also addressed that property tax was greater for waterfront property and development rights were less.

Delegate Jay Jacobs advocated that best available technology septic systems are particularly burdensome.

Senator Jim Mathias is a member of the Joint Committee on Administrative, Executive and Legislative Review and stated Maryland should limit the number of times that regulations can be proposed.

Delegate Johnny Mautz stressed that Maryland has a reputation for too many ineffective regulations.

Delegate Sheree Hughes spoke on Air Ambulance (MEDEVAC). She stated this is costly, amounting to about $40,000 to be transported to Baltimore, which is not covered by insurance. She did state the Maryland Insurance Commissioner is working on this issue.

Rick Travers, Dorchester County Council, believes you can't take a cookie-cutter approach to the rules of Maryland since there are vastly different regions in the state. He also highlighted the burdensome poultry regulations that farmers have to face.

Larry Porter, Caroline County Commissioner, discussed the lack of affordable housing and that people are being priced out of home ownership through pricing and mandates. He also mentioned the need for legislative action related to the building code for sprinkler systems. He fears that, along with other mandates, this will eliminate home-building in Caroline County.

Bob Culver, Wicomico County Executive, also discussed the sprinkler systems in homes. He said they had 67 building permits last year and since January they have had 2. He also discussed unfunded mandates that allowed pay raises to election board and teacher pension funds.

Jim Bunting, Worcester County Commission, discussed best available technology septic systemss. He's currently building a new home and the cost of septic increased from $11,000 to $25,000. He also mentioned that environmental regulations are not based in science and this should be changed.

Jennifer Williams, Talbot County Council, continued to discuss how burdensome the sprinkler and best available technology septic systems are for those building homes. She feels these regulations could cause homeowners to move to Virginia or Delaware.

Brian Poffenberger, President & CEO of Maryland Chamber of Commerce, discussed the lack of customer service in Maryland. He also stressed how outdated requirements need to be changed. He added that regulators need to understand how business works.

> "I can't believe the government came out here to listen to me!" Business Owner

Section III

Building the Foundation

CHANGING
Maryland
for the Better

Initial Findings and Recommendations

Restructure and Reform State Government

The public outreach meetings made it abundantly clear that State agencies are working with an antiquated system that lacks consistency and communication within and without. Just as the State was at a crossroads in 1969 and 1970, Maryland finds itself in a similar situation. For a variety of reasons, there exists significant overlapping regulatory jurisdiction between state agencies on similar permitting or licensing applications. Since Governor Marvin Mandel's effort to reorganize and restructure Maryland state government over 45 years ago, state government has expanded to a point where it is causing significant harm to the ability to foster economic growth.

The administration should consider a comprehensive review of Maryland's state government structure and organization, eliminate duplicative responsibilities and functions, and look for opportunities to re-organize in order to bring Maryland into the 21st century.

Create a One-Stop Shop

There are a number of licenses that are issued that should be reviewed. First, a number of commenters complained that there is no "one-stop shop" for business licenses; rather, applications must be made to different offices in different locations with each having their own review periods. Commenters asked for licensing to be handled "under one roof."

The state should consider the following mandate: identify the agency that is in the best position to take the lead on the review for certain permits, designate that agency as the lead. This will eliminate the frequent conflicts between agencies where reviewers make conflicting comments. Moreover, this will facilitate a "one-stop shop" capability, even if it requires elimination of review by some agencies interested in the same issues.

Adopt Electronic Documentation and Online Filings

All state agency Request for Proposals and Request for Quotations should have electronic data available and electronic filings.

- Filings, reports and submissions to state agencies shall be permitted to be made through electronic filing, unless impractical or not feasible to do so. Any requirement for submitting any matter in writing shall be satisfied if such matter is submitted in electronic format.
- (Land Development) - Electronic media should be utilized to the maximum extent possible so that accurate updated reporting on status reviews can be obtained on a real-time basis. Utilize electronic plan submission and applications on ALL permits, etc.

All state agencies should be updated to accept and use modern technology. In this day, there is no reason that electronic submissions, as opposed to paper filings, should not be accepted across the board. Moreover, this will allow information to be transmitted freely and data to be shared among the state agencies and reviewers seamlessly.

Encourage all divisions within Maryland State Highway Administration to use electronic filings. Some agencies do, some agencies do not.

- Information can be transferred effortlessly between reviewers and agencies.
- "Intake" process is simplified, saving time.
- Communication with consultants and applicants is simplified.

Online Filings. The Maryland State Department of Assessments and Taxation has established a "Central Business Licensing and Registration" portal where one may form a new entity with the Department and establish tax accounts with the Comptroller. This is the only online filing available at the Department. Filings through the portal are considered "expedited" and are subject to an expedited fee in addition to the filing fee. However, unlike paper filings, which are processed promptly, online filings are processed within 7 business days. Moreover, the online process is subject to a 3% convenience fee.

In contrast, other states allow not only the formation of entities online, but subsequent charter filings as well, and charge a nominal fee or do not require an "expedited fee" in order to encourage electronic filing.

The Department's site also contains online checklists for new businesses; this may be a good starting point, but all refer the new company to the local jurisdictions for additional information and/or to confirm that the information listed online is correct, sufficient and applicable. This applies as well to taxes, zoning and building requirements, and business licenses. It

also refers to municipal corporations that may have separate requirements, but there is no list of, or link to, these municipal corporations.

Online Uniform Commercial Code Filings. Another business service not currently provided online is the filing of Uniform Commercial Code Financing Statements. Most states allow for online filing of all Uniform Commercial Code Financing Statements (initial, continuation, amendment and termination statements), and an acknowledgement is either immediately produced or sent by email within a specified time, usually less than 24 hours. This raises the bar for Maryland.

The Governor should direct the Department of Information Technology to review all permits and business filing license databases so that all State agencies can better facilitate the exchange of information between agencies to avoid duplicate filings and promote coordination.

Streamline the Review Process

Implement concurrent review systems, not seriatim reviews. Simply put, do not pass a set of plans from one hand to another after review. Concurrent reviews will require better coordination of reviewers and better communication. This was emphasized as the "under one roof approach."

Mega-Project Task Force. Consider establishing a special task force for very substantial land development projects. The task force will include members of core agencies that are required to review and approve plans, issue permits, or otherwise regulate the development. The task force, consisting of one member from each such agency, would be established on a case-by-case basis. While the members of the task force would be appointed by each agency, the input of the developer would be given consideration.

Moreover, before a major project starts, the developer should have a pre-filing meeting with the staff of the core agencies so that the State may be made aware of significant issues relating to the project, and the developer could be prepared for key agency issues.

Along these lines, the State should consider, on a more permanent basis, establishing a core group of agencies that frequently work together on projects and conduct concurrent reviews. Under this structure, plans would be filed once, data would be shared by the agencies, reviews would occur concurrently and duplication could be avoided. This structure is currently in use in Anne Arundel County, Montgomery County and Prince George's County, and referred to as a "permit office."

Staff reviewers change from time to time, either temporarily or permanently, resulting in additional rounds of review, duplicative reviews and significant delays. (This is another example of how the use of certified third-party reviewers will end these delays.)

The State and, in some cases, the local jurisdictions review the same issues, hence, taking up more time, costing more money, and creating conflicts between reviews. This is a major problem.

- Delegate state authority, on an annual recertification basis, to local jurisdictions that have adequate resources and qualifications to review permits. A prime example of this need is for wetlands disturbance. There is no need for the state to be involved in local permitting, particularly since both agencies will review the exact same issues. If a county or other jurisdiction has demonstrated its expertise and responsibility, then the state should not duplicate this effort.
- When multiple state agencies are part of a review process for a permit, the State should consider mandating that the agency that is in the best position to take the lead on the review for certain permits actually take the lead. This will eliminate the frequent conflicts between agencies where reviewers promulgate conflicting comments. Moreover, this will facilitate a "one-stop shop" capability, even if it requires elimination of review by some agencies interested in the same issues.
- The waiver process must be in the hands of the reviewing agency, and cannot rest with a third-party agency. For example, the State Highway Administration, which reviews road permits, cannot grant bicycle path changes – which must be reviewed by a separate commission that has no idea of the circumstances and background of the matter with which they are dealing. It complicates and lengthens the process on legitimate waiver requests, and often ends with an arbitrary result.
- The state should pursue transfer of jurisdiction from the Army Corps of Engineers to the Maryland Department of the Environment. This will eliminate a huge time delay and will remove a possible third level of review for permits and applications. If approved, the wetlands application would be reviewed by the Department or a local government, not the federal government. A few other states already have this process.
- Eliminate state reviews for matters that are local in nature and for which adequate local reviews exist. For example, wetlands reviews in Montgomery County may include the Federal Government (Corps of Engineers), the State reviews (MDE), and local government reviews (Maryland National Capital Park

"Maryland has a number of extraordinary assets including a great location, a good quality of life, a strong transportation infrastructure, a skilled workforce, proximity to the nation's capital, world-class colleges and universities and highly-ranked K-12 schools in many areas. Yet despite so many natural advantages, our state economy ranks 44th out of 50 states in economic freedom. That's simply unacceptable. Maryland can and should do better."

Larry Hogan
Governor

and Planning Commission and Montgomery County Department of the Environment). The state should be authorized to delegate its authority to review in appropriate circumstances.

Consolidate Professional Licenses

More than 400 permits and licenses are issued by the State. The State should inventory all these permits, the revenue generated by each, and balance the extent and need for them against the cost to run each program. In addition, it is apparent that a number of these licenses simply are outdated and have no positive impact. In fact, President Obama's Council on Economic Advisors recently released a detailed report that reached the following conclusion: "...[T]he practice of licensing can impose substantial costs on job seekers, consumers, and the economy more generally. This is particularly true when licensing regulations are poorly aligned toward consumer protection and when they are not updated to reflect a changing economy."

It is recommended that the administration and the legislature undertake a comprehensive review of these and the following issues.

License Classifications. There are separate licensing requirements established by the Department of Labor, Licensing and Regulation for similar classes of workers, such as for drywall and painting contractors; for pipe fitters as journeymen or as apprentices; for general contractors and for home improvement contractors, the latter of which are significantly more comprehensive than licensing requirements for general contractors. The licensing requirements are extensive and involve a number of "stops and steps" in a cumbersome process that should be clarified and simplified.

Similar issues regarding the appropriate licensure have come up in the context of landscapers, tree trimming experts, forestry conservation experts, appraisers, precious metals licensees and other licensed professions. On the other hand, members of the cosmetology industry, who have spent significant time training and obtaining their licenses, objected to the failure to enforce violations by persons who are not so licensed.

Architects and Engineers. Architects and engineers are both licensed by the Department of Labor, Licensing and Regulation. Because of overlaps in the professional duties of architects and engineers, the Overlapping Practice Panel was established within the Department to resolve those issues. The Department advises that this panel is a necessary entity, but is rarely used. The policies of the panel should be published and disseminated to the members of the professions, standards should be adopted, and guidance should be made available on how these issues are to be resolved.

Reduce Fees and Payment Frequency

Eliminate some of the fees that are insignificant. For example, some licenses cost $15, $20 or $25. It costs more money to process the fee and "check the box" than the revenue being received. Consider multi-year payments, i.e., two-, three- or four-year licenses.

Cost of Licensing. The cost of licensing and the actual license fees should be reexamined, as they have risen dramatically over the last 10 years. As an example, the fee for a permit to run summer camps jumped in less than 10 years from $75 to $500.

Cemeteries. Cemetery owners also voiced concern about the fees being charged, both for licensure as well as on a per stone or per burial basis. They also objected to the extensive regulatory filing requirements, including audited financial statements (of the business, as well as the Perpetual Care Trust), which they say imposes a costly and time-intensive burden but do not provide any meaningful regulatory benefit.

Fully Embrace Nutrient Pollution Trading

Nutrient trading is a potential win/win/win scenario for farmers, developers and the Chesapeake Bay. The concept is that developers calculate the nutrient impacts to the Bay from the proposed development, and then pay farmers to reduce their nutrient runoff by that amount or more. The concept has been endorsed by the Obama administration (including the White House Council on Environmental Quality) and has been implemented in other Bay states – including Virginia.

It is essentially a market-based approach to reducing pollution in the Bay.

Revise Brownfields Guidelines

Maryland Voluntary Cleanup (Brownfields) Act. The Brownfields law allows buyers of property to petition the Maryland Department of the Environment for a determination that a property is clean. The statute is very explicit about the extent of investigation that the buyer has to perform in order to obtain the determination. It references the American Society of Testing and Materials standard for due diligence investigations. That standard has also been endorsed by the Environmental Protection Agency as the amount of investigation required so that a buyer can prove they are an "innocent purchaser" who had no reason to know there was contamination on the property. Despite the explicit provisions in the statute, the Maryland Department of the Environment adopted guidelines requiring far more extensive and much more expensive testing in order to obtain a "no further requirements determination" from the Department. The result has been that the program is too expensive for many smaller developments to pursue – which means fewer remediations under Department oversight and fewer developments of contaminated properties. The Department should revise their guidelines to better match the already adopted statute.

Eliminate Obstacles to Mortgage Lender Licensing

Mortgage Lender Licensing. The Commissioner of Financial Regulation has very little oversight over out-of-state state-chartered banks with the exception of such banks that have no branches in Maryland. Maryland's Mortgage Lender law requires out-of-state state-chartered banks to be licensed in order to make residential mortgage loans in Maryland. This is a consumer protection function.

The Commission recommends that the General Assembly be asked to change Maryland law and eliminate Mortgage Lender licensing of out-of state state-chartered banks as long as those banks are regulated by the FDIC. Though this would take a statutory change, it would eliminate an unnecessary licensing category without sacrificing consumer protection.

Mortgage Regulations. Maryland's regulations governing the residential mortgage industry are lengthy and complex, partly because of the significant consumer protection element. Still, many existing regulations are outdated, due in part to changes in the mortgage lending business and advances in electronic business practices. Others duplicate or conflict with, in great measure, federal regulations to which all residential mortgage lenders, servicers, and brokers are subject.

A group of industry representatives have suggested revisions to Maryland's existing mortgage regulations. In response to this dialogue, the Commissioner of Financial Regulation has drafted two sets of revised rules that it has shared with the industry. One set relates to an overall review and update to the mortgage lending regulations; a second relates to the transfer of mortgage servicing rights, an area of growing importance given changes in the mortgage lending business, and also the source of a new type and volume of consumer complaints.

An underlying theme for the draft-revised mortgage regulations is to avoid unique Maryland requirements that make it harder to do business in Maryland. Nearly all of the unique Maryland requirements were put in place years ago and before recent extensive changes in federal law. We recommended that Maryland

regulations governing residential mortgage lenders, brokers, and servicers be updated to eliminate rules unique to Maryland where possible, coordinate with federal regulations governing these same persons, and recognize significant changes in the mortgage industry business as well as current electronic business practices.

Expand Minority and Disadvantaged Business Opportunities

Minority and Disadvantaged Businesses. Maryland maintains a goal of minority and disadvantaged businesses for professional services. It is, however, important that all professional services equally share into the goals. Typically in facilities construction (i.e., buildings), the architect (who typically is the prime consultant) does not provide any minority participation in the field of architecture. The Minority Business Enterprise and disadvantaged goals are solely placed on the engineering support consultants, such as civil, environmental, and structural engineers, and mechanical, electrical and plumbing engineers. The end result is the lack of minority and disadvantaged architects to serve as the prime consultant in such state contracts. The program should be revised to include an even distribution of the minority disadvantaged goals equally into the architecture, as well as all supporting engineering consulting services.

Review Vineyard and Food Truck Requirements

Food Establishment Licenses. Several commenters described the rigorous licensing requirements for vineyards selling wine and cheese onsite. Evidently, because of regulations promulgated by the Department of Agriculture and the Health Department, wine and (hard) cheese could not be served to the public on the premises unless special equipment was installed for draining oils from grilled cheese – even though the cheese was not being grilled. Similar difficulties are encountered in the licensing requirements for opening a dairy farm or a creamery. The requirements are conflicting, involve duplication and redundant inspections, and can take three to four years to obtain the license.

Licensing Food Vending Trucks. A number of attendees at the Commission meetings commented on the regulations affecting food vending trucks as being unreasonably burdensome. The trucks are being held to standards by which even restaurants are not required to comply. Moreover certain requirements (such as built-in fire suppression systems) simply make no sense and should be eliminated. In addition, the license costs, the inspection costs and the certification costs for the trucks can be significant. The cost and burden of multiple agency reviews are excessive. Finally, current state regulations prohibit the sale of food on state roads, but contain exclusions that allow for certain foods and certain other commodities to be sold, such as seafood and flowers. These restrictions should be reviewed and revised.

State Procurement

Many agencies have their own individual procurement departments; this phenomenon is replicated in multiple agencies across the state. Consolidation of the procurement functions could result in a huge cost savings to the state. Support functions in the various state agencies (such as procurement, IT, housekeeping, facilities management, accounts payable, accounts receivable, and other services) should be reviewed for opportunities to consolidate and streamline them.

Customer Service Standards of Excellence for Marylanders

On April 28, 2015, Governor Hogan signed into law House Bill 940, which established the State Customer Service and Business Development Efforts Training Program in the Office of the Business Ombudsman to help improve customer service provided by state agencies to businesses and customers in the state. The Commission believes that was a necessary step to continue the culture change taking place throughout state government.

The comments received during the public outreach meetings, and in electronic communications with the Commission and staff show there is a huge opportunity to improve state government customer service for the better. Citizens were pleasantly surprised that state government was interested in hearing their issues with state regulators. In addition to concerns relating to the regulatory process, most of the commenters reported an attitude among regulators that has engendered:

- an environment that is decidedly hostile to the regulated
- a focus on what cannot be done, not how business can achieve its goals
- an emphasis on punitive enforcement instead of assisting compliance
- a "gotcha" environment that seeks to penalize or restrict

The Commission recommends that the Hogan administration aim to create an environment of success not based strictly on regulations, but also by creating a new attitude of state government focused on cooperation and customer service , and guided by a series of "Customer Service Standards of Excellence for Marylanders." These standards would demand respectful and courteous treatment of citizens and employers, focus on results and not process, promote the opportunity for Marylanders to voice concerns, and encourage accountability through regular reports for public review.

The Commission recommends the adoption of the following standards through an Executive Order to raise the quality standard of government-business interactions:

Application

The standards expressed in this section shall apply to all state agencies and departments.

All secretaries, administrators and other agency heads should be directed, by Executive Order, to implement these standards within 120 days. Waiver's and extensions may be granted by the Office of the Governor.

Policies

1. General Policies

(a) State agencies are providing a service to all citizens and employers in Maryland. Accordingly, agencies should view themselves as customer service organizations, and the regulated persons as the customers.

(b) All telephone messages must be returned the same day, if feasible, but no later than 24 hours after the message is received. All the letters, emails and other written communications must be responded to within five (5) business days.

(c) No communication should ever go unanswered. Arrangements must be made to ensure that communications are forwarded to persons that are out of the office, or another person is appointed to cover.

(d) Filings, reports and submissions to state agencies should be made through electronic filing, unless impractical or not feasible to do so. Any requirement for submitting any matter in writing shall be satisfied if such matter is submitted in electronic format.

(e) Filings, reports and submissions to the State for review shall be reviewed and responded to by the State within 30 days after submission. This policy shall not apply to tax returns filed with the Office of the Comptroller.

(f) Written requests submitted to the State for determination by the State must be resolved, and the determinations must be communicated by the State to the requester within 30 days.

2. Appeal of Actions

Within 120 days, all state agencies that have authority to approve or deny permits, licenses or other applications or actions shall propose procedures for the following:

(1) All determinations must be made and communicated to the applicant within 30 days after the filing of the application.

(2) In the event of a denial of an application, the reasons for such denial shall be specified in a written notice of the official that shall be furnished to the applicant not later than one business day following the expiration of such 30-day period.

(3) In the event of a denial, the applicant shall have the right to appeal the denial to the next higher level within the agency within 10 days after the date the notice is delivered to the applicant.

(4) In the event of an adverse ruling on appeal, the applicant shall have the right to further appeal the adverse determination, within 10 days after notice of the adverse decision is furnished to the applicant, to another higher authority within the agency or to the agency or office director.

3. Coordination with Local Government

State agencies must review their rules, guidelines and policies to coordinate with county and local regulatory authorities, and develop procedures and policies that will accomplish the following:

(1) Collaboration on joint missions and tasks, and consolidation, where possible, on applications, inspections, permits, licensing, etc.

(2) Coordination of application processes and timing so one form is to be processed by either or both simultaneously.

(3) Integrate state and local databases so that the data is available to both state and county/local authorities.

(4) Agree on minimum acceptable standards.

(5) Appoint coordinators between state and local authorities to coordinate activities and resolve delays and issues.

4. Coordination with Other State Agencies

(a) Within 120 days, all state agencies should be directed to report on all permits, licenses, authorizations, inspections and other activities that involve or are related to similar procedures or actions to be taken by other state agencies (these are referred to as "Related Actions").

(b) All state agencies that are engaged in Related Activities shall promptly open a dialogue with the other agencies that are parties to the Related Activities and collaborate on methods to consolidate their activities so that examinations and inspections are coordinated; duplicative or overlapping permitting, licensing and authorizations are eliminated; and contradictory policies and regulations are eliminated. Within 180 days, all state agencies are directed to report on consolidation and coordination of Related Activities, and the actions are to be completed within 270 days.

5. Inspection and Examination Reports

(a) The purpose of inspections and examinations are to assist the regulated person to comply with rules and regulations that are reasonably applicable to the regulated person.

(b) Within 180 days, all state agencies that conduct inspections or examinations shall propose procedures so that such inspections and examinations will assist compliance, and not merely to penalize violators, in accordance with the general principles enunciated in the following procedures.

(c) Procedures:

(1) All inspections for the purpose of approving or denying applications must occur within 15 days after the applicant notifies the state that the applicant is prepared for such inspection.

(2) The purpose of any such inspection shall be limited to whether the matter inspected conforms to the approved plans or permits.

(3) In the event the inspector determines as a result of the inspection that the project, premises or other matter being inspected fails to conform to the approved plans or permits, the results of such inspection shall be contained in a written report of the inspector, which shall be given to the applicant within 15 days after the date of the inspection.

(4) In the event of a negative inspection report, the applicant shall have the right to appeal the results of any such inspection to the next higher level within the agency within 10 days after the date the report is delivered to the applicant.

(5) In the event of an adverse ruling on appeal, the applicant shall have the right to further appeal the adverse determination, within 10 days after the decision, to another, higher authority within the agency that has jurisdiction over that area or region, such as a regional or district director.

(d) In the case of inspections or examinations of facilities or sites other than upon application by the regulated person, the following shall apply:

(1) A report of the inspection or examination shall be furnished to the regulated person within 15 days after the date of such inspection or examination.

(2) The inspection report shall advise the regulated person in reasonable detail of the findings of the inspection or examination, and, if any violations are cited, the report shall describe such violations with reasonable specificity.

(3) If the report cites violations that are contested by the regulated person, the report shall describe the responses of the regulated person and shall describe the recommendations of the inspector for reasonably feasible remedial action. If the regulated person shall have corrected the action prior to the end of the inspection, the inspection report shall note that fact.

(4) An inspection report shall not result in a citation for violation and shall not result in any penalty or fine to the regulated person unless that alleged violation was previously cited in an inspection report furnished to the regulated

person not less than 30 days nor more than three years prior to the date of the inspection or examination.

(5) The regulated person shall have the opportunity to cure any alleged violations noted in the inspection report within 30 days after the report is delivered to the regulated person, and no violation shall be deemed to have occurred if such remedial action is completed by the regulated person within such time period.

(6) In the event the regulated person contests the results of the report, please see the "Appeal of Actions" section.

6. Third-Party Certifications

Each agency that relies upon examinations or inspections to determine compliance with objective qualifications and standards shall review its purposes and requirements. Each agency also shall explore with appropriate qualified professionals to determine whether such examinations or inspections can be made by independent qualified and certified third party professional firms.

7. Policies

(a) All policies announced and all positions taken must be reasonably related to the interests that they purport to protect.

(b) State agencies are directed to review their policies and positions and, regardless of past statements or positions of the agency, shall ensure that such policies and positions do not encroach upon the ability of enterprises to conduct, develop and grow their businesses in Maryland.

Technology

Up-to-date technology is the key to integrated systems, interagency data sharing, and effective communications with regulated persons. Each state agency shall assess annually the state of its technology system to determine its ability to operate efficiently and effectively.

State Agencies Initiating Change for the Better

The Commission notes that a number of state agencies have already begun to implement customer service changes and commends their efforts. Among the changes to date:

Department of Agriculture

Secretary Joe Bartenfelder conducted a review of program standards agency-wide to determine where improvement can be made. All communications are acknowledged within one business day. Detailed responses are provided within 5 business days. Requests for inspection and/or complaint investigations are scheduled at the earliest opportunity within the limits of existing resources and a minimum of 70 percent of complaints.

Department of Assessments and Taxation

Director Sean Powell has developed an agency-wide Customer Service Policy. Uniform work hours for the Taxpayer Services Division became effective November 2, 2015. The uniform hours will result in employees being present during our core telephone and counter hours of 8:30 a.m. to 4:30 p.m.

Department of Commerce

Secretary Mike Gill has instructed all team members on basic tenets of customer service to include the return of phone calls and emails the same day, and always within 24 hours. When responding to issues outside the agency purview, team members must contact the agency involved to attempt to garner necessary information for the customer.

Department of the Environment

Secretary Ben Grumbles is currently involved in the initial steps of a "LEAN" process to improve our customer service. As a first step, an "appreciative inquiry" is underway. This is a process to document positive things happening at the Department and to do more of them. They will also be implementing basic customer service etiquette to return phone calls and emails in a more timely manner.

Department of Health and Mental Hygiene

Secretary Van Mitchell is exploring initiatives that serve to improve the cash flow to providers; utilize existing and new technology; streamline, clarify and update policy guidance to strengthen correct eligibility determinations; provide training and other tools as warranted to resolve inconsistencies; and simplify Medical Assistance Long-Term Care application forms and documents as necessary in order to make them more user-friendly and consistent with established policy and any new guidance as applicable upon receipt.

Department of Housing and Community Development

Secretary Ken Holt has created a system to streamline applications for a variety of new programs to create a better environment for customer service. The agency has also updated their websites to allow for more user-friendly navigating. A major gain in efficiency was improving the GIVE Maryland program. The newly designed website now makes the Community Investment Tax Credit program more accessible to individuals and businesses who want to contribute to revitalization projects in Maryland neighborhoods.

Department of Labor, Licensing and Regulation

Secretary Kelly Schulz implemented mandatory customer service training for all employees. The Department interacts with Maryland's businesses and citizens in a multitude of ways - including licensing over 250,000 businesses and individuals over 26 different occupations and professions, banking and financial regulation, unemployment insurance, wage and hour laws, and workforce development. The Department has also initiated a comprehensive review of occupational and professional licensing in order to identify and eliminate barriers to licensing. Regarding the Maryland Occupational Safety and Health (MOSH) Act, Secretary Schulz constituted a workgroup charged with identifying ways to enhance the Department's effort in reducing occupational injuries and illnesses in Maryland, amplify procedural efficiencies, and improve customer service and outreach. The workgroup produced seven different recommendations, and the Department has already begun implementing some of those recommendations.

Department of Natural Resources

Secretary Mark Belton created a new Office of Citizen Services to improve how Natural Resources delivers its services to the citizens of Maryland. Priority work areas include customer service training intended to improve the skills of Natural Resources staff so that customers' expectations are exceeded. There will also be streamlining permitting and licensing processes to make them more user-friendly and efficient.

Department of Planning

Secretary David Craig completed an internal review and launching of a new Strategic Plan. They are instituting an agency-wide customer service training session. In addition, Planning is focused on decreasing turnaround time for plan review and comment. Money and shortening plan review and comment periods make a difference in whether or not a plan actually goes forward.

Department of Transportation

Secretary Pete Rahn has implemented a series of changes to bring about customer service enhancements including increased availability of transactions without coming to a Motor Vehicle Administration branch office. As a result, the Motor Vehicle Administration has expanded the availability of transactions that can be completed through their website as well as the 52 kiosks available at Branch Offices. Customer wait time has also been reduced in branches and they have increased their social media presence. The Department is also reviewing upgrades in technology to improve emission testing.

Additional Recommendations for Administrative Review

As noted above, the Commission began its work with public meetings around the state taking place throughout September and October of 2015. This process has given the Commission a solid opportunity to gather public comments and collect comments presented at these hearings, while also developing an initial list of specific regulations in the Code of Maryland Regulation that the administration may wish to streamline, review or eliminate.

Code of Maryland Regulations for Administration Review

Department of Aging

32.02.01.06 - Application for a Preliminary Certificate of Registration
32.02.01.07 - Department Action on Feasibility Study and Application for a Preliminary Certificate of Registration
32.02.01.10 - Action of Department on Application for an Initial Certificate of Registration
32.02.01.13 - Application for Renewal Certificate of Registration

Governor's Office for Children

14.31.06 - Standards for Residential Child Care Programs

Department of Human Resources

07.01.13.07 - Adult Guardianships or Protective Services

Department of the Environment

26.04.11 - *Composting Facilities* (Approve compost permitting as a means to increase diversion of organics)

26.04.02.07 - *Best Available Technology for Removal of Nitrogen* (Eliminate requirement to install best available technology on new septic systems not within the critical area; Create an exception process for the requirement that septic systems located outside the critical area must use best available technology for nitrogen removal; Aggressively review sewage disposal technologies that could qualify as best available technology; Otherwise simplify septic system regulation.)

Erosion and Sediment Control (Eliminate 20-acre grading unit; Extend approval period for sediment and erosion control plans; Provide local flexibility)
26.17.01.01 - Definitions
26.17.01.09 - Inspection and Enforcement
26.17.01.11 - Sediment Control Design Standards and Specifications

Water Management (Increase flexibility of implementation of stormwater management regulation; An evaluation of the stormwater review processes is needed)

26.17.02.00 - Stormwater Management
26.17.02.01 - Purpose and Scope
26.17.02.1-1 - Incorporation by Reference
26.17.02.1-2 - Grandfather Provisions
26.17.02.02 - Definitions
26.17.02.03 - General Provisions
26.17.02.04 - Stormwater Management Ordinances
26.17.02.05 - When Stormwater Management is Required
26.17.02.06 - Minimum Control Requirements
26.17.02.07 - Interjurisdictional Flood Hazard Watersheds
26.17.02.08 - Stormwater Management Measures
26.17.02.09 - Stormwater Management Plans
26.17.02.10 - Construction Inspection and Enforcement
26.17.02.11 - Maintenance

Department of Health and Mental Hygiene

10.09.24.04F - Medical Assistance Eligibility Application - General Requirements - Application Filing and Signature Requirements
10.24.01 - Certificate of Need for Health Care Facilities (CON procedural regulations)
10.24.08 - Nursing Home and Home Health Agency Services
10.24.14 - Alcoholism and Drug Abuse Intermediate Care Facility Treatment Services

Conclusion

This Commission engineered an extensive and aggressive set of public outreach meetings across the State in order to solicit input on Maryland's regulatory climate from a wide range of citizens, businesses, advocates, elected officials and other stakeholders. The Commission's three-year mission is to examine and make recommendations on how Maryland regulations and government can become more efficient and responsive to the citizens and employers of this state. The initial round of six regional meetings is a first step, a beginning to what will be a broad effort to repair Maryland's fractured regulatory environment.

The Commission learned that the regulatory process and the current structure of state government are a vastly bigger impediment than any individual regulation.

Citizen input across the State displayed a vast undercurrent of frustration and, oftentimes, distrust. It is the Commission's job over the next two-plus years to explore avenues to overcome this barrier. The countless anecdotes shared about how grateful people were that the Commission was there to listen to their stories, concerns, and suggestions show the need for change and improvement. However, it is not enough to listen; the State must also act.

Maryland's regulatory process needs to be brought into the 21st century. Change is never easy, but the State must partner with its citizens and employers. Ultimately, the Commission aims to change the public's perception and show that Maryland's regulatory process can operate effectively, efficiently and cooperatively to deliver services and oversight.

This report is the first of the three envisioned in Governor Hogan's Executive Order. In 2016, the Commission intends to carefully examine the specific regulations contained in the Code of Maryland Regulations.

The Commission looks forward to working with the administration throughout the next three years to create meaningful regulatory reform and foster a healthier business environment.

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Initial Report of Governor Hogan's

REGULATORY *Reform* COMMISSION

2015 Report

CHANGING
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