

October 1, 2012

The Honorable Joan Carter Conway, Chair
Senate Education, Health, and Environmental Affairs Committee
Miller Senate Office Building, 2 East Wing
11 Bladen St.
Annapolis, MD 21401

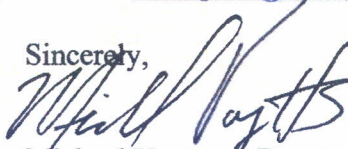
The Honorable Dereck E. Davis, Chairman
House Economic Matters Committee
House Office Building, Room 231
6 Bladen St.
Annapolis, MD 21401

Dear Chair Conway and Chairman Davis:

I herewith transmit on behalf of the Department of Labor, Licensing and Regulation and the State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors, the follow up report required by Chapter 179 of 2011 and specified in the 2010 *Preliminary Evaluation of the State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors* published December 2010.

Should you or any of your committee members have follow-up questions or concerns regarding the report, please do not hesitate to contact me directly. I can be reached by telephone at (410) 230-6225 or by e-mail at mvorgetts@dllr.state.md.us.

Sincerely,



Michael Vorgetts, Deputy Commissioner

cc: Scott R. Jensen, Interim Secretary
Harry Loleas, Commissioner
James Johnson, Chair
Steven Smitson, Assistant Commissioner
Jill Porter, Legislative Director
Laura McCarty, Senior Manager
Michael Rubenstein, Principal Policy Analyst
Sara Fidler, Committee Analyst
Laura Atas, Committee Analyst

PHONE: 410-230-6221 • EMAIL: op@dllr.state.md.us • INTERNET: www.dllr.maryland.gov

FOLLOW-UP REPORT TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE

Uncodified language included in Chapter 179 of 2011 required the State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration (HVACR) Contractors, in conjunction with the Department of Labor, Licensing and Regulation (DLLR), to submit a follow-up report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee by October 1, 2012, to address several issues identified in the 2010 Sunset Evaluation of the State Board of HVACR Contractors conducted by the Department of Legislative Services. Specifically, Chapter 179 required the Board and DLLR to report on the following issues:

1. the feasibility of requiring counties to enforce the State mechanical code;
2. whether the Board has adopted a regulation exempting individuals who install thermostats or switches under a public service company's demand response program from licensing requirements;
3. issues arising from allowing unlicensed individuals to perform work related to a public service company's demand response system, if the Board has adopted such an exemption;
4. whether the Board has identified additional ways of resolving consumer complaints after consulting with the other State agencies; and
5. the Board's success at filling vacant positions and maintaining geographic representation among Board members.

DLLR and the Board have submitted the following comments regarding the issues raised in the 2010 sunset evaluation.

1. Feasibility of requiring counties to enforce the State mechanical code.

The Maryland Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors Act (Chapter 649 of 1992) does not require local jurisdictions to enforce the State mechanical code through permitting and inspection processes. Language in the Maryland Annotated Code (*see* Business Regulation Article, § 9A-205) specifies that "the Board shall enter into a cooperative agreement with a county for the county to enforce the code." However, it was determined that this language does not require local government enforcement. (Notwithstanding, an individual must be licensed by the Board to act as a HVACR contractor in the State.) Accordingly, it is the prerogative of the local jurisdictions to establish enforcement procedures as they see fit, if at all. Absent an amendment to the Act, it is not feasible to require local jurisdictions to enforce the code.

The most populous local jurisdictions in the State typically take more of an active role in enforcing the code as it is clearly necessary in the interest of protecting public safety. As historically rural areas experience population growth and increased construction of

high density housing, it is likely that additional local jurisdictions will determine that it is prudent to enforce the code as well.

2. Exemption of individuals who install thermostats or switches under a public service company's demand response program.

The Board considered this issue at length and ultimately decided not to take final action on regulations to exempt individuals who install thermostats or switches under a public service company's demand response program from licensing requirements.

3. Issues arising from allowing unlicensed individuals to perform work related to a public service company's demand response system.

The Board did not adopt the exemption and has received no further complaints regarding work related to the installation of energy reduction devices.

4. Additional attempts to resolve consumer complaints.

Currently, the Board has no budgeted investigative resources and relies on investigators who are assigned to other Division programs to investigate complaints. While this arrangement is helpful, the Board is only able to investigate a limited number of complaints. This has greatly constrained the Board's ability to act on a large percentage of complaints filed annually.

5. Filling of vacant Board member positions and geographic representation.

The Board continues to have one vacant consumer member seat and two industry member vacancies. Thus, the Board lacks an industry member to represent Anne Arundel, Calvert, Charles and Saint Mary's counties.