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April 22, 2008

The Honorable Martin J. O'Malley
Governor of Maryland
State House
Annapolis, Maryland 21401-1991

Re: House Bill 374

Dear Governor O'Malley:

We hereby approve House Bill 374, entitled "EmPOWER Maryland Energy Efficiency Act of 2008" for constitutionality and legal sufficiency. We write to point out one minor typographical error to this bill and to identify a potential signing order issue that arises with two other bills, Senate Bill 417 and House Bill 608, which are identical bills entitled "Public Service Commission – Energy Efficiency and Conservation Programs and Services – Customer Notification." Senate Bill 417 and House Bill 608 were previously approved for constitutionality and legal sufficiency on our letter dated April 11, 2008.

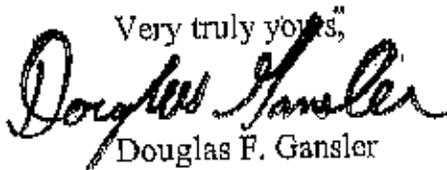
First, in section 3(b) of House Bill 374, the uncodified language refers to "\$300,000 that may be collected under paragraph (1) of this subsection...." The reference should instead be to "subsection (a) of this Section," in which the special assessment of up to \$300,000 is authorized. This can readily be corrected in next session's corrective bill.

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Second, while most of the provisions of House Bill 374, on the one hand, and Senate Bill 417 and House Bill 608, on the other, are completely compatible, the annual reporting provisions are not. In House Bill 374, the renumbered §7-211(K) requires the Maryland Energy Administration to report on energy efficiency and conservation programs on or before "March 1 of each year." Senate Bill 417 and House Bill 608, the renumbered §7-211(D), requires that the same report be made on or before "February 1, 2009 and every 2 years thereafter." You should, therefore, sign the bill that contains your preference of reporting requirements last.

Should you have any questions, please do not hesitate to contact us.

Very truly yours,



Douglas F. Gansler
Attorney General

DFG/DF/kk

cc: The Honorable Michael E. Busch
The Honorable Dennis C. Schnepfe
Joseph Bryce
Karl Aro
M. Brent Hare