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TESTIMONY OFFERED ON BEHALF OF
Ocean City Hotel-Motel-Restaurant Association

IN SUPPORT, WITH AMENDMENTS, TO:
HB0571 – Family and Medical Leave Insurance Program - Modifications
Before: Economic Matters Committee 2/14/24

On behalf of the Ocean City Hotel-Motel-Restaurant Association, representing more than 400 hospitality-related businesses, I am writing to express **support of House Bill HB0571 – Family and Medical Leave Insurance Program – Modifications, with amendments to the legislation.** We are supportive of the delay in program implementation and contribution collection, and the reduction of reporting requirements on employers by shifting to quarterly wage reports instead of weekly. The Association also supports aligning the definition of wages with the definition in the unemployment insurance (UI) program.

Ocean City utilizes thousands of Summer Work Travel J1Visas and H2B employees to fill the 12,000 seasonal positions as we simply do not have enough bodies in our area to fulfill the labor need. We see significant problems for both the employee and employer with FAMLI. From the perspective of the J1/H2B employee, a contribution is being withheld from employees who likely won't have the opportunity to apply for the benefit. J1's are hired for a maximum of 120 days; they are given a beginning and end date on their DS2019 (authorization to work). Federally, they apply for and are given social security cards and are only required to pay Federal and State income taxes. They can apply for and typically get a refund for income taxes paid at the end of the year. They are paid at the same rate as an American employee with the same experience and are also covered under the employer's workmen's compensation insurance. **Our recommendation is that J1/H2B employees should be excluded from the FAMLI Program and thus excluded from paying into this program, *just as they are excluded from paying into Social Security and Medicare.***

Conversely, we are deeply concerned about the potential for fraud with this program. Will Maryland be vetting all foreign doctors' reports? If false claims are filed, these exchange visitors could return to their home country and collect up to \$1,000 per week for 12 weeks for EVERY job they worked (J1/H2B often work for 2 or more employers during their time here) fraudulently claiming Maryland FAMLI funds. The Employee Retention Tax Credit (ERTC) was intended to encourage businesses to keep employees on their payrolls, but as the economy tightened, bad actors manipulated the system with schemes to their advantage, whether it was the exchange visitors themselves or someone taking advantage on their behalf (e.g. – the fraudulent unemployment claims during the pandemic).

The low threshold for eligibility, just 680 hours in the previous 12 months, is also a concern as this makes all seasonal employees eligible, even for those businesses that do not operate year-round. Employees eligible for UI benefits will also be allowed to claim.

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Continuation of the benefit payments to employers to cover the employee's benefits while they are out (plus garnishments and child support) is yet another concern. **An employee's obligations should not be excused while they are out on leave.** We know there is a high likelihood the employee won't return to work after taking leave, which means the employer will have paid for their medical insurance without recourse.

The way the FMLI program currently is, an employee could come to work for 1 day and then go out on FMLI for 12 or more weeks and the employer will have to protect that job and pay for their benefits, if applicable. **Governor Moore states he wants to make Maryland the best place to start a business, but this plan puts a tremendous burden upon employers.** In theory, the FMLI Program is to help, however, the balance of benefits errs on the side of the employee and ultimately will be detrimental to small businesses unless modifications are made. One of our business owners said, ***"All I do is try to hire good workers and all Maryland does is make me pay them to stay home."***

For these reasons, we strongly urge the Committee to **report HB0571 favorably with amendments to this legislation to exempt J1/H2B employees from FMLI.**

Sincerely,



Susan L. Jones