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**Maryland Ends Confusion and Enacts Law Permitting
Employers to Limit Payment of Accrued Leave to
Terminated Employees**

Last year's adoption by the Maryland Department of Labor, Licensing and Regulation (DLLR) of the holding in *Catapult Technology, LTD v. Paul Wolfe*, No. 997 (Aug. 20, 2007) (unpublished) that an employer could not lawfully have a personnel policy that required terminated employees to forfeit accrued but unused leave created considerable confusion and anxiety among Maryland employers.

In an emergency measure signed by Governor Martin O'Malley on April 24, 2008, the General Assembly has legislatively overruled the position of the DLLR and afforded greater flexibility for Maryland employers in designing policies on the payment of accrued leave to terminated employees.

The new law provides that if an employer has a written policy regarding the payment of accrued leave and this policy is communicated to the employee at the time of hiring, the employer must pay accrued leave to the employee only if the employee is entitled to the leave under the terms of the policy. However, where the employer does not have such a written policy, a terminated employee will still be entitled to the cash value of whatever unused earned vacation leave was left, provided the leave was otherwise usable. The law applies to all claims arising after November 1, 2007.

As a result of the new law, employers may now enact written policies that either deny the payment of leave at termination or permit such payment only under certain specified circumstances, such as when an employee provides notice prior to resignation. As noted in a previous [Venable E-lert](#), this had long been permitted under the interpretation of the state's wage payment statute prior to the DLLR's new guidance in the wake of the *Catapult* decision.

The new law reverses these changes and has already been incorporated into the DLLR's guidelines. The new law has therefore brought welcome clarity and will help to protect employers from being inappropriately mandated to pay leave to employees who violate their policies. However, there continue to be nuances that warrant careful consideration and consultation with a lawyer prior to the implementation of or change to a leave payment policy.

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