

BY: Finance Committee

AMENDMENTS TO SENATE BILL NO. 469
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Required Insurance, Disclosure, and Limitations of Liability” and substitute “Disclosure Requirements and Inspection Standards”; strike beginning with “requiring” in line 3 down through “inspection;” in line 7 and substitute “requiring home inspectors to disclose certain information prior to a home inspection; requiring a home inspection to be conducted in accordance with certain standards;”; and strike in their entirety lines 10 through 15, inclusive, and substitute:

“BY transferring

Article - Real Property

Section 10-801 and the subtitle “Subtitle 8. Home Inspections”

Annotated Code of Maryland

(1996 Replacement Volume and 1996 Supplement)

to be

Article - Commercial Law

Section 14-2802 under the amended subtitle “Subtitle 28. Home Inspectors”

Annotated Code of Maryland

(1990 Replacement Volume and 1996 Supplement)

BY repealing and reenacting, with amendments,

Article - Commercial Law

Section 13-301(14)

Annotated Code of Maryland

(1990 Replacement Volume and 1996 Supplement)

BY repealing and reenacting, without amendments,

Article - Commercial Law

(Over)

Section 13-301(15)
Annotated Code of Maryland
(1990 Replacement Volume and 1996 Supplement)

BY adding to

Article - Commercial Law
Section 14-2801, 14-2803, and 14-2804
Annotated Code of Maryland
(1990 Replacement Volume and 1996 Supplement)

BY repealing and reenacting, with amendments,

Article - Commercial Law
Section 14-2802
Annotated Code of Maryland
(1990 Replacement Volume and 1996 Supplement)
(As enacted by Section 1 of this Act)”.

AMENDMENT NO. 2

On pages 1 and 2, strike in their entirety the lines beginning with line 16 on page 1 through line 29 on page 2, inclusive, and substitute:

“SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 10-801 and the subtitle “Subtitle 8. Home Inspections” of Article - Real Property of the Annotated Code of Maryland be transferred to be Section(s) 14-2802 and the amended subtitle “Subtitle 28. Home Inspectors” of Article - Commercial Law of the Annotated Code of Maryland.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Commercial Law
13-301.

Unfair or deceptive trade practices include any:

(14) Violation of a provision of:

(i) This title;

(ii) An order of the Attorney General or agreement of a party relating to unit pricing under Title 14, Subtitle 1 of this article;

(iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt Collection Act;

(iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door Sales Act;

(v) Title 14, Subtitle 9 of this article, Kosher Products;

(vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;

(vii) Section 14-1302 of this article;

(viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales Act;

(ix) Section 22-415 of the Transportation Article;

(x) Title 14, Subtitle 20 of this article;

(xi) Title 14, Subtitle 15 of this article, the Automotive Warranty Enforcement Act;

(xii) Title 14, Subtitle 21 of this article;

(xiii) Section 18-107 of the Transportation Article;

(xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone Solicitations Act;

(xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts Act;

(xvi) Title 10, Subtitle 6 of the Real Property Article;

(Over)

(xvii) [Title 10, Subtitle 8 of the Real Property Article] TITLE 14, SUBTITLE 28 OF THIS ARTICLE;

(xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act; or

(xix) Title 14, Subtitle 26 of this article, the Maryland Door-to-Door Solicitations Act; or

(15) Any act or omission that relates to a residential building and that is chargeable as a misdemeanor under or otherwise violates a provision of the Energy Conservation Building Standards Act, Article 78, § 54-I of the Code.

Subtitle [8. Home Inspections] 28. HOME INSPECTORS.

14-2801.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “HOME INSPECTION” MEANS A LIMITED SURVEY OF A BUILDING AND ITS MAJOR COMPONENTS FOR THE PURPOSE OF:

(1) EVALUATING THE OVERALL CONDITION OF THE BUILDING AND ITS MAJOR COMPONENTS; AND

(2) IDENTIFYING AND REPORTING IN WRITING ANY MAJOR VISIBLE AND ACCESSIBLE DEFECTS IN THE BUILDING AND ITS MAJOR COMPONENTS.

(C) “HOME INSPECTOR” MEANS A PERSON WHO, FOR COMPENSATION, PROVIDES OR OFFERS TO PROVIDE HOME INSPECTION SERVICES.

(D) “STANDARDS OF PRACTICE” MEANS A DOCUMENT CREATED BY A PROFESSIONAL HOME INSPECTION TRADE ASSOCIATION SUCH AS THE AMERICAN SOCIETY OF HOME INSPECTORS (ASHI) OR THE NATIONAL ASSOCIATION OF HOME

INSPECTORS (NAHI) THAT DEFINES THE PROVISIONS, PURPOSE, GUIDELINES, CONDITIONS, LIMITATIONS, EXCLUSIONS, AND TERMS RELATED TO THE PERFORMANCE OF A HOME INSPECTION.

14-2802.

(a) [In this subtitle, “home inspector” means a person who provides or offers to provide home inspection services.

(b) Promptly after agreeing to perform [an] A HOME inspection and before [a home is inspected] ACCEPTING PAYMENT FOR THE INSPECTION, a home inspector shall provide the person who has entered into [a] THE contract FOR THE HOME INSPECTION [for the purchase of the property]:

(1) A list of the credentials of:

(i) The home inspector; and

(ii) If the individual who will actually perform the inspection is different from the home inspector, that individual; and

(2) A disclosure in 10-point bold type that states:

“An inspection is intended to assist in evaluation of the overall condition of a building. The inspection is based on observation of the visible and apparent condition of the building and its components on the date of inspection.

The results of this home inspection are not intended to make any representation regarding latent or concealed defects that may exist, and no warranty or guaranty is expressed or implied.

If the person conducting your home inspection is not a licensed structural engineer or other professional whose license authorizes the rendering of an opinion as to the structural integrity of a building or its other component parts, you may be advised to seek a professional opinion as to any

(Over)

defects or concerns mentioned in the report.”

[(c)] (B) The information required to be provided under [subsection (b)] SUBSECTION (A) of this section shall be included in the home inspection report that is delivered to the person who has entered into [a] THE contract for the [purchase of the property] HOME INSPECTION.

14-2803.

A HOME INSPECTOR CONDUCTING A HOME INSPECTION UNDER THIS SUBTITLE SHALL PERFORM THE HOME INSPECTION IN ACCORDANCE WITH STANDARDS OF PRACTICE SET FORTH BY A PROFESSIONAL HOME INSPECTION TRADE ASSOCIATION SUCH AS THE AMERICAN SOCIETY OF HOME INSPECTORS (ASHI) OR THE NATIONAL ASSOCIATION OF HOME INSPECTORS (NAHI).

14-2804.

IN ADDITION TO ANY OTHER REMEDIES OTHERWISE AVAILABLE AT LAW, A VIOLATION OF THIS SUBTITLE SHALL BE AN UNFAIR AND DECEPTIVE TRADE PRACTICE UNDER TITLE 13, SUBTITLE 3 OF THIS ARTICLE.”.

On page 2, in line 30, strike “2.” and substitute “3.”.