

SENATE BILL 380

Unofficial Copy
C2

2000 Regular Session
(01r0320)

ENROLLED BILL
-- Finance/Economic Matters --

Introduced by **Senators Kelley, Astle, Forehand, Hughes, McFadden, Blount, Dorman, Madden, Sfikas, Hafer, Van Hollen, Della, Lawlah, Mitchell, and Hollinger**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER 522

1 AN ACT concerning

2 **Maryland Home Builder Registration Act**

3 FOR the purpose of establishing the ~~Office of Home Builder Registration~~ Unit in the
4 ~~Department of Labor, Licensing, and Regulation; requiring the Secretary of~~
5 ~~Labor, Licensing, and Regulation to appoint a Director of the Office Consumer~~
6 ~~Protection Division of the Office of the Attorney General; providing that certain~~
7 ~~lenders are exempt for from registration provided they hire a registered builder;~~
8 providing for the powers, rights, and duties of the Director of the Unit; ~~requiring~~
9 ~~the Director to adopt certain regulations; requiring the Director~~ Division,
10 together with certain persons to create a certain consumer information
11 pamphlet; establishing a Home Builder Registration Fund and describing its
12 qualities; specifying the means and manner of acquisition and disbursement of
13 the assets of the Registration Fund; requiring certain audits of the Registration
14 Fund; prohibiting a person from acting as, offering to act as, holding oneself out
15 to be, or impersonating a home builder in the State without certain registration

1 under certain circumstances; requiring a person to meet certain requirements to
2 be registered under this Act; establishing application and renewal processes and
3 requirements to become or remain registered under this Act; requiring the
4 ~~Director Unit~~ to register or renew the registration of an applicant or registrant
5 under certain circumstances; providing for certain qualities, powers, and
6 restrictions of a registration under this Act; providing for the expiration, denial,
7 suspension, or revocation of a registration under certain circumstances;
8 requiring the ~~Director Division~~ to provide a registrant with certain notice and
9 opportunities for hearings under certain circumstances; requiring a registrant
10 to provide certain information to the ~~Director Unit~~ under certain circumstances;
11 requiring a registrant to display its home builder registration number under
12 certain circumstances; ~~authorizing an owner to file a complaint with the~~
13 ~~Director under certain circumstances; requiring the Director to handle~~
14 ~~complaints in a specified manner; establishing a Home Builder Guaranty Fund;~~
15 ~~requiring the Director to administer the Guaranty Fund in a certain manner;~~
16 ~~specifying the means and manner of acquisition and disbursement of the assets~~
17 ~~of the Guaranty Fund; authorizing certain persons to submit a claim against the~~
18 ~~Guaranty Fund under certain circumstances; establishing the process and~~
19 ~~requirements of obtaining an award from the Guaranty Fund; requiring the~~
20 ~~Director to handle and adjudicate claims against the Guaranty Fund in a~~
21 ~~specified manner; establishing who bears the burden of proof in certain~~
22 ~~hearings; providing that the Director is subrogated to the rights of a claimant~~
23 ~~and is entitled to a judgment against a registrant under certain circumstances;~~
24 ~~providing for the reimbursement of the Guaranty Fund by a registrant under~~
25 ~~certain circumstances; authorizing the Director to refer certain debts to the~~
26 ~~Central Collection Unit under certain circumstances; establishing that the~~
27 ~~Director may be a creditor of a registrant in certain circumstances; providing~~
28 ~~that a lien in favor of the State may be created against a registrant under~~
29 ~~certain circumstances; prohibiting certain county offices from issuing certain~~
30 ~~permits under certain circumstances; providing that any remedies are in~~
31 ~~addition to any remedies available under the Consumer Protection Act or any~~
32 ~~other laws; requiring a county to notify the Director Unit of certain acts or~~
33 ~~omissions of a registrant under certain circumstances; requiring certain~~
34 ~~information to be included in a purchase contract for a new home; providing that~~
35 ~~certain installers are responsible for certain defects; requiring a registrant to~~
36 ~~comply with certain construction standards under certain circumstances;~~
37 ~~providing that a contract for the purchase of a new home is not enforceable~~
38 ~~under certain circumstances; establishing certain criminal and civil penalties~~
39 ~~for violations of certain provisions of this Act; requiring all contracts for the~~
40 ~~initial sale of improved, new residential real property to include certain~~
41 ~~information; providing for the construction and application of certain provisions~~
42 ~~of this Act; defining certain terms; providing for the application of this Act;~~
43 ~~requiring that the Division study the feasibility of a new home builder guaranty~~
44 ~~fund and a certain report of its findings; requiring the Division to submit a~~
45 ~~certain annual report to the Governor and General Assembly; providing for the~~
46 ~~termination of this Act a delayed effective date; and generally relating to the~~
47 registration of home builders in the State.

48 BY adding to

1 Article - Business Regulation
 2 Section 4.5-101 through ~~4.5-804~~ 4.5-701, inclusive, to be under the new title
 3 "Title 4.5. Home Builder Registration"
 4 Annotated Code of Maryland
 5 (1998 Replacement Volume and 1999 Supplement)

6 BY adding to
 7 Article - Real Property
 8 Section 14-117(j)
 9 Annotated Code of Maryland
 10 (1996 Replacement Volume and 1999 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article - Business Regulation**

14 TITLE 4.5. HOME BUILDER REGISTRATION.

15 SUBTITLE 1. DEFINITIONS.

16 4.5-101.

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

18 (B) ~~"DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE OF HOME BUILDER~~
 19 ~~REGISTRATION.~~

20 ~~(C) "GUARANTY FUND" MEANS THE HOME BUILDER GUARANTY FUND.~~
 21 ~~"CONSUMER" MEANS AN OWNER OR A CONTRACT PURCHASER.~~

22 (C) "CONTRACT PURCHASER" MEANS A PERSON WHO HAS ENTERED INTO A
 23 CONTRACT WITH A HOME BUILDER TO PURCHASE A NEW HOME, BUT WHO HAS NOT
 24 YET SETTLED ON THE PURCHASE OF THE NEW HOME.

25 (D) "DIVISION" MEANS THE CONSUMER PROTECTION DIVISION OF THE
 26 OFFICE OF THE ATTORNEY GENERAL.

27 (E) "EXEMPT LENDER" MEANS A LENDER EXEMPT FROM THE REQUIREMENTS
 28 OF REGISTRATION AS PROVIDED IN § 4.5-501(C).

29 ~~(D)~~ (F) (1) "HOME BUILDER" MEANS A PERSON THAT UNDERTAKES TO
 30 ERECT OR OTHERWISE CONSTRUCT A NEW HOME.

31 (2) "HOME BUILDER" INCLUDES:

32 (I) A CUSTOM HOME BUILDER AS DEFINED IN § 10-501 OF THE
 33 REAL PROPERTY ARTICLE;

1 (II) A NEW HOME BUILDER SUBJECT TO § 10-301 OF THE REAL
2 PROPERTY ARTICLE; AND

3 (III) THE INSTALLER OR RETAILER OF A MOBILE HOME OR AN
4 INDUSTRIALIZED BUILDING INTENDED FOR RESIDENTIAL USE.

5 (3) "HOME BUILDER" DOES NOT INCLUDE:

6 (I) AN EMPLOYEE OF A REGISTRANT WHO DOES NOT HOLD
7 HIMSELF OR HERSELF OUT FOR HIRE IN HOME BUILDING EXCEPT AS AN EMPLOYEE
8 OF A REGISTRANT;

9 (II) SUBCONTRACTORS OR OTHER VENDORS HIRED BY THE
10 REGISTRANT TO PERFORM SERVICES OR SUPPLY MATERIALS FOR THE
11 CONSTRUCTION OF A NEW HOME WHO DO NOT OTHERWISE MEET THE
12 REQUIREMENTS OF THIS TITLE;

13 (III) THE MANUFACTURER OF ~~MANUFACTURED HOMES~~
14 INDUSTRIALIZED BUILDINGS INTENDED FOR RESIDENTIAL USE OR OF MOBILE
15 HOMES, UNLESS THE MANUFACTURER ALSO INSTALLS THE ~~MANUFACTURED HOMES~~
16 INDUSTRIALIZED BUILDINGS OR MOBILE HOMES;

17 (IV) A REAL ESTATE DEVELOPER WHO DOES NOT CONSTRUCT
18 HOMES; ~~OR~~

19 (V) A FINANCIAL INSTITUTION THAT LENDS FUNDS FOR THE
20 CONSTRUCTION OR PURCHASE OF RESIDENTIAL DWELLINGS IN THE STATE; OR

21 (VI) A PERSON WHO ERECTS OR CONSTRUCTS NEW HOMES SOLELY
22 IN MONTGOMERY COUNTY.

23 ~~(E)~~ (G) "HOME BUILDER REGISTRATION NUMBER" MEANS A REGISTRATION
24 NUMBER ISSUED BY THE DIRECTOR TO A REGISTRANT UNDER THIS TITLE.

25 ~~(F)~~ (H) "INDUSTRIALIZED BUILDING" HAS THE MEANING STATED IN
26 ARTICLE 83B, § 6-202 OF THE CODE.

27 ~~(G)~~ (I) "INSTALL" HAS THE MEANING STATED IN ARTICLE 83B, § 6-202 OF
28 THE CODE.

29 ~~(H)~~ "MANUFACTURED HOME" MEANS A BUILDING MANUFACTURED AT A SITE
30 OTHER THAN THE SITE AT WHICH IT IS INTENDED FOR USE AS A RESIDENTIAL
31 DWELLING.

32 ~~(I)~~ (J) "MOBILE HOME" HAS THE MEANING STATED IN ARTICLE 83B, § 6-202
33 OF THE CODE.

34 ~~(J)~~ (K) (1) "NEW HOME" MEANS EACH NEWLY CONSTRUCTED
35 RESIDENTIAL DWELLING UNIT IN THE STATE AND THE FIXTURES AND STRUCTURE

1 THAT ARE MADE A PART OF A NEWLY CONSTRUCTED PRIVATE DWELLING UNIT AT
2 THE TIME OF CONSTRUCTION.

3 (2) "NEW HOME" INCLUDES:

4 (I) A CUSTOM HOME AS DEFINED IN § 10-501(C) OF THE REAL
5 PROPERTY ARTICLE;

6 (II) A NEW HOME TO WHICH § 10-301 OF THE REAL PROPERTY
7 ARTICLE APPLIES;

8 (III) AN INDUSTRIALIZED BUILDING INTENDED FOR RESIDENTIAL
9 USE; AND

10 (IV) A MOBILE HOME.

11 ~~(K) "OFFICE" MEANS THE OFFICE OF HOME BUILDER REGISTRATION.~~

12 (L) (1) "OWNER" MEANS A PERSON FOR WHOM A NEW HOME IS BUILT OR TO
13 WHOM A NEW HOME IS SOLD FOR OCCUPATION BY:

14 (I) THAT PERSON OR THE FAMILY OF THAT PERSON AS A HOME; OR

15 (II) THE SUCCESSORS OF THAT PERSON IN TITLE TO THE HOME OR
16 A MORTGAGOR IN POSSESSION.

17 (2) "OWNER" INCLUDES A CONTRACT PURCHASER WHO CONTRACTS
18 WITH A REGISTRANT FOR THE CONSTRUCTION AND PURCHASE OF A NEW HOME.

19 (3) "OWNER" DOES NOT INCLUDE:

20 (I) A DEVELOPMENT COMPANY, ASSOCIATION, OR SUBSIDIARY
21 COMPANY OF A REGISTRANT; OR

22 (II) A PERSON OR ORGANIZATION TO WHOM THE HOME MAY BE
23 CONVEYED BY THE REGISTRANT FOR A PURPOSE OTHER THAN RESIDENTIAL
24 OCCUPATION BY THAT PERSON OR ORGANIZATION.

25 (M) "PRINCIPAL" MEANS:

26 (1) A SOLE PROPRIETOR, OFFICER, DIRECTOR, GENERAL PARTNER, OR
27 LIMITED LIABILITY COMPANY MANAGER OF AN APPLICANT OR REGISTRANT; ~~AND~~

28 (2) A PERSON WITH AT LEAST 10 PERCENT OWNERSHIP IN AN
29 APPLICANT OR REGISTRANT OR A SUBSIDIARY OF AN APPLICANT OR REGISTRANT;
30 AND

31 (3) PARENTS, SPOUSES, AND CHILDREN WITH A COMBINED 10 PERCENT
32 OWNERSHIP IN AN APPLICANT OR REGISTRANT OR A SUBSIDIARY OF AN APPLICANT
33 OR REGISTRANT.

1 (N) "REGISTRANT" MEANS A PERSON REGISTERED TO BUILD NEW HOMES.

2 (O) "REGISTRATION FUND" MEANS THE HOME BUILDER REGISTRATION FUND.

3 SUBTITLE 2. ~~OFFICE OF HOME BUILDER REGISTRATION~~ HOME BUILDER
4 REGISTRATION UNIT; HOME BUILDER REGISTRATION FUND.

5 4.5-201.

6 ~~(A) THERE IS AN OFFICE OF HOME BUILDER REGISTRATION IN THE~~
7 ~~DEPARTMENT.~~

8 THERE IS A HOME BUILDER REGISTRATION UNIT IN THE DIVISION.

9 ~~(B) THE OFFICE EXERCISES ITS RIGHTS, POWERS, AND DUTIES SUBJECT TO~~
10 ~~THE AUTHORITY OF THE SECRETARY.~~

11 4.5-202.

12 ~~(A) (1) THE SECRETARY SHALL APPOINT A FULL-TIME DIRECTOR OF THE~~
13 ~~OFFICE.~~

14 ~~(2) THE DIRECTOR SERVES AT THE PLEASURE OF THE SECRETARY.~~

15 ~~(B) THE DIRECTOR IS ENTITLED TO:~~

16 ~~(1) COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET; AND~~

17 ~~(2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE~~
18 ~~TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.~~

19 ~~(C) THE DIRECTOR SHALL:~~

20 ~~(1) ADMINISTER AND OPERATE THE OFFICE; AND~~

21 ~~(2) BE RESPONSIBLE TO THE SECRETARY.~~

22 ~~(D) IN ADDITION TO THE REQUIREMENTS OF THE STATE ETHICS LAW, THE~~
23 ~~DIRECTOR MAY NOT:~~

24 ~~(1) HOLD ANY POSITION OR ENGAGE IN ANY BUSINESS THAT~~
25 ~~INTERFERES OR CONFLICTS WITH THE POSITION OF DIRECTOR;~~

26 ~~(2) BE A REGISTRANT;~~

27 ~~(3) ENGAGE IN ANY ACT FOR WHICH A REGISTRATION IS REQUIRED~~
28 ~~UNDER THIS TITLE; OR~~

29 ~~(4) IN CONNECTION WITH ANY REGISTRANT, DIRECTLY OR INDIRECTLY~~
30 ~~RECEIVE OR BECOME ENTITLED TO RECEIVE ANY FEE, PERQUISITE, OR~~
31 ~~COMPENSATION.~~

1 ~~4.5-203.~~

2 ~~THE DIRECTOR MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE~~
3 ~~BUDGET.~~

4 ~~4.5-204.~~

5 ~~THE DIRECTOR SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS~~
6 ~~OF THIS TITLE.~~

7 ~~4.5-205.~~ 4.5-202.

8 (A) ~~THE DIRECTOR~~ UNIT SHALL MAINTAIN A LIST OF ALL REGISTRANTS.

9 (B) (1) ~~THE DIRECTOR~~ UNIT SHALL MAKE AVAILABLE TO EACH APPLICANT
10 FOR REGISTRATION A COPY OF THIS TITLE AND OTHER APPLICABLE LAWS AND
11 REGULATIONS.

12 (2) ~~THE DIRECTOR~~ UNIT SHALL MAKE AVAILABLE TO EACH REGISTRANT
13 ANY AMENDMENTS TO THIS TITLE OR OTHER APPLICABLE LAWS OR REGULATIONS
14 AT LEAST 30 DAYS BEFORE THE EFFECTIVE DATE OF THE AMENDMENTS.

15 (C) (1) ~~IN CONSULTATION WITH THE HOME BUILDING INDUSTRY AND THE~~
16 ~~CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL,~~
17 ~~THE DIRECTOR SHALL DEVELOP A CONSUMER INFORMATION PAMPHLET WRITTEN~~
18 ~~IN PLAIN LANGUAGE THAT DESCRIBES:~~

19 (I) ~~THE RIGHTS AND REMEDIES OF CONSUMERS IN THE PURCHASE~~
20 ~~OF A NEW HOME; AND~~

21 (II) ~~ANY OTHER INFORMATION THAT THE DIRECTOR CONSIDERS~~
22 ~~REASONABLY NECESSARY TO ASSIST CONSUMERS.~~

23 (2) ~~THE DIRECTOR SHALL MAKE COPIES OF THE CONSUMER~~
24 ~~INFORMATION PAMPHLET AVAILABLE TO A REGISTRANT ON REQUEST AND ON~~
25 ~~RECEIPT OF A REASONABLE FEE. IN CONSULTATION WITH THE HOME BUILDING~~
26 ~~INDUSTRY, THE UNIT SHALL DEVELOP A CONSUMER INFORMATION PAMPHLET~~
27 ~~WRITTEN IN PLAIN ENGLISH THAT DESCRIBES:~~

28 (I) THE RIGHTS AND REMEDIES OF CONSUMERS IN THE PURCHASE
29 OF A NEW HOME; AND

30 (II) ANY OTHER INFORMATION THAT THE DIVISION CONSIDERS
31 REASONABLY NECESSARY TO ASSIST CONSUMERS.

32 (2) THE DIVISION SHALL PROVIDE EACH REGISTERED HOME BUILDER
33 WITH A SUFFICIENT NUMBER OF COPIES OF THE CONSUMER INFORMATION
34 PAMPHLETS AS NEEDED BY THE HOME BUILDER.

1 (3) A HOME BUILDER SHALL PROVIDE EACH CONTRACT PURCHASER
2 WITH THE CONSUMER INFORMATION PAMPHLET BEFORE ENTERING INTO A
3 CONTRACT FOR THE INITIAL SALE OF A NEW HOME.

4 (4) THE CONTRACT PURCHASER SHALL ACKNOWLEDGE IN WRITING THE
5 RECEIPT OF THE CONSUMER INFORMATION PAMPHLET.

6 (5) THE FAILURE OF A HOME BUILDER TO PROVIDE A COPY OF THE
7 CONSUMER PROTECTION PAMPHLET TO A CONTRACT PURCHASER MAY NOT BE USED
8 AS A BASIS FOR INVALIDATION OF THE CONTRACT FOR THE INITIAL SALE OF A NEW
9 HOME.

10 (D) THE ~~DIRECTOR~~ UNIT SHALL COLLECT AND MAINTAIN INFORMATION ON
11 THE RESOLUTION OF CONSUMER COMPLAINTS INVOLVING NEW HOME BUILDERS.

12 ~~4.5-206.~~ 4.5-203.

13 (A) (1) THERE IS A HOME BUILDER REGISTRATION FUND.

14 (2) THE ~~DIRECTOR~~ DIVISION SHALL ADMINISTER THE REGISTRATION
15 FUND.

16 (3) THE REGISTRATION FUND SHALL BE USED TO COVER THE ACTUAL
17 DOCUMENTED DIRECT AND INDIRECT COSTS ~~OF FULFILLING THE DUTIES OF THE~~
18 ~~OFFICE~~ INCURRED FOR THE ADMINISTRATION AND ENFORCEMENT OF THE
19 MARYLAND HOME BUILDERS REGISTRATION ACT.

20 (4) THE REGISTRATION FUND IS A CONTINUING, NONLAPSING FUND,
21 AND IS SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

22 (5) UNSPENT ASSETS OF THE REGISTRATION FUND SHALL REMAIN IN
23 THE REGISTRATION FUND AND MAY NOT REVERT OR BE TRANSFERRED TO THE
24 GENERAL FUND OF THE STATE.

25 (6) THE REGISTRATION FUND MAY NOT BE SUPPORTED BY
26 APPROPRIATIONS OF STATE FUNDS.

27 (B) (1) BY REGULATION, THE ~~DIRECTOR~~ DIVISION SHALL ESTABLISH
28 REASONABLE FEES THAT MAY NOT EXCEED \$600 OVER A 2-YEAR PERIOD, AND A FEE
29 SCHEDULE FOR THE ISSUANCE AND RENEWAL OF REGISTRATIONS.

30 (2) ~~IN ESTABLISHING THE FEES, THE DIRECTOR DIVISION SHALL~~
31 ~~CONSIDER:~~

32 (I) ~~THE NUMBER OF UNITS CONSTRUCTED BY THE APPLICANT OR~~
33 ~~REGISTRANT IN THE PREVIOUS 2 YEARS; OR~~

34 (II) ~~IN THE CASE OF A NEW APPLICANT, THE NUMBER OF UNITS~~
35 ~~THAT THE APPLICANT PLANS TO CONSTRUCT IN THE NEXT 2 YEARS.~~

1 (B) THE APPLICATION SHALL REQUIRE AN APPLICANT TO PROVIDE:

2 (1) THE APPLICANT'S NAME;

3 (2) THE APPLICANT'S BUSINESS ADDRESS, TELEPHONE NUMBER, AND,
4 IF APPLICABLE, ELECTRONIC MAIL ADDRESS;

5 (3) IN THE CASE OF AN APPLICANT WHO IS AN INDIVIDUAL, THE
6 APPLICANT'S SOCIAL SECURITY NUMBER;

7 (4) IN THE CASE OF AN APPLICANT OTHER THAN AN INDIVIDUAL:

8 (I) THE APPLICANT'S FEDERAL EMPLOYER IDENTIFICATION
9 NUMBER; AND

10 (II) THE NAMES, ADDRESSES, AND SOCIAL SECURITY NUMBERS OF
11 ALL PRINCIPALS OF THE APPLICANT;

12 (5) THE NAMES OF ALL APPLICANTS AND PRINCIPALS WHO HAVE
13 PREVIOUSLY APPLIED FOR REGISTRATION, AND THE DISPOSITION OF ALL PREVIOUS
14 APPLICATIONS;

15 (6) THE NAMES OF ANY APPLICANT OR PRINCIPAL THAT WAS A
16 PRINCIPAL IN AN ENTITY THAT PREVIOUSLY APPLIED FOR REGISTRATION;

17 (7) A LIST OF ALL STATES AND OTHER JURISDICTIONS IN WHICH THE
18 APPLICANT HOLDS A SIMILAR REGISTRATION OR LICENSE;

19 (8) A LIST OF ALL STATES AND OTHER JURISDICTIONS IN WHICH THE
20 APPLICANT HAS HAD A SIMILAR REGISTRATION OR LICENSE SUSPENDED OR
21 REVOKED;

22 (9) A STATEMENT WHETHER ANY PENDING JUDGMENTS OR TAX LIENS
23 EXIST AGAINST THE APPLICANT;

24 (10) (I) THE ELECTION MADE BY THE APPLICANT REGARDING DEPOSIT
25 MONEYS UNDER § 10-301 OF THE REAL PROPERTY ARTICLE; AND

26 (II) IF THE APPLICANT ELECTS TO HOLD DEPOSITS IN AN ESCROW
27 ACCOUNT, THE ACCOUNT NUMBER AND THE NAME OF THE FINANCIAL INSTITUTION
28 THAT HOLDS THE ESCROW ACCOUNT;

29 (11) IF THE APPLICANT PARTICIPATES IN A NEW HOME WARRANTY
30 SECURITY PLAN, THE NAME AND ADDRESS OF THE WARRANTY COMPANY; AND

31 (12) THE NAME OF THE INSURANCE CARRIER AND THE POLICY NUMBER
32 OF THE GENERAL LIABILITY COVERAGE REQUIRED UNDER § 4.5-302 OF THIS
33 SUBTITLE.

1 ~~(C) THE APPLICANT SHALL ALSO FURNISH THE INFORMATION REQUIRED IN~~
2 ~~SUBSECTION (B) OF THIS SECTION RELATED TO THE PARENTS, SPOUSES, AND~~
3 ~~CHILDREN OF AN APPLICANT OR PRINCIPAL.~~

4 4.5-304.

5 (A) THE ~~DIRECTOR UNIT~~ SHALL REGISTER AND ISSUE A HOME BUILDER
6 REGISTRATION NUMBER TO AN APPLICANT THAT MEETS THE REQUIREMENTS OF
7 THIS TITLE.

8 (B) A REGISTRATION ISSUED UNDER THIS TITLE MAY NOT BE TRANSFERRED,
9 ASSIGNED, OR PLEDGED.

10 (C) A VALID REGISTRATION AUTHORIZES THE REGISTRANT TO ACT AS A HOME
11 BUILDER IN THE STATE.

12 (D) A HOME BUILDER THAT HOLDS A LICENSE OR REGISTRATION ~~IN A~~
13 ~~COUNTY APPROVED BY THE DIRECTOR UNDER § 4.5-708 OF THIS TITLE IN~~
14 MONTGOMERY COUNTY MAY ACT AS A HOME BUILDER IN THAT COUNTY ONLY,
15 UNLESS THE HOME BUILDER IS ALSO REGISTERED UNDER THIS TITLE.

16 4.5-305.

17 (A) (1) UNLESS RENEWED UNDER THIS SECTION, A REGISTRATION EXPIRES
18 ON THE SECOND ANNIVERSARY OF ITS EFFECTIVE DATE.

19 (2) A REGISTRANT THAT MEETS THE REQUIREMENTS OF SUBSECTION
20 (C) OF THIS SECTION MAY OBTAIN A RENEWAL OF A REGISTRATION BEFORE THE
21 REGISTRATION EXPIRES FOR AN ADDITIONAL 2-YEAR TERM.

22 (3) ONCE EXPIRED, A REGISTRATION MAY NOT BE RENEWED.

23 (B) AT LEAST 60 DAYS BEFORE A REGISTRATION EXPIRES, THE DIRECTOR
24 SHALL MAIL THE REGISTRANT, AT THE LAST KNOWN ADDRESS OF THE REGISTRANT:

25 (1) A RENEWAL APPLICATION FORM; AND

26 (2) A NOTICE THAT STATES:

27 (I) THE DATE ON WHICH THE CURRENT REGISTRATION EXPIRES;
28 AND

29 (II) THE DATE BY WHICH THE DIRECTOR MUST RECEIVE THE
30 RENEWAL APPLICATION FOR A RENEWAL TO BE ISSUED AND MAILED BEFORE THE
31 REGISTRATION EXPIRES.

32 (C) THE ~~DIRECTOR UNIT~~ SHALL RENEW THE REGISTRATION OF EACH
33 REGISTRANT THAT:

34 (1) SUBMITS TO THE ~~DIRECTOR UNIT~~ A RENEWAL APPLICATION ON THE
35 FORM PROVIDED BY THE ~~DIRECTOR UNIT~~;

- 1 (2) WOULD QUALIFY FOR AN INITIAL REGISTRATION;
- 2 (3) PAYS THE RENEWAL FEE ESTABLISHED BY REGULATION; AND
- 3 (4) IS OTHERWISE ENTITLED TO BE REGISTERED.

4 4.5-306.

5 (A) A REGISTRANT SHALL PROVIDE THE ~~DIRECTOR UNIT~~ WRITTEN NOTICE OF
6 ANY CHANGE IN THE INFORMATION SUBMITTED UNDER § 4.5-303(B) OF THIS
7 SUBTITLE WITHIN 10 WORKING DAYS AFTER THE CHANGE IS EFFECTIVE.

8 (B) A REGISTRANT SHALL COMPLY WITH SUBSECTION (A) OF THIS SECTION
9 FOR 1 YEAR AFTER THE REGISTRANT CEASES TO BE REGISTERED.

10 4.5-307.

11 (A) EACH REGISTRANT SHALL DISPLAY ITS HOME BUILDER REGISTRATION
12 NUMBER CONSPICUOUSLY ON ALL PROPERTIES AT WHICH THE REGISTRANT IS
13 PERFORMING WORK THAT REQUIRES REGISTRATION UNDER THIS TITLE.

14 (B) IF A REGISTRANT IS BUILDING MULTIPLE HOMES IN ONE PROJECT AREA
15 OR SUBDIVISION, THE REGISTRANT MAY POST ITS HOME BUILDER REGISTRATION
16 NUMBER IN ONE CENTRAL CONSPICUOUS LOCATION IN THE PROJECT AREA OR
17 SUBDIVISION.

18 4.5-308.

19 (A) THE ~~DIRECTOR UNIT~~ MAY DENY REGISTRATION TO AN APPLICANT,
20 REPRIMAND A REGISTRANT, SUSPEND OR REVOKE A REGISTRATION, OR IMPOSE A
21 CIVIL PENALTY ON A REGISTRANT IF THE ~~DIRECTOR UNIT~~ DETERMINES THAT THE
22 APPLICANT OR REGISTRANT:

23 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINED OR ATTEMPTED TO
24 OBTAIN A REGISTRATION;

25 (2) FRAUDULENTLY OR DECEPTIVELY USED A REGISTRATION;

26 (3) PRESENTED OR ATTEMPTED TO PRESENT THE HOME BUILDER
27 REGISTRATION NUMBER OF ANOTHER REGISTRANT AS THE APPLICANT'S OR
28 REGISTRANT'S HOME BUILDER REGISTRATION NUMBER;

29 (4) USED OR ATTEMPTED TO USE AN EXPIRED, SUSPENDED, OR
30 REVOKED HOME BUILDER REGISTRATION NUMBER;

31 (5) IMPERSONATED OR FALSELY REPRESENTED ONESELF AS A
32 REGISTERED HOME BUILDER;

33 (6) REPEATEDLY VIOLATED THIS TITLE;

1 (7) ENGAGED IN A PATTERN OF UNFAIR OR DECEPTIVE TRADE
 2 PRACTICES UNDER THE CONSUMER PROTECTION ACT, AS DETERMINED BY A FINAL
 3 ADMINISTRATIVE ORDER OR JUDICIAL DECISION;

4 (8) REPEATEDLY VIOLATED A STATE OR FEDERAL LAW OR REGULATION
 5 THAT RELATES TO THE FITNESS AND QUALIFICATION OR ABILITY OF THE
 6 APPLICANT OR REGISTRANT TO BUILD HOMES;

7 ~~(9) ENGAGED IN A PATTERN OF POOR WORKMANSHIP EVIDENCED BY:~~

8 ~~(I) REPEATED BUILDING CODE VIOLATIONS; OR~~

9 ~~(II) REPEATED JUDGMENTS OR ARBITRATION AWARDS AGAINST~~
 10 ~~THE APPLICANT OR REGISTRANT DUE TO UNCOMPLETED OR SUBSTANDARD WORK;~~

11 (9) ENGAGED IN A PATTERN OF POOR WORKMANSHIP AS EVIDENCED BY
 12 ONE OR MORE OF THE FOLLOWING:

13 (I) REPEATED UNRESOLVED BUILDING CODE VIOLATIONS;

14 (II) REPEATED UNSATISFIED ARBITRATION AWARDS AGAINST THE
 15 APPLICANT OR REGISTERED HOME BUILDER BASED ON INCOMPLETE OR
 16 SUBSTANDARD WORK THAT RESULTS IN THE CONSUMERS, IN WHOSE NAMES THE
 17 ARBITRATION AWARDS ARE ENTERED, FILING COMPLAINTS WITH THE DIVISION
 18 UNDER THIS SUBTITLE; OR

19 (III) AN UNSATISFIED FINAL JUDGMENT THAT RESULTS IN A
 20 CONSUMER, IN WHOSE NAME THE JUDGMENT IS ENTERED, FILING A COMPLAINT
 21 WITH THE DIVISION UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE;

22 (10) REPEATEDLY ENGAGED IN FRAUD, DECEPTION,
 23 MISREPRESENTATION, OR KNOWING OMISSIONS OF MATERIAL FACTS RELATED TO
 24 HOME BUILDING CONTRACTS;

25 (11) HAD A SIMILAR REGISTRATION OR LICENSE DENIED, SUSPENDED,
 26 OR REVOKED IN ANOTHER STATE OR JURISDICTION; OR

27 (12) HAD THE RENEWAL OF A SIMILAR REGISTRATION OR LICENSE
 28 DENIED FOR ANY CAUSE OTHER THAN FAILURE TO PAY A RENEWAL FEE.

29 (B) (1) THE ~~DIRECTOR~~ UNIT MAY DENY A REGISTRATION TO A
 30 NONPUBLICLY TRADED APPLICANT OR SUSPEND OR REVOKE A REGISTRATION OF A
 31 NONPUBLICLY TRADED REGISTRANT IF A PRINCIPAL OF THE APPLICANT OR
 32 REGISTRANT, OTHER THAN A FINANCIAL INSTITUTION OR A NONPROFIT
 33 ORGANIZATION, THAT OWNS AT LEAST 10 PERCENT OF THE APPLICANT OR
 34 REGISTRANT, WAS A PRINCIPAL OF A HOME BUILDER THAT HAD A SIMILAR
 35 REGISTRATION OR LICENSE DENIED, SUSPENDED, OR REVOKED BY THE ~~DIRECTOR~~
 36 UNIT OR IN ANOTHER STATE OR JURISDICTION FOR ANY CAUSE OTHER THAN A
 37 FAILURE TO PAY A RENEWAL FEE IF THE ~~DIRECTOR~~ UNIT DETERMINES THAT THE

1 INTERESTS OF THE PUBLIC CANNOT BE PROTECTED IF THE APPLICANT OR
2 REGISTRANT IS ALLOWED TO ACT AS A HOME BUILDER IN THE STATE.

3 (2) FOR THE PURPOSES OF THIS SUBSECTION, THE INTERESTS OF A
4 PRINCIPAL INCLUDE INTERESTS HELD BY THE PARENTS, SPOUSE, OR CHILDREN OF
5 THE PRINCIPAL.

6 (C) THE ~~DIRECTOR UNIT~~ SHALL PROVIDE AN APPLICANT OR REGISTRANT
7 NOTICE AND AN OPPORTUNITY TO REQUEST A HEARING UNDER TITLE 10, SUBTITLE
8 2 OF THE STATE GOVERNMENT ARTICLE TO CONTEST A PROPOSED DISCIPLINARY
9 ACTION.

10 SUBTITLE 4. COMPLAINTS REMEDIES.

11 4.5-401.

12 (A) THE DIVISION SHALL ENCOURAGE THE OWNER OR BUYER TO PURSUE
13 RESOLUTION OF THE DISPUTE PURSUANT TO THE EXISTING CONTRACT.

14 (B) THE ~~OWNER~~ OWNER'S OR BUYER'S REMEDIES UNDER THIS SUBTITLE
15 SHALL NOT SUPERSEDE ANY CONSUMER CONTRACTUAL OBLIGATIONS, AND ARE IN
16 ADDITION TO ANY REMEDIES THE OWNER OR BUYER MAY HAVE UNDER THE
17 CONSUMER PROTECTION ACT OR ANY OTHER LAW.

18 AN OWNER MAY FILE A WRITTEN COMPLAINT UNDER OATH WITH THE
19 ~~DIRECTOR~~ ALLEGING THAT:

20 (1) ~~THE REGISTRANT HAS FAILED TO COMPLETE WORK THAT COMPLIES~~
21 ~~WITH:~~

22 (I) ~~THE PURCHASE CONTRACT;~~

23 (II) ~~A WRITTEN ADDENDUM OR CHANGE ORDER TO THE PURCHASE~~
24 ~~CONTRACT;~~

25 (III) ~~A MANUFACTURER'S INSTALLATION INSTRUCTIONS;~~

26 (IV) ~~AN APPLICABLE PERFORMANCE STANDARD OR BUILDING~~
27 ~~CODE; OR~~

28 (V) ~~AN IMPLIED OR EXPRESS WARRANTY; AND~~

29 (2) ~~THE REGISTRANT HAS FAILED TO PROPERLY HANDLE OR PAY ANY~~
30 ~~ESCROW ACCOUNTS, DEPOSIT MONEYS, PROGRESS PAYMENTS, PAYMENTS TO~~
31 ~~SUBCONTRACTORS OR SUPPLIERS, OR OTHER OBLIGATIONS AS REQUIRED BY THE~~
32 ~~PURCHASE CONTRACT, LAW, OR REGULATION.~~

1 ~~4.5-402.~~

2 ~~THE DIRECTOR SHALL:~~

3 ~~(1) FORWARD A COPY OF THE COMPLAINT TO THE REGISTRANT;~~

4 ~~(2) OFFER MEDIATION SERVICES TO RESOLVE THE COMPLAINT; AND~~

5 ~~(3) PROVIDE ADVICE AND REFERRALS TO OTHER AVAILABLE AVENUES~~
6 ~~OF DISPUTE RESOLUTION.~~

7 ~~SUBTITLE 5. HOME BUILDER GUARANTY FUND.~~

8 ~~4.5-501.~~

9 ~~(A) IN THIS SUBTITLE, "ACTUAL LOSS" MEANS THE COSTS OF REPAIR,~~
10 ~~REPLACEMENT, CORRECTION, OR COMPLETION THAT ARISE FROM NEW HOME~~
11 ~~CONSTRUCTION THAT IS INCOMPLETE OR THAT FAILS TO MEET THE CONSTRUCTION~~
12 ~~STANDARDS PROVIDED IN THE PURCHASE CONTRACT, LAW, OR REGULATION.~~

13 ~~(B) IN THIS SUBTITLE, "ACTUAL LOSS" INCLUDES DEPOSIT MONEYS NOT~~
14 ~~RETURNED UNDER THE PURCHASE CONTRACT, LAW, OR REGULATION.~~

15 ~~4.5-502.~~

16 ~~THIS SUBTITLE DOES NOT:~~

17 ~~(1) LIMIT THE AUTHORITY OF THE DIRECTOR TO TAKE DISCIPLINARY~~
18 ~~ACTION AGAINST A REGISTRANT UNDER SUBTITLE 3 OF THIS TITLE; OR~~

19 ~~(2) LIMIT THE AVAILABILITY OF OTHER REMEDIES TO A CLAIMANT.~~

20 ~~4.5-503.~~

21 ~~(A) THE DIRECTOR SHALL:~~

22 ~~(1) ESTABLISH THE HOME BUILDER GUARANTY FUND;~~

23 ~~(2) MAINTAIN THE GUARANTY FUND AT A LEVEL OF AT LEAST \$500,000;~~
24 ~~AND~~

25 ~~(3) ADMINISTER THE GUARANTY FUND ACCORDING TO THIS SUBTITLE.~~

26 ~~(B) (1) THE DIRECTOR SHALL DEPOSIT ALL MONEY COLLECTED TO THE~~
27 ~~CREDIT OF THE GUARANTY FUND WITH THE STATE TREASURER FOR PLACEMENT IN~~
28 ~~A SEGREGATED ACCOUNT.~~

29 ~~(2) (1) THE STATE TREASURER SHALL INVEST THE ASSETS OF THE~~
30 ~~GUARANTY FUND IN THE SAME MANNER AS THE STATE RETIREMENT AND PENSION~~
31 ~~FUNDS ARE INVESTED.~~

1 (H) ~~ALL INVESTMENT PROCEEDS SHALL BE CREDITED TO THE~~
2 ~~GUARANTY FUND.~~

3 ~~4.5-504.~~

4 (A) ~~THE DIRECTOR MAY NOT ISSUE AN INITIAL HOME BUILDER~~
5 ~~REGISTRATION UNTIL THE APPLICANT PAYS THE DIRECTOR A FEE OF \$200 TO BE~~
6 ~~CREDITED TO THE GUARANTY FUND.~~

7 (B) ~~IF THE DIRECTOR FINDS THAT, BECAUSE OF PENDING CLAIMS, THE~~
8 ~~AMOUNT OF THE GUARANTY FUND MAY FALL BELOW \$500,000, THE DIRECTOR SHALL~~
9 ~~ASSESS EACH REGISTRANT A FEE OF \$100 AS NECESSARY TO REPLENISH THE~~
10 ~~GUARANTY FUND TO A MINIMUM OF \$500,000.~~

11 (C) ~~IF A REGISTRANT FAILS TO PAY AN ASSESSMENT WITHIN 60 DAYS AFTER~~
12 ~~RECEIPT OF NOTICE OF THE ASSESSMENT, THE REGISTRATION OF THE REGISTRANT~~
13 ~~IS IMMEDIATELY SUSPENDED UNTIL THE ASSESSMENT IS RECEIVED BY THE~~
14 ~~DIRECTOR.~~

15 ~~4.5-505.~~

16 (A) ~~SUBJECT TO THIS SUBTITLE, AN OWNER MAY RECOVER AN AWARD FROM~~
17 ~~THE GUARANTY FUND FOR AN ACTUAL LOSS AS EVIDENCED BY:~~

18 (1) ~~THE FINAL JUDGMENT OF A COURT OF COMPETENT JURISDICTION;~~

19 (2) ~~A FINAL ADMINISTRATIVE ORDER;~~

20 (3) ~~A SETTLEMENT OR CONCILIATION AGREEMENT;~~

21 (4) ~~AN ARBITRATION AWARD; OR~~

22 (5) ~~A DECISION BY THE DIRECTOR, IF SERVICE ON THE REGISTRANT~~
23 ~~CANNOT BE EFFECTED AFTER REASONABLE EFFORT.~~

24 (B) ~~NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE~~
25 ~~DIRECTOR MAY NOT AWARD FROM THE GUARANTY FUND:~~

26 (1) ~~MORE THAN \$30,000 TO ONE CLAIMANT FOR ACTS OR OMISSIONS OF~~
27 ~~ONE REGISTRANT;~~

28 (2) ~~MORE THAN \$300,000 TO ALL CLAIMANTS FOR ACTS OR OMISSIONS OF~~
29 ~~ONE REGISTRANT, UNLESS, AFTER THE DIRECTOR HAS PAID OUT \$300,000 ON~~
30 ~~ACCOUNT OF ACTS OR OMISSIONS OF THE REGISTRANT, THE REGISTRANT~~
31 ~~REIMBURSES \$300,000 TO THE GUARANTY FUND;~~

32 (3) ~~AN AMOUNT FOR ATTORNEY FEES, CONSEQUENTIAL DAMAGES,~~
33 ~~COURT COSTS, INTEREST, PERSONAL INJURY DAMAGES, OR PUNITIVE DAMAGES; OR~~

34 (4) ~~AN AMOUNT AS A RESULT OF A DEFAULT JUDGMENT IN COURT.~~

1 ~~(C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, A CLAIM~~
2 ~~AGAINST THE GUARANTY FUND MAY NOT BE MADE BY:~~

3 ~~(1) A SPOUSE OR OTHER IMMEDIATE RELATIVE OF THE REGISTRANT~~
4 ~~THAT IS THE SUBJECT OF THE CLAIM;~~

5 ~~(2) AN EMPLOYEE, OFFICER, OR PARTNER OF THE REGISTRANT THAT IS~~
6 ~~THE SUBJECT OF THE CLAIM; OR~~

7 ~~(3) AN IMMEDIATE RELATIVE OF AN EMPLOYEE, OFFICER, OR PARTNER~~
8 ~~OF THE REGISTRANT THAT IS THE SUBJECT OF THE CLAIM.~~

9 ~~(D) A CLAIMANT MAY PLACE A CLAIM AGAINST THE GUARANTY FUND WITHIN~~
10 ~~1 YEAR ONLY AFTER:~~

11 ~~(1) THE CLAIMANT:~~

12 ~~(I) OBTAINED A FINAL JUDGMENT OF A COURT OF COMPETENT~~
13 ~~JURISDICTION;~~

14 ~~(II) RECEIVED AN ARBITRATION AWARD;~~

15 ~~(III) ENTERED INTO A SETTLEMENT OR CONCILIATION~~
16 ~~AGREEMENT; OR~~

17 ~~(IV) FAILED TO ACHIEVE SERVICE OF PROCESS ON THE~~
18 ~~REGISTRANT AFTER REASONABLE EFFORT; OR~~

19 ~~(2) THE ISSUANCE OF A FINAL ADMINISTRATIVE ORDER.~~

20 ~~4.5-506.~~

21 ~~TO INITIATE A RECOVERY FROM THE GUARANTY FUND, A CLAIMANT SHALL~~
22 ~~SUBMIT TO THE DIRECTOR, UNDER OATH, A CLAIM THAT INCLUDES:~~

23 ~~(1) THE AMOUNT CLAIMED BASED ON ACTUAL LOSSES;~~

24 ~~(2) EVIDENCE OF COMPLIANCE WITH § 4.5-505(D) OF THIS SUBTITLE;~~
25 ~~AND~~

26 ~~(3) ANY OTHER INFORMATION REQUIRED BY THE DIRECTOR THROUGH~~
27 ~~REGULATION.~~

28 ~~4.5-507.~~

29 ~~(A) ON RECEIPT OF A CLAIM, THE DIRECTOR SHALL:~~

30 ~~(1) SEND A NOTICE OF THE CLAIM TO THE REGISTRANT THAT IS THE~~
31 ~~SUBJECT OF THE CLAIM AT THE LAST KNOWN BUSINESS ADDRESS OF THE~~
32 ~~REGISTRANT; AND~~

1 (2) ~~REQUIRE THE REGISTRANT TO RESPOND TO THE CLAIM IN WRITING~~
2 ~~WITHIN 10 DAYS OF RECEIPT OF THE NOTICE REQUIRED UNDER ITEM (1) OF THIS~~
3 ~~SUBSECTION.~~

4 (B) (1) ~~IF A CLAIMANT SUBMITS A FINAL JUDGMENT, A FINAL~~
5 ~~ADMINISTRATIVE ORDER, AN ARBITRATION AWARD, OR A SETTLEMENT OR~~
6 ~~CONCILIATION AGREEMENT, THE DIRECTOR SHALL HOLD A HEARING IF:~~

7 (1) ~~A HEARING IS REQUESTED BY EITHER PARTY; OR~~

8 (II) ~~THE DIRECTOR DECIDES THAT A HEARING IS NECESSARY.~~

9 (2) ~~IF A CLAIMANT SUBMITS A FINAL JUDGMENT, A FINAL~~
10 ~~ADMINISTRATIVE ORDER, AN ARBITRATION AWARD, OR A SETTLEMENT OR~~
11 ~~CONCILIATION AGREEMENT, THE DIRECTOR SHALL DETERMINE:~~

12 (I) ~~THE AMOUNT OF THE ACTUAL LOSS; AND~~

13 (II) ~~WHETHER THE CLAIM HAS BEEN PAID.~~

14 (C) (1) ~~IF A CLAIM IS BASED ON THE CLAIMANT'S INABILITY TO ACHIEVE~~
15 ~~SERVICE OF PROCESS ON THE REGISTRANT, THE DIRECTOR SHALL HOLD A HEARING.~~

16 (2) ~~IF A CLAIM IS BASED ON THE CLAIMANT'S INABILITY TO ACHIEVE~~
17 ~~SERVICE OF PROCESS ON THE REGISTRANT, THE DIRECTOR MUST DETERMINE:~~

18 (I) ~~WHETHER THE CLAIMANT'S EFFORT TO SERVE PROCESS ON~~
19 ~~THE REGISTRANT WAS REASONABLE;~~

20 (II) ~~WHETHER THE CLAIMANT SUFFERED AN ACTUAL LOSS;~~

21 (III) ~~THE AMOUNT OF THE ACTUAL LOSS; AND~~

22 (IV) ~~WHETHER THE CLAIM HAS BEEN PAID.~~

23 (D) ~~IN COLLECTING EVIDENCE REGARDING A CLAIM AGAINST THE GUARANTY~~
24 ~~FUND, THE DIRECTOR SHALL PROVIDE NOTICE AND HOLD ALL HEARINGS~~
25 ~~ACCORDING TO TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.~~

26 (E) ~~A CLAIMANT SHALL BEAR THE BURDEN OF PROOF AT A HEARING UNDER~~
27 ~~THIS SECTION TO ESTABLISH THE REQUIRED ELEMENTS OF A SUCCESSFUL CLAIM.~~

28 (F) ~~IN RESPONSE TO EACH CLAIM FILED, WHEN THE DECISION OF THE~~
29 ~~DIRECTOR IS FINAL IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE~~
30 ~~GOVERNMENT ARTICLE AND ALL RIGHTS OF APPEAL ARE EXHAUSTED, THE~~
31 ~~DIRECTOR SHALL ISSUE A FINAL ORDER THAT:~~

32 (1) ~~GRANTS AN AWARD ON THE CLAIM IN WHOLE OR IN PART; OR~~

33 (2) ~~DENIES AN AWARD ON THE CLAIM.~~

1 ~~4.5-508.~~

2 ~~(A) IF AWARDS AGAINST A REGISTRANT EXCEED \$300,000 LESS THE AMOUNT~~
3 ~~OF UNREIMBURSED CLAIM PAYMENTS PREVIOUSLY MADE FOR THE REGISTRANT,~~
4 ~~THE DIRECTOR MAY PAY THE AWARDS PROPORTIONATELY.~~

5 ~~(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE DIRECTOR SHALL PAY~~
6 ~~AWARDS FROM THE GUARANTY FUND IN THE ORDER THAT THE UNDERLYING~~
7 ~~CLAIMS WERE FILED.~~

8 ~~(C) IF THE ASSETS OF THE GUARANTY FUND ARE INSUFFICIENT TO PAY AN~~
9 ~~AWARD WHOLLY OR PARTLY, THE DIRECTOR SHALL PAY THE UNPAID AWARD:~~

10 ~~(1) WHEN SUFFICIENT FUNDS ARE DEPOSITED IN THE GUARANTY~~
11 ~~FUND; AND~~

12 ~~(2) IN THE ORDER THAT THE UNDERLYING CLAIMS WERE FILED.~~

13 ~~4.5-509.~~

14 ~~(A) (1) AFTER THE DIRECTOR PAYS A CLAIM FROM THE GUARANTY FUND:~~

15 ~~(I) THE DIRECTOR IS SUBROGATED TO ALL RIGHTS OF THE~~
16 ~~CLAIMANT;~~

17 ~~(II) THE CLAIMANT SHALL ASSIGN TO THE DIRECTOR ALL RIGHTS~~
18 ~~OF THE CLAIMANT IN THE CLAIM; AND~~

19 ~~(III) THE DIRECTOR HAS A RIGHT TO REIMBURSEMENT OF THE~~
20 ~~GUARANTY FUND AGAINST THE REGISTRANT THAT IS RESPONSIBLE FOR THE CLAIM~~
21 ~~FOR:~~

22 ~~1. THE AMOUNT PAID FROM THE GUARANTY FUND; AND~~

23 ~~2. INTEREST ACCRUED ON THE AMOUNT PAID FROM THE~~
24 ~~GUARANTY FUND, AS PROVIDED UNDER § 11-107(A) OF THE COURTS ARTICLE.~~

25 ~~(2) ALL MONEY THAT THE DIRECTOR RECOVERS ON A CLAIM SHALL BE~~
26 ~~DEPOSITED IN THE GUARANTY FUND.~~

27 ~~(B) (1) THE DIRECTOR SHALL PROVIDE WRITTEN NOTICE TO A REGISTRANT~~
28 ~~FROM WHICH REIMBURSEMENT OF THE GUARANTY FUND IS DUE.~~

29 ~~(2) ANY TIME AFTER 30 DAYS AFTER RECEIPT OF THE NOTICE~~
30 ~~REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, IF THE REGISTRANT THAT~~
31 ~~IS RESPONSIBLE FOR THE UNDERLYING CLAIM HAS NOT FULLY REIMBURSED THE~~
32 ~~GUARANTY FUND, THE DIRECTOR MAY SUE THE REGISTRANT IN A COURT OF~~
33 ~~COMPETENT JURISDICTION FOR THE BALANCE DUE.~~

34 ~~(C) THE DIRECTOR IS ENTITLED TO A JUDGMENT FOR A BALANCE DUE IF THE~~
35 ~~DIRECTOR PROVES THAT:~~

1 (1) ~~AN AWARD WAS PAID FROM THE GUARANTY FUND ON A CLAIM~~
2 ~~AGAINST THE REGISTRANT;~~

3 (2) ~~THE REGISTRANT HAS NOT FULLY REIMBURSED THE GUARANTY~~
4 ~~FUND;~~

5 (3) ~~THE REGISTRANT RECEIVED THE NOTICE REQUIRED UNDER~~
6 ~~SUBSECTION (B) OF THIS SECTION AND WAS PROVIDED AN OPPORTUNITY TO~~
7 ~~PARTICIPATE IN A HEARING ON THE CLAIM;~~

8 (4) ~~THE DIRECTOR PROPERLY GRANTED AN AWARD ON A CLAIM~~
9 ~~AGAINST THE REGISTRANT THROUGH A FINAL ORDER, ACCORDING TO TITLE 10,~~
10 ~~SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE; AND~~

11 (5) ~~AN APPEAL IS NOT PENDING.~~

12 (D) ~~THE DIRECTOR MAY REFER TO THE CENTRAL COLLECTION UNIT FOR~~
13 ~~COLLECTION UNDER ARTICLE 19, §§ 43 THROUGH 46 OF THE CODE A DEBT OWED TO~~
14 ~~THE DIRECTOR BY A REGISTRANT THAT IS AT LEAST 1 YEAR BEHIND IN~~
15 ~~REIMBURSEMENT PAYMENTS TO THE GUARANTY FUND.~~

16 (E) ~~FOR THE PURPOSE OF EXCEPTING TO A DISCHARGE OF A REGISTRANT~~
17 ~~UNDER FEDERAL BANKRUPTCY LAW, THE DIRECTOR IS A CREDITOR OF THE~~
18 ~~REGISTRANT FOR ALL AMOUNTS PAID FROM THE GUARANTY FUND BECAUSE OF~~
19 ~~CLAIMS AGAINST THE REGISTRANT.~~

20 (F) (1) ~~IF A REGISTRANT LIABLE FOR REIMBURSING THE GUARANTY FUND~~
21 ~~UNDER THIS SECTION RECEIVES A DEMAND FOR REIMBURSEMENT AND FAILS TO~~
22 ~~REIMBURSE THE GUARANTY FUND, THE REIMBURSEMENT AMOUNT AND ANY~~
23 ~~ACCRUED INTEREST OR COSTS CONSTITUTE A LIEN IN FAVOR OF THE STATE ON ANY~~
24 ~~REAL PROPERTY OF THE REGISTRANT IF THE LIEN IS RECORDED AND INDEXED AS~~
25 ~~PROVIDED IN THIS SUBSECTION.~~

26 (2) ~~THE LIEN IN FAVOR OF THE STATE CREATED UNDER THIS~~
27 ~~SUBSECTION MAY NOT ATTACH TO SPECIFIC PROPERTY UNTIL THE STATE CENTRAL~~
28 ~~COLLECTION UNIT RECORDS WRITTEN NOTICE OF THE LIEN IN THE OFFICE OF THE~~
29 ~~CLERK OF THE COURT FOR THE COUNTY IN WHICH THE PROPERTY SUBJECT TO THE~~
30 ~~LIEN OR ANY PART OF THE PROPERTY IS LOCATED.~~

31 (3) ~~THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION~~
32 ~~SHALL CONTAIN:~~

33 (I) ~~THE NAME AND ADDRESS OF THE REGISTRANT AGAINST~~
34 ~~WHOSE PROPERTY THE LIEN EXISTS;~~

35 (II) ~~THE AMOUNT OF THE LIEN;~~

36 (III) ~~A DESCRIPTION OF OR REFERENCE TO THE PROPERTY SUBJECT~~
37 ~~TO THE LIEN; AND~~

1 (B) A PERSON THAT VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
 2 AND, ON FIRST CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 AND ON
 3 SECOND OR SUBSEQUENT CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING
 4 \$5,000.

5 (C) THE FOLLOWING LENDERS ARE EXEMPT FROM THE REQUIREMENTS
 6 RELATING TO REGISTRATION UNDER THIS TITLE WHEN THE LENDER HIRES A
 7 SECOND REGISTERED HOME BUILDER WHO WOULD UNDERTAKE TO COMPLETE A
 8 FIRST HOME BUILDER'S UNFINISHED PROJECT PURSUANT TO A DEFAULT IN
 9 OBLIGATIONS OF THE FIRST HOME BUILDER TO THE LENDER:

10 (1) A MORTGAGE LENDER AS DEFINED IN § 11-501(J)(1)(II) OF THE
 11 FINANCIAL INSTITUTIONS ARTICLE THAT IS A LICENSEE UNDER TITLE 11, SUBTITLE
 12 5 OF THE FINANCIAL INSTITUTIONS ARTICLE;

13 (2) A BANK, TRUST COMPANY, SAVINGS BANK, SAVINGS AND LOAN
 14 ASSOCIATION, OR CREDIT UNION INCORPORATED OR CHARTERED UNDER THE LAWS
 15 OF THIS STATE OR THE UNITED STATES THAT MAINTAINS ITS PRINCIPAL OFFICE IN
 16 THIS STATE;

17 (3) AN OUT-OF-STATE BANK AS DEFINED IN § 5-1001 OF THE FINANCIAL
 18 INSTITUTIONS ARTICLE THAT HAS A BRANCH IN THIS STATE THAT ACCEPTS
 19 DEPOSITS;

20 (4) AN INSTITUTION INCORPORATED UNDER FEDERAL LAW AS A
 21 SAVINGS ASSOCIATION OR SAVINGS BANK THAT DOES NOT MAINTAIN ITS PRINCIPAL
 22 OFFICE IN THIS STATE BUT HAS A BRANCH THAT ACCEPTS DEPOSITS IN THIS STATE;
 23 AND

24 (5) A SUBSIDIARY OR AFFILIATE OF AN INSTITUTION DESCRIBED IN
 25 PARAGRAPH (2), (3), OR (4) OF THIS SUBSECTION THAT IS SUBJECT TO AUDIT OR
 26 EXAMINATION BY A REGULATORY BODY OR AGENCY OF THIS STATE, THE UNITED
 27 STATES, OR THE STATE WHERE THE SUBSIDIARY OR AFFILIATE MAINTAINS ITS
 28 PRINCIPAL OFFICE.

29 (D) AN EXEMPT LENDER IS SUBJECT ONLY TO §§ 4.5-202(C), 4.5-401, 4.5-503,
 30 4.5-601, 4.5-602, AND 4.5-603 OF THIS TITLE.

31 ~~4.5-602.~~ 4.5-502.

32 (A) SUBJECT TO THE NOTICE AND HEARING PROVISIONS OF TITLE 10,
 33 SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, THE ~~DIRECTOR~~ DIVISION MAY
 34 BRING A CIVIL ADMINISTRATIVE ACTION AGAINST A PERSON THAT VIOLATES §
 35 ~~4.5-601(A)~~ § 4.5-501(A) OF THIS SUBTITLE.

36 (B) AFTER A HEARING, IF THE DIRECTOR FINDS THAT THE PERSON HAS
 37 VIOLATED ~~§ 4.5-601(A)~~ § 4.5-501(A) OF THIS SUBTITLE, THE DIRECTOR MAY:

38 (1) ORDER THE PERSON TO CEASE AND DESIST FROM THE UNLAWFUL
 39 PRACTICE; AND

1 (2) IMPOSE A CIVIL PENALTY OF NOT MORE THAN \$1,000 FOR EACH DAY
2 OF UNLAWFUL PRACTICE.

3 (C) ANY PARTY AGGRIEVED BY A DECISION AND ORDER OF THE DIRECTOR
4 UNDER THIS SECTION MAY MAKE AN APPEAL AS PROVIDED UNDER §§ 10-222 AND
5 10-223 OF THE STATE GOVERNMENT ARTICLE.

6 ~~4.5-603.~~ 4.5-503.

7 A PERSON MAY NOT ADVERTISE IN ANY WAY THAT THE PERSON IS REGISTERED
8 UNDER THIS TITLE UNLESS THE ADVERTISEMENT STATES THE HOME BUILDER
9 REGISTRATION NUMBER OF THE PERSON IN ONE OF THE FOLLOWING FORMS:

10 "MARYLAND HOME BUILDER REGISTRATION NO. ____"; OR

11 "MHBR NO. ____".

12 ~~4.5-604.~~ 4.5-504.

13 (A) THIS SECTION ONLY APPLIES IF THERE IS NO GREATER CRIMINAL
14 PENALTY PROVIDED UNDER THIS TITLE OR OTHER APPLICABLE LAW.

15 (B) A PERSON WHO ENGAGES IN REPEATED VIOLATIONS OF THIS TITLE IS
16 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
17 EXCEEDING \$2,500.

18 SUBTITLE ~~7~~ 6. MISCELLANEOUS PROVISIONS.

19 ~~4.5-701.~~ 4.5-601.

20 ~~(A) A REGISTRANT MUST PROVIDE A PROSPECTIVE BUYER WITH THE
21 CONSUMER INFORMATION PAMPHLET PUBLISHED BY THE DIRECTOR UNDER §
22 4.5-205(A) OF THIS TITLE BEFORE ENTERING INTO A PURCHASE CONTRACT.~~

23 ~~(B) A PROSPECTIVE BUYER SHALL ACKNOWLEDGE IN WRITING RECEIPT OF
24 THE CONSUMER INFORMATION PAMPHLET BEFORE ENTERING INTO A PURCHASE
25 CONTRACT.~~

26 ~~4.5-702.~~

27 (A) EXCEPT FOR A BUILDING PERMIT FOR CONSTRUCTION TO BE PERFORMED
28 DIRECTLY BY A LANDOWNER SOLELY FOR THE LANDOWNER'S OWN USE, THE
29 BUILDING AND PERMITS DEPARTMENT OF A COUNTY MAY NOT ISSUE A PERMIT FOR
30 HOME BUILDING UNLESS THE PERMIT INCLUDES THE HOME BUILDER
31 REGISTRATION NUMBER OF A REGISTRANT.

32 (B) BEFORE ISSUING A PERMIT FOR HOME BUILDING TO A LANDOWNER, THE
33 BUILDING AND PERMITS DEPARTMENT OF A COUNTY SHALL OBTAIN THE
34 SIGNATURE OF THE LANDOWNER AFFIRMING THAT THE PERMIT IS BEING ISSUED

1 SOLELY FOR THE PURPOSE OF THE LANDOWNER PERFORMING WORK ON THE
2 LANDOWNER'S OWN PROPERTY.

3 (C) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO RELIEVE A
4 REGISTRANT FROM THE OBLIGATION TO OBTAIN ALL OTHER PERMITS, LICENSES,
5 AND OTHER AUTHORIZATIONS FOR THE CONSTRUCTION OF A NEW HOME.

6 ~~4.5-703.~~ 4.5-602.

7 (A) IN THIS SECTION, "BUILDING CODE" INCLUDES A CODE PROVISION
8 CONCERNING MECHANICAL, ELECTRICAL, FIRE, PLUMBING, ENERGY, HEATING,
9 VENTILATION, OR AIR-CONDITIONING MATTERS.

10 (B) A COUNTY OR MUNICIPAL CORPORATION SHALL NOTIFY THE DIRECTOR
11 OF EACH REGISTRANT WHO FAILS TO CORRECT A VIOLATION OF THE APPLICABLE
12 LOCAL OR STATE BUILDING CODE WITHIN A REASONABLE TIME AFTER THE
13 REGISTRANT RECEIVES NOTICE OF THE VIOLATION.

14 ~~4.5-704.~~ 4.5-603.

15 A REGISTRANT SHALL INCLUDE IN ANY CONTRACT FOR THE INITIAL SALE OF A
16 NEW HOME THE INFORMATION REQUIRED UNDER § 14-117(J) OF THE REAL
17 PROPERTY ARTICLE.

18 ~~4.5-705.~~ 4.5-604.

19 A HOME BUILDER WHO INSTALLS AN INDUSTRIALIZED BUILDING INTENDED
20 FOR RESIDENTIAL USE OR A MOBILE HOME IS RESPONSIBLE TO THE OWNER FOR
21 CORRECTING ANY DEFECTS IN ANY COMPONENT INCORPORATED INTO THE NEW
22 HOME EXCEPT FOR THOSE INDUSTRIALIZED BUILDINGS OR MOBILE HOMES THAT
23 ARE THE RESPONSIBILITY OF THE MANUFACTURER OF THE INDUSTRIALIZED
24 BUILDING AND MOBILE HOME PURSUANT TO ARTICLE 83B, TITLE 6, SUBTITLE 2 OF
25 THE CODE.

26 ~~4.5-706.~~ 4.5-605.

27 A CONTRACT FOR THE PERFORMANCE OF ANY ACT FOR WHICH A HOME
28 BUILDER REGISTRATION NUMBER IS REQUIRED IS NOT ENFORCEABLE UNLESS THE
29 HOME BUILDER WAS REGISTERED AT THE TIME THAT THE CONTRACT WAS SIGNED
30 BY THE OWNER.

31 ~~4.5-707.~~

32 ~~(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IN ANY RESOLUTION OF A~~
33 ~~COMPLAINT OR CLAIM AGAINST A REGISTRANT, THE PERFORMANCE STANDARDS~~
34 ~~AND GUIDELINES APPLICABLE WILL BE THOSE REFERENCED IN THE UNDERLYING~~
35 ~~PURCHASE CONTRACT, AS REQUIRED UNDER § 14-117(J) OF THE REAL PROPERTY~~
36 ~~ARTICLE.~~

37 ~~(B) A REGISTRANT SHALL COMPLY WITH:~~

1 (J) (1) THIS SUBSECTION APPLIES TO BALTIMORE CITY AND ALL OTHER
2 COUNTIES EXCEPT MONTGOMERY COUNTY.

3 (2) A CONTRACT FOR THE INITIAL SALE OF A NEW HOME, AS DEFINED IN
4 THIS SUBTITLE, SHALL INCLUDE THE FOLLOWING:

5 (I) THE BUILDER REGISTRATION NUMBER OF THE SELLER OF THE
6 NEW HOME;

7 (II) A PROVISION STATING THAT THE NEW HOME SHALL BE
8 CONSTRUCTED IN ACCORDANCE WITH ALL APPLICABLE BUILDING CODES IN EFFECT
9 AT THE TIME OF THE CONSTRUCTION OF THE NEW HOME;

10 (III) A PROVISION REFERENCING ALL PERFORMANCE STANDARDS
11 OR GUIDELINES:

12 1. THAT THE SELLER SHALL COMPLY WITH IN THE
13 CONSTRUCTION OF THE NEW HOME; AND

14 2. THAT SHALL PREVAIL IN THE PERFORMANCE OF THE
15 CONTRACT AND ANY ARBITRATION OR ADJUDICATION OF A CLAIM ARISING FROM
16 THE CONTRACT; AND

17 (IV) A PROVISION DETAILING THE PURCHASER'S RIGHT TO RECEIVE
18 A CONSUMER INFORMATION PAMPHLET AS PROVIDED UNDER THE HOME BUILDER
19 REGISTRATION ACT.

20 (3) THE PERFORMANCE STANDARDS OR GUIDELINES DESCRIBED IN
21 SUBSECTION (J)(2) PARAGRAPH (2) OF THIS SECTION SUBSECTION SHALL BE:

22 (I) THE PERFORMANCE STANDARDS OR GUIDELINES ADOPTED AT
23 THE TIME OF THE CONTRACT BY THE NATIONAL ASSOCIATION OF HOME BUILDERS;

24 (II) ANY PERFORMANCE STANDARDS OR GUIDELINES ADOPTED BY
25 THE HOME BUILDER AND INCORPORATED INTO THE CONTRACT THAT ARE EQUAL TO
26 OR MORE STRINGENT THAN THE PERFORMANCE STANDARDS ADOPTED AT THE TIME
27 OF THE CONTRACT BY THE NATIONAL ASSOCIATION OF HOME BUILDERS; OR

28 (III) ANY PERFORMANCE STANDARDS OR GUIDELINES ADOPTED AT
29 THE TIME OF THE CONTRACT BY A COUNTY OR MUNICIPAL CORPORATION THAT ARE
30 EQUAL TO OR MORE STRINGENT THAN THE PERFORMANCE STANDARDS OR
31 GUIDELINES ADOPTED AT THE TIME OF THE CONTRACT BY THE NATIONAL
32 ASSOCIATION OF HOME BUILDERS.

33 (4) THE INFORMATION REQUIRED BY PARAGRAPH (2) OF THIS
34 SUBSECTION SHALL BE PRINTED IN CONSPICUOUS TYPE.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
36 construed only prospectively and may not be applied or interpreted to have any effect
37 on or application to any act or omission of a home builder arising before the effective

1 date of this Act; that it shall apply only to contracts entered into on or after January
2 1, 2001; and that home builders shall be registered beginning on or after January 1,
3 2001.

4 ~~SECTION 3. AND BE IT FURTHER ENACTED, That Title 4.5 of the Business~~
5 ~~Regulation Article as enacted by this Act shall supersede any existing laws of any~~
6 ~~county or municipal corporation in the State related to the registration or licensure of~~
7 ~~home builders with the exception of a county's laws which exempts home builders~~
8 ~~from the requirements of that title under § 4.5 708 of the Business Regulation~~
9 ~~Article.~~

10 SECTION 4. 3. AND BE IT FURTHER ENACTED, That the Consumer
11 Protection Division of the Office of the Attorney General shall study the feasibility of
12 a new home builder guaranty fund. The Consumer Protection Division shall report its
13 findings and recommendations to the Senate Finance Committee and the House
14 Economic Matters Committee, in accordance with § 2-1246 of the State Government
15 Article, on or before October 1, 2002 2003.

16 ~~SECTION 5. 4. AND BE IT FURTHER ENACTED, That on or before~~
17 ~~November 1, 2001 and annually thereafter, the Consumer Protection Division of the~~
18 ~~Office of the Attorney General shall submit an annual report of its activities~~
19 ~~regarding home builders and provide copies of the report to the Governor, and, subject~~
20 ~~to § 2-1246 of the State Government Article, the General Assembly.~~

21 SECTION 4- 6. 5. AND BE IT FURTHER ENACTED, That this Act shall take
22 effect October 1, 2000 January 1, 2001. It shall remain effective for a period of 10
23 years and, at the end of September 30, 2010, with no further action required by the
24 General Assembly, this Act shall be abrogated and of no further force and effect.