

SENATE BILL 285

C2

6lr0036

By: **Chair, Education, Health, and Environmental Affairs Committee (By Request
– Departmental – Labor, Licensing and Regulation)**

Introduced and read first time: January 22, 2016

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Home Improvement Commission – Subcontractor Licensing**
3 **Requirement – Repeal**

4 FOR the purpose of repealing the requirement that a person must have a subcontractor
5 license or a contractor license issued by the Maryland Home Improvement
6 Commission whenever the person acts as a home improvement subcontractor in the
7 State; repealing the application fee, renewal fee, and examination requirement for a
8 subcontractor license; altering the contents of the license application form that must
9 be submitted to the Commission; repealing the authority of the Commission to take
10 disciplinary action against a home improvement subcontractor; altering the
11 circumstances under which payment or compensation may be made for performing
12 or selling a home improvement; repealing the prohibition on a person acting or
13 offering to act as a home improvement subcontractor unless the person has a certain
14 license; altering the contents of a certain notice that must be included in a home
15 improvement contract; making stylistic and conforming changes; altering and
16 repealing defined terms; and generally relating to licensing of subcontractors by the
17 Maryland Home Improvement Commission.

18 BY repealing and reenacting, with amendments,

19 Article – Business Regulation

20 Section 8–101(i), 8–301, 8–302(a), 8–303(a)(2) and (b), 8–306(c) and (d), 8–307,
21 8–308(d)(2), 8–308.1(b) and (e)(3), 8–311(a) and (b), 8–315(a), 8–317,
22 8–501(c)(1), 8–601, and 8–614

23 Annotated Code of Maryland

24 (2015 Replacement Volume and 2015 Supplement)

25 BY repealing

26 Article – Business Regulation

27 Section 8–101(p)

28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2015 Replacement Volume and 2015 Supplement)

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

Article – Business Regulation

8–101.

(i) (1) “License” means, except where it refers to a license other than one issued under this title, a license issued by the Commission.

(2) “License” includes:

(i) a contractor license; **AND**

(ii) [a subcontractor license; and

(iii)] a salesperson license.

[(p) “Subcontractor license” means a license issued by the Commission to act as a subcontractor.]

8–301.

(a) Except as otherwise provided in this title, a person must have a contractor license whenever the person acts as a contractor in the State.

(b) [Except as otherwise provided in this title, a person must have a subcontractor license or contractor license whenever the person acts as a subcontractor in the State.

(c)] Except as otherwise provided in this title, a person must have a salesperson license or contractor license whenever the person sells a home improvement in the State.

[(d)] (C) This section does not apply to:

(1) an individual who works for a contractor [or subcontractor] for a salary or wages but who is not a salesperson for the contractor;

(2) a clerical employee, retail clerk, or other employee of a licensed contractor who is not a salesperson, as to a transaction on the premises of the licensed contractor;

(3) a solicitor for a contractor who calls an owner by telephone only;

1 (4) an architect, electrician, plumber, heating, ventilation,
2 air-conditioning, or refrigeration contractor, or other person who:

3 (i) is required by State or local law to meet standards of competency
4 or experience before engaging in an occupation or profession;

5 (ii) currently is licensed in that occupation or profession under State
6 or local law; and

7 (iii) is:

8 1. acting only within the scope of that occupation or
9 profession; or

10 2. installing a central heating or air-conditioning system;

11 (5) a security systems technician licensed under Title 18 of the Business
12 Occupations and Professions Article;

13 (6) a marine contractor licensed under Title 17, Subtitle 3 of the
14 Environment Article; or

15 (7) a person who is selling a home improvement to be performed by a
16 person described in item (4) of this subsection.

17 8-302.

18 (a) An applicant for a contractor's[, subcontractor's,] or salesperson's license must
19 pass the examination prior to submitting an application for a license.

20 8-303.

21 (a) (2) The application fee:

22 (i) for a contractor license is \$250 for each place of business of the
23 contractor; **OR**

24 (ii) [for a subcontractor license is \$150; or

25 (iii)] for a salesperson license is \$100.

26 (b) In addition to any other information required on an application form, the form
27 shall require:

28 (1) for an individual applicant, the name and address of the applicant;

29 (2) for a corporate applicant, the name and address of each officer;

1 (3) for a partnership applicant, the name and address of each partner;

2 (4) for a joint venture applicant, the name and address of each party to the
3 joint venture;

4 (5) if the applicant acts as a contractor [or subcontractor] through a
5 corporation or limited partnership, the name and address of the resident agent of the
6 corporation or limited partnership in the State;

7 (6) if the applicant is applying for a contractor license [or subcontractor
8 license], a complete description of the nature of the contracting business of the applicant;

9 (7) if the applicant is applying for a salesperson license, a complete
10 description of the duties of the applicant;

11 (8) a record of the applicant's experience in the field of home improvement
12 or other construction work, including dates when and addresses where the applicant has
13 resided and done business;

14 (9) if the applicant provides lead paint abatement services, the Department
15 of the Environment lead paint abatement accreditation number and accreditation
16 expiration date;

17 (10) whether the applicant has ever held a professional or vocational license
18 in this or any other state; and

19 (11) whether the applicant has had a professional or vocational license
20 denied, suspended, or revoked.

21 8-306.

22 (c) Except as otherwise provided in subsection (d) of this section, the Commission
23 may not issue a license to an applicant for a contractor license[, subcontractor license,] or
24 salesperson license who has been convicted of violating § 8-601 of this title.

25 (d) The Commission may issue a contractor license[, subcontractor license,] or
26 salesperson license to an applicant who has been convicted of violating § 8-601 of this title
27 if:

28 (1) the Commission determines that the applicant has settled all
29 outstanding obligations; and

30 (2) 1 year has passed since the date of conviction.

31 8-307.

1 (a) A contractor license authorizes the licensee to act as a contractor or
2 subcontractor and to sell a home improvement.

3 (b) [A subcontractor license authorizes the licensee to act as a subcontractor.

4 (c)] A salesperson license authorizes the licensee to sell a home improvement.

5 [(d)] (C) A license issued under this subtitle does not authorize the licensee to
6 engage in a business or provide a service that may be engaged in or provided only by a
7 person licensed under other State or local law.

8 8–308.

9 (d) (2) The renewal fee:

10 (i) for a contractor license is \$250 for each place of business of the
11 contractor; **OR**

12 (ii) [for a subcontractor license is \$150; or

13 (iii)] for a salesperson license is \$100.

14 8–308.1.

15 (b) (1) The holder of a contractor license that is on inactive status may not act
16 as a contractor in the State.

17 (2) [The holder of a subcontractor license that is on inactive status may not
18 act as a subcontractor in the State.

19 (3)] The holder of a salesperson license that is on inactive status may not
20 sell a home improvement in the State.

21 (e) (3) Notwithstanding § 8–308 of this subtitle, a licensee whose license is on
22 inactive status shall pay to the Commission a renewal fee of:

23 (i) \$112.50 for a contractor license; **OR**

24 (ii) [\$62.50 for a subcontractor license; or

25 (iii)] \$37.50 for a salesperson license.

26 8–311.

1 (a) Subject to the hearing provisions of § 8–312 of this subtitle, the Commission
2 may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if
3 the applicant or licensee or the management personnel of the applicant or licensee:

4 (1) fraudulently or deceptively obtains or attempts to obtain a license for
5 the applicant or licensee or for another person;

6 (2) fraudulently or deceptively uses a license;

7 (3) fails to give the Commission information required by this subtitle about
8 an application for a license;

9 (4) fails to pass an examination required by this subtitle;

10 (5) under the laws of the United States or of any state, is convicted of a:

11 (i) felony; or

12 (ii) misdemeanor that is directly related to the fitness and
13 qualification of the applicant or licensee to engage in home improvement services;

14 (6) often fails to perform home improvement contracts;

15 (7) falsifies an account;

16 (8) engages in fraud;

17 (9) as a contractor [or subcontractor] fails to show financial solvency, based
18 on the intended scope and size of the business in relation to total assets, liabilities, credit
19 rating, and net worth;

20 (10) as a contractor [or subcontractor] lacks competence, as shown by the
21 performance of an unworkmanlike, inadequate, or incomplete home improvement;

22 (11) violates this title;

23 (12) attempts to violate this title;

24 (13) violates a regulation adopted under this title; or

25 (14) in the Chesapeake and Atlantic Coastal Bays Critical Area, as defined
26 under § 8–1802 of the Natural Resources Article, fails to comply with:

27 (i) the terms of a State or local permit, license, or approval issued
28 for home improvement; or

1 (ii) any State or local law, an approved plan, or other legal
2 requirement.

3 (b) Subject to the hearing provisions of § 8–312 of this subtitle, the Commission
4 may reprimand a contractor [or subcontractor] or suspend or revoke the license of a
5 contractor [or subcontractor] for a violation of this title by an agent, director, employee,
6 manager, officer, partner, or salesperson of the contractor [or subcontractor], unless the
7 Commission finds that the contractor [or subcontractor] or management personnel of the
8 contractor [or subcontractor]:

9 (1) had no knowledge of the wrongful conduct; or

10 (2) could not prevent the violation.

11 8–315.

12 (a) Except as otherwise provided in subsection (b) of this section, a contractor [or
13 subcontractor] may not pay or otherwise compensate another [contractor or subcontractor
14 or a salesperson] **PERSON** for performing or selling a home improvement unless:

15 (1) the person to be paid or compensated is licensed;

16 (2) the person to be paid or compensated is not subject to the licensing
17 requirements of this title; or

18 (3) the transaction for which the consideration is to be paid is not subject
19 to this title.

20 8–317.

21 A contractor [or subcontractor] who holds a license under this title is not required to
22 hold a construction license under Title 17 of this article.

23 8–501.

24 (c) (1) In addition to any other matters on which the parties lawfully agree,
25 each home improvement contract shall contain:

26 (i) the name, address, telephone number, and license number of the
27 contractor;

28 (ii) the name and license number of each salesperson who solicited
29 the home improvement contract or sold the home improvement;

30 (iii) the approximate dates when the performance of the home
31 improvement will begin and when it will be substantially completed;

1 (iv) a description of the home improvement to be performed and the
2 materials to be used;

3 (v) the agreed consideration;

4 (vi) the number of monthly payments and the amount of each
5 payment, including any finance charge;

6 (vii) a description of any collateral security for the obligation of the
7 owner under the home improvement contract;

8 (viii) a notice that gives the telephone number and Web site of the
9 Commission and states that:

10 1. each contractor [and each subcontractor] must be licensed
11 by the Commission; and

12 2. anyone may ask the Commission about a contractor [or
13 subcontractor]; and

14 (ix) a notice set by the Commission by regulation that:

15 1. specifies the protections available to consumers through
16 the Commission; and

17 2. advises the consumer of the right to purchase a
18 performance bond for additional protection against loss.

19 8-601.

20 (a) Except as otherwise provided in this title, a person may not act or offer to act
21 as a contractor in the State unless the person has a contractor license.

22 (b) [Except as otherwise provided in this title, a person may not act or offer to act
23 as a subcontractor in the State unless the person has a contractor license or subcontractor
24 license.

25 (c)] Except as otherwise provided in this title, a person may not sell or offer to sell
26 a home improvement in the State unless the person has a contractor license or salesperson
27 license.

28 [(d)] (C) A person who violates this section is guilty of a misdemeanor and, on
29 first conviction, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 6
30 months or both and, on a second or subsequent conviction, is subject to a fine not exceeding
31 \$5,000 or imprisonment not exceeding 2 years or both.

1 8-614.

2 A person may not act as a contractor [or subcontractor] or sell a home improvement
3 under a name other than that under which the person is licensed.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
5 1, 2016.