

HOUSE BILL 1058

C2, I3

7lr3067

By: ~~Delegate W. Miller~~ **Delegates W. Miller and Adams**

Introduced and read first time: February 8, 2017

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 14, 2017

CHAPTER _____

1 AN ACT concerning

2 **Business Regulation —~~Home Improvement Retailers~~ – Home Improvement**
3 **Contracts**

4 FOR the purpose of ~~authorizing certain home improvement retailers to obtain a certain~~
5 ~~contract price of a home improvement contract at certain times under certain~~
6 ~~circumstances; requiring certain home improvement retailers to post an irrevocable~~
7 ~~letter of credit in a certain amount; authorizing certain owners to file a complaint~~
8 ~~with the Division of Consumer Protection in the Office of the Attorney General under~~
9 ~~certain circumstances; providing an exception for home improvement retailers to the~~
10 ~~requirement that a person may not receive a deposit of more than one-third of a~~
11 ~~home improvement contract price before or at the time of execution of a home~~
12 ~~improvement contract; requiring the Division of Consumer Protection to notify the~~
13 ~~home improvement retailer, investigate a certain complaint, and make certain~~
14 ~~determinations under certain circumstances; authorizing the Division to draw on a~~
15 ~~certain letter of credit under certain circumstances; prohibiting a certain home~~
16 ~~improvement retailer from posting a certain letter of credit for a certain period of~~
17 ~~time under certain circumstances; providing the Division with the power to~~
18 ~~investigate a certain home improvement retailer and draw on a certain letter of~~
19 ~~credit in accordance with a certain provision of law; defining certain terms~~ increasing
20 the maximum portion of a home improvement contract price that a person may
21 receive as a deposit before or at the time of execution of a home improvement
22 contract; and generally relating to ~~home improvement retailers and home~~
23 ~~improvement contracts.~~

24 ~~BY adding to~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~Article – Business Regulation~~
 2 ~~Section 8–501.1~~
 3 ~~Annotated Code of Maryland~~
 4 ~~(2015 Replacement Volume and 2016 Supplement)~~

5 BY repealing and reenacting, with amendments,
 6 Article – Business Regulation
 7 Section 8–617
 8 Annotated Code of Maryland
 9 ~~(2015 Replacement Volume and 2016 Supplement)~~

10 ~~BY repealing and reenacting, without amendments,~~
 11 ~~Article – Commercial Law~~
 12 ~~Section 13–201~~
 13 ~~Annotated Code of Maryland~~
 14 ~~(2013 Replacement Volume and 2016 Supplement)~~

15 ~~BY repealing and reenacting, with amendments,~~
 16 ~~Article – Commercial Law~~
 17 ~~Section 13–204(a)(14) and (15)~~
 18 ~~Annotated Code of Maryland~~
 19 ~~(2013 Replacement Volume and 2016 Supplement)~~

20 ~~BY adding to~~
 21 ~~Article – Commercial Law~~
 22 ~~Section 13–204(a)(16)~~
 23 ~~Annotated Code of Maryland~~
 24 ~~(2013 Replacement Volume and 2016 Supplement)~~

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

27 **Article – Business Regulation**

28 ~~§ 501.1.~~

29 ~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~
 30 ~~INDICATED.~~

31 ~~(2) “DIVISION” MEANS THE CONSUMER PROTECTION DIVISION OF~~
 32 ~~THE OFFICE OF THE ATTORNEY GENERAL.~~

33 ~~(3) “HOME IMPROVEMENT RETAILER” MEANS A RETAILER WHO~~
 34 ~~SELLS HOME IMPROVEMENT GOODS.~~

~~(B) (1) A HOME IMPROVEMENT RETAILER WHO EMPLOYS A CONTRACTOR MAY OBTAIN THE FULL CONTRACT PRICE BEFORE OR AT THE TIME OF EXECUTION OF THE HOME IMPROVEMENT CONTRACT IF THE HOME IMPROVEMENT RETAILER MEETS THE REQUIREMENTS OF THIS SECTION.~~

~~(2) A HOME IMPROVEMENT RETAILER OR A CONTRACTOR EMPLOYED BY A HOME IMPROVEMENT RETAILER WHO SEEKS THE FULL CONTRACT PRICE SHALL POST AN IRREVOCABLE LETTER OF CREDIT, PAYABLE TO THE DIVISION, IN THE AMOUNT OF \$100,000 PER RETAIL STORE BUT NOT TO EXCEED \$2,000,000 FOR A HOME IMPROVEMENT RETAILER WITH MULTIPLE STORES.~~

~~(3) IN THE EVENT OF A DISPUTE WITH A HOME IMPROVEMENT RETAILER OR A CONTRACTOR EMPLOYED BY A HOME IMPROVEMENT RETAILER, AN OWNER MAY FILE A COMPLAINT WITH THE DIVISION AGAINST THE HOME IMPROVEMENT RETAILER AND REQUEST THAT THE DIVISION DRAW ON THE HOME IMPROVEMENT RETAILER'S LETTER OF CREDIT.~~

~~(4) ON RECEIPT OF A COMPLAINT, THE DIVISION SHALL:~~

~~(I) NOTIFY THE HOME IMPROVEMENT RETAILER;~~

~~(II) INVESTIGATE THE COMPLAINT; AND~~

~~(III) DETERMINE IF THE HOME IMPROVEMENT RETAILER IS IN DEFAULT OF THE CONTRACT.~~

~~(5) IF THE DIVISION DETERMINES THAT THE HOME IMPROVEMENT RETAILER OR A CONTRACTOR EMPLOYED BY THE HOME IMPROVEMENT RETAILER IS IN DEFAULT OF THE CONTRACT, THE DIVISION MAY, AFTER PROVIDING NOTICE TO THE HOME IMPROVEMENT RETAILER, DRAW ON THE LETTER OF CREDIT TO SATISFY A CONSUMER'S COMPLAINT.~~

~~(6) IF, IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION, THE DIVISION DRAWS ON THE LETTER OF CREDIT OF A HOME IMPROVEMENT RETAILER AT LEAST TWO TIMES WITHIN A 2 YEAR PERIOD, THE HOME IMPROVEMENT RETAILER SHALL BE PROHIBITED FROM POSTING AN IRREVOCABLE LETTER OF CREDIT UNDER THIS SECTION FOR 5 YEARS.~~

8-617.

(a) A person may not demand or receive any payment for a home improvement before the home improvement contract is signed.

1 (b) ~~[A] EXCEPT AS PROVIDED IN § 8-501.1 OF THIS TITLE,~~ A person may not
 2 receive a deposit of more than ~~one-third~~ ONE-HALF of the home improvement contract
 3 price before or at the time of execution of the home improvement contract.

4 ~~Article—Commercial Law~~

5 ~~13-201.~~

6 ~~There is a Division of Consumer Protection in the Office of the Attorney General.~~
 7 ~~The Division shall administer this subtitle.~~

8 ~~13-204.~~

9 (a) ~~In addition to any other of its powers and duties, the Division has the powers~~
 10 ~~and duties to:~~

11 (14) ~~Maintain a list of nonprofit organizations that:~~

12 (i) ~~Solely offer counseling or advice to homeowners in foreclosure or~~
 13 ~~loan default; and~~

14 (ii) ~~Are not directly or indirectly related to and do not contract for~~
 15 ~~services with for-profit lenders or foreclosure purchasers, as defined in § 7-301 of the Real~~
 16 ~~Property Article; [and]~~

17 (15) (i) ~~Bring a civil action for damages against a person who violates §~~
 18 ~~8-801 of the Criminal Law Article on behalf of a victim of the offense or, if the victim is~~
 19 ~~deceased, the victim's estate;~~

20 (ii) ~~Recover damages under this item for property loss or damage;~~
 21 ~~and~~

22 (iii) ~~If the Division prevails in an action brought under this item,~~
 23 ~~recover the costs of the action for the use of the Office of the Attorney General; AND~~

24 ~~(16) INVESTIGATE, IN ACCORDANCE WITH § 8-501.1 OF THE BUSINESS~~
 25 ~~REGULATION ARTICLE, A RETAILER WHO SELLS HOME IMPROVEMENT GOODS AND~~
 26 ~~DRAWS ON A LETTER OF CREDIT POSTED BY THE RETAILER.~~

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 28 October 1, 2017.