

# HOUSE BILL 1086

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8lr1482

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By: **Delegates Proctor, Ali, Angel, Atterbeary, D. Barnes, Conaway, Fennell, C. Howard, Jalisi, Jameson, Moon, Patterson, Pena-Melnyk, Queen, Sanchez, Tarlau, and Valentino-Smith**  
Introduced and read first time: February 7, 2018  
Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – New Residential Construction – Correction of Drainage Defect**

3 FOR the purpose of requiring a certain home builder to correct a certain drainage defect  
4 within a certain time period if a certain owner provides written notice of the defect,  
5 including certain documentation, to the home builder within a certain time period;  
6 authorizing a certain owner to pursue a claim for compensation from the Home  
7 Builder Guaranty Fund for a certain actual loss if a certain home builder fails to  
8 correct a certain drainage defect in a certain manner; providing that a certain owner  
9 is deemed to have complied with certain mediation requirements under certain  
10 circumstances; altering a certain definition; defining certain terms; and generally  
11 relating to new residential construction and the correction of drainage defects.

12 BY repealing and reenacting, with amendments,  
13 Article – Business Regulation  
14 Section 4.5–701  
15 Annotated Code of Maryland  
16 (2015 Replacement Volume and 2017 Supplement)

17 BY adding to  
18 Article – Real Property  
19 Section 10–711  
20 Annotated Code of Maryland  
21 (2015 Replacement Volume and 2017 Supplement)

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

24 **Article – Business Regulation**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 4.5-701.

2 In this subtitle, “actual loss” means:

3 (1) the costs of restoration, repair, replacement, or completion that arise  
4 from:

5 (i) the incomplete construction of a new home or the breach of an  
6 express or implied warranty, as defined in §§ 10-202 and 10-203 of the Real Property  
7 Article; [or]

8 (ii) the failure to meet standards or guidelines required in § 14-117  
9 of the Real Property Article; or

10 (III) **A DRAINAGE DEFECT, AS DEFINED IN § 10-711 OF THE REAL**  
11 **PROPERTY ARTICLE; OR**

12 (2) deposits or other payments made to a home builder required to be held  
13 in an escrow account or protected by a surety bond or irrevocable letter of credit under §  
14 10-301 or § 10-504 of the Real Property Article, that are not returned to a consumer who  
15 is entitled to a return of the deposit or other payments.

16 **Article – Real Property**

17 **10-711.**

18 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**  
19 **INDICATED.**

20 (2) **“DRAINAGE DEFECT” MEANS IMPROPER GRADING, POOR SOIL**  
21 **COMPOSITION, OR ANY OTHER DESIGN OR WORKMANSHIP DEFECT ATTRIBUTABLE**  
22 **TO A HOME BUILDER THAT RESULTS IN A FLOODED YARD OR WATER IN THE**  
23 **BASEMENT OF A NEW HOME.**

24 (3) **“HOME BUILDER” MEANS A PERSON THAT UNDERTAKES TO**  
25 **ERECT OR OTHERWISE CONSTRUCT A NEW HOME.**

26 (4) (I) **“NEW HOME” MEANS A NEWLY CONSTRUCTED**  
27 **SINGLE-FAMILY DWELLING UNIT.**

28 (II) **“NEW HOME” INCLUDES:**

29 1. **A CUSTOM HOME AS DEFINED IN § 10-501 OF THIS**  
30 **TITLE; OR**

1                                   **2. A MOBILE HOME AS DEFINED IN § 8A-101 OF THIS**  
2 **ARTICLE.**

3                                   **(5) "OWNER" MEANS THE PURCHASER OF A NEW HOME WHO USES**  
4 **THE HOME PRIMARILY FOR RESIDENTIAL PURPOSES.**

5                                   **(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A HOME BUILDER**  
6 **SHALL CORRECT A DRAINAGE DEFECT WITHIN 30 DAYS AFTER RECEIVING WRITTEN**  
7 **NOTICE OF THE DEFECT IF:**

8                                   **(1) THE OWNER NOTIFIES THE HOME BUILDER OF A DRAINAGE**  
9 **DEFECT WITHIN 1 YEAR AFTER THE DAY THE OWNER TAKES POSSESSION OF THE**  
10 **NEW HOME OR THE DAY THE HOME BUILDER COMPLETES ANY GRADING OR**  
11 **LANDSCAPING WORK ON OR ADJACENT TO THE LOT OCCUPIED BY THE NEW HOME,**  
12 **WHICHEVER OCCURS LATER; AND**

13                                   **(2) THE WRITTEN NOTICE INCLUDES DOCUMENTATION OF THE**  
14 **FLOODING, INCLUDING THE FREQUENCY AND EXTENT, CAUSED BY THE DRAINAGE**  
15 **DEFECT.**

16                                   **(C) IF A HOME BUILDER FAILS TO CORRECT A DRAINAGE DEFECT AS**  
17 **REQUIRED BY SUBSECTION (B) OF THIS SECTION, THE OWNER:**

18                                   **(1) SUBJECT TO ITEM (2) OF THIS SUBSECTION AND IN ACCORDANCE**  
19 **WITH THE PROVISIONS OF TITLE 4.5, SUBTITLE 7 OF THE BUSINESS REGULATION**  
20 **ARTICLE, MAY PURSUE A CLAIM FOR COMPENSATION FROM THE HOME BUILDER**  
21 **GUARANTY FUND FOR AN ACTUAL LOSS; AND**

22                                   **(2) SHALL BE DEEMED TO HAVE COMPLIED WITH THE**  
23 **REQUIREMENTS FOR MEDIATION UNDER § 4.5-706(A) AND (B) OF THE BUSINESS**  
24 **REGULATION ARTICLE.**

25                                   **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
26 **October 1, 2018.**