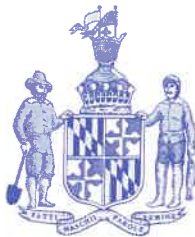


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February 21, 2020

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To: The Honorable Dereck E. Davis
Chair, Economic Matters Committee

From: Karen M. Valentine, Director
Home Builder Registration Unit
Consumer Protection Division

Re: **HB 1453 – Home Builder Registration and Home Improvement Licenses-
Professional Education Requirements (INFORMATION)**

On behalf of the Home Builder Registration Unit of the Consumer Protection Division, I thank you for this opportunity to comment on **HB 1453-Home Builder Registration and Home Improvement Licenses-Professional Education Requirements**. I will address three issues I believe should be discussed when considering a continuing education requirement for home builders: (1) who will be required to complete a course; (2) what problem the requirement will, or even can, address; and (3) the Unit's implementation of the training requirements.

The bill places a requirement on home builder registrants and registered sales representatives to complete at least one approved professional education course every 2 years. Unlike registered sales representatives, home builder registrants are generally companies, not individuals. The companies can be small with one or two owners, officers, or directors, or extremely large with multiple offices and multiple owners, shareholders, members, officers, presidents, vice-presidents, and directors. With the very small companies, presumably the owner of the company will be required to complete training. It is not, however, as clear as to who will be required to complete training in a large company. Can a company simply designate one person to complete professional education requirements? Does one person from each office have to complete the requirements? Are all individuals who engage with consumers required to complete the requirements? Are all individuals with signatory authority on an escrow account required to complete the requirements? The Division has spoken with the sponsor, who has indicated that she intends to seek a clarifying amendment.

House Bill 1453 exempts from the continuing education requirements registrants who were registered on or before October 1, 2010 or for 10 consecutive years *"and had not committed a violation of this Subtitle."* However, the substantial majority of the enforcement actions brought by the Unit result in settlement agreements in which the registrant does not admit to having violated the law. Was this bill intended to exempt those registrants from the continuing education

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requirements?

The bill appears to be focused on education related to new and amended laws and, in that regard, requires the Unit to approve the curriculum for a professional education course if the curriculum covers new laws, regulations, policies, or technologies affecting home builders or sales representatives. The Unit currently makes available to all registrants and registered sales representatives the Home Builder Registration Act and other applicable laws and regulations and, at least 30 days before the effective date of any amendment, the Unit makes those amendments available to registrants and registered sales representatives. Current information is readily available on the Unit's website and, over the years, the Unit has observed that the website is a significant educational resource for registrants and registered sales representatives providing information about the Unit, applicable laws and updates to those laws, and the responsibility of builders and sales representatives pursuant to the laws.

The professional education requirements do not seem to focus on addressing one of the most significant problems the Unit sees, which is registrants who fail to maintain escrow accounts and fail to use money received from consumers to pay subcontractors (*i.e.* violation of the trust). This problem is not the result of a registrant's lack of training, or lack of knowledge or understanding of the requirements to safeguard consumer money. Builders are clearly made aware of their obligations during the registration and renewal process, and through all the information provided on the Unit's website, where registrants are consistently referred.

The bill requires the Unit to approve curriculum with only two weeks' notice and precludes the advertising of a course until approved, which presumably would further reduce the time the Unit has to review the curriculum. This short turnaround time will create a challenge for the Unit. In order to approve a curriculum which attendees will rely on for accurate information and guidance, the Unit will be obligated to review all written material that will be provided to attendees. The Unit will also need to put in place some safeguards to ensure that instructors do not veer from the written materials in order to avoid the potential for inaccurate information being provided by individual instructors. Thus, review and approval of a curriculum will require more than a cursory review of an agenda, outline, or slide presentation. Depending on the length of the course, the review process could be extensive requiring more than a week or two to review. The Division has spoken with the sponsor who has indicated that she intends to seek an amendment to address our concerns about this provision.

Finally, the Division disagrees with the Fiscal and Policy Note, which states that the Unit can "implement the bill's requirements with existing resources." The Division believes that the duties imposed on the Unit by House Bill 1453 would require a full-time administrator and our office so advised the Department of Legislative Services. Thank you for your attention to this matter.