
By: Delegates Krysiak and Kach

Introduced and read first time: February 12, 1996

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Home Improvement Law - Civil Penalties - License Exception**

3 FOR the purpose of requiring the Home Improvement Commission to keep certain
4 records of certain civil penalties; providing an exception from the license
5 requirement for certain solicitors, canvassers, or representatives of contractors;
6 requiring the Commission to impose a certain civil penalty on a person who is not
7 licensed under the home improvement law and who violates the home improvement
8 law; and generally relating to license exceptions and civil penalties under the home
9 improvement law.

10 BY repealing and reenacting, with amendments,
11 Article - Business Regulation
12 Section 8-209, 8-301, and 8-620
13 Annotated Code of Maryland
14 (1992 Volume and 1995 Supplement)

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

17 **Article - Business Regulation**

18 8-209.

19 (a) The Commission shall keep available for public inspection during office hours
20 a record of:

21 (1) all licenses issued under this title;

22 (2) all expirations, revocations, and suspensions of those licenses; [and]

23 (3) all contractors represented by each salesperson who holds a license
24 under this title; AND

25 (4) ALL CIVIL PENALTIES IMPOSED UNDER § 8-620 OF THIS TITLE.

26 (b) The Commission shall collect a fee of \$1 per page for each copy of a document
27 in the Commission office.

2

1 8-301.

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

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

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

8 (d) This section does not apply to:

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

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

14 (3) [a solicitor for a contractor who calls an owner by telephone only] A
15 TELEPHONE SOLICITOR, DOOR-TO-DOOR OR IN-STORE CANVASSER, OR
16 REPRESENTATIVE OF A CONTRACTOR WHO TALKS WITH AN OWNER AND
17 DISTRIBUTES ADVERTISING MATERIALS, MAKES APPOINTMENTS FOR LICENSED
18 SALESPERSONS, OR COLLECTS DATA FROM OWNERS;

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

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

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

25 (iii) is:

26 1. acting only within the scope of that occupation or profession;
27 or

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

29 (5) a security systems technician licensed under Title 18 of the Business
30 Occupations and Professions Article; or

31 (6) a person who is selling a home improvement to be performed by a
32 person described in item (4) of this subsection.

33 8-620.

34 (a) (1) The Commission may impose on a LICENSED person who violates this
35 title, including § 8-607(4) of this subtitle, a civil penalty not exceeding \$5,000 for each
36 violation[, whether or not the person is licensed under this title].

1 (2) A CIVIL PENALTY IMPOSED UNDER THIS SUBSECTION IS IN
2 ADDITION TO ANY OTHER SANCTIONS THAT MAY BE IMPOSED BY THE COMMISSION
3 AND ANY CRIMINAL PENALTIES THAT MAY BE IMPOSED BY A COURT OF
4 COMPETENT JURISDICTION.

5 (b) (1) THE COMMISSION SHALL IMPOSE ON A PERSON WHO IS NOT
6 LICENSED BY THE COMMISSION UNDER THIS TITLE AND WHO VIOLATES THIS TITLE
7 A CIVIL PENALTY NOT EXCEEDING \$10,000 FOR EACH VIOLATION.

8 (2) A CIVIL PENALTY IMPOSED UNDER THIS SUBSECTION IS IN
9 ADDITION TO ANY CRIMINAL PENALTIES THAT MAY BE IMPOSED UNDER § 8-623 OF
10 THIS SUBTITLE.

11 (C) In setting the amount of a civil penalty, the Commission shall consider:

12 (1) the seriousness of the violation;

13 (2) the good faith of the violator;

14 (3) any previous violations;

15 (4) the harmful effect of the violation on the complainant, the public, and
16 the business of home improvement;

17 (5) the assets of the violator; and

18 (6) any other relevant factors.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 1996.