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HB 719/95 - ECM

1996 Regular Session
6lr1174
CF 6lr1175

By: Senator Boozer

Introduced and read first time: January 12, 1996
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Sale of New Homes - Disclosure of Environmental Hazards**

3 FOR the purpose of requiring new home builders to disclose or make a certain disclaimer
4 as to the presence of certain hazardous materials on the site of a new home to
5 certain owners under certain circumstances; making stylistic changes; and generally
6 relating to the disclosure of certain hazardous materials by builders to certain
7 persons.

8 BY repealing and reenacting, with amendments,
9 Article - Real Property
10 Section 10-603, 10-604, and 10-607(a)
11 Annotated Code of Maryland
12 (1988 Replacement Volume and 1995 Supplement)

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

15 **Article - Real Property**

16 10-603.

17 (a) If the builder does not participate in a new home warranty security plan:

18 (1) The builder must make a disclosure containing an explanation in 12
19 point type that:

20 (i) The owner should be aware that builders of new homes in the
21 State of Maryland are not required to be licensed by the State and are not licensed in
22 most local jurisdictions; [and]

23 (ii) Without a new home warranty or other express warranties, the
24 owner may be afforded only certain limited implied warranties as are provided by law[.];
25 AND

26 (III) 1. DESCRIBES ANY HAZARDOUS OR REGULATED
27 MATERIALS, INCLUDING ASBESTOS, LEAD-BASED PAINT, RADON, UNDERGROUND
28 STORAGE TANKS, LICENSED LANDFILLS, OR OTHER ENVIRONMENTAL HAZARDS
29 PRESENT ON THE SITE OF THE NEW HOME OF WHICH THE BUILDER HAS ACTUAL
30 KNOWLEDGE; OR

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1 (vi) Insect damage, except where the builder has failed to use proper
2 materials or construction methods designed to prevent insect infestation;

3 (vii) Any loss or damage that arises while the home is being used
4 primarily for nonresidential purposes;

5 (viii) Any damage to the extent it is caused or made worse by negligence,
6 improper maintenance or improper operations by anyone other than the builder or its
7 employees, agents, or subcontractors;

8 (ix) Any damage to the extent it is caused or made worse by changes of
9 the grading of the ground by anyone other than the builder, its employees, agents, or
10 subcontractors; and

11 (x) Any loss or damage caused by acts of God.

12 (b) A builder who has disclosed that the builder participates in a new home
13 warranty security plan shall:

14 (1) Furnish to the owner at the time of the purchase or construction
15 contract:

16 (i) The name and phone number of the builder's new home warranty
17 security plan;

18 (ii) Details of the warranty coverage provided under the plan; and

19 (iii) In a form to be determined by the Secretary, evidence that:

20 1. The builder currently is a participant in good standing with a
21 plan that satisfies the requirements of § 10-606(a) of this subtitle; and

22 2. The new home is eligible for registration or has been
23 registered in the builder's new home warranty security plan; [and]

24 (2) (I) DISCLOSE TO THE OWNER ANY ACTUAL KNOWLEDGE THAT
25 THE BUILDER HAS OF ANY HAZARDOUS OR REGULATED MATERIALS, INCLUDING
26 ASBESTOS, LEAD-BASED PAINT, RADON, UNDERGROUND STORAGE TANKS,
27 LICENSED LANDFILLS, OR OTHER ENVIRONMENTAL HAZARDS PRESENT ON THE
28 SITE OF THE NEW HOME; OR

29 (II) DISCLOSE TO THE OWNER THAT THE BUILDER IS MAKING NO
30 REPRESENTATIONS OR WARRANTIES AS TO WHETHER THERE IS ANY HAZARDOUS
31 OR REGULATED MATERIAL ON THE SITE OF THE NEW HOME; AND

32 (3) Either:

33 (i) Provide the new home with a new home warranty if the builder
34 belongs to a new home warranty security plan that:

35 1. Requires the builder to register every new home that the
36 builder builds; or

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1 (f) A new home warranty shall benefit any successor in title to the owner who
2 occupies the home for residential purposes during the warranty period.

3 10-607.

4 (a) If in accordance with § [10-604(b)(2)] 10-604(B)(3) of this title an owner does
5 not wish to require that the new home be covered by a new home warranty, the owner
6 shall make an affirmative waiver of the coverage at the time of the purchase or
7 construction contract.

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