

SENATE BILL 56

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1998 Regular Session
(8lr6028)

ENROLLED BILL
-- Judicial Proceedings/Economic Matters --

Introduced by **Chairman, Judicial Proceedings Committee (Departmental -
Labor, Licensing and Regulation)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Real Property - ~~Deposits on New Homes~~ New Homes and Custom Homes -**
3 **Surety Bonds**

4 FOR the purpose of transferring the authority to hold certain surety bonds from the
5 Insurance Administration to the Department of Labor, Licensing, and
6 Regulation; authorizing the Department to approve of the form of certain surety
7 bonds; and generally relating to surety bonds for ~~deposits on new homes~~ certain
8 deposits on new homes and custom homes.

9 BY repealing and reenacting, without amendments,
10 Article - Real Property
11 Section 10-301, 10-301.1, 10-303, ~~and 10-303.1~~ 10-303.1, and 10-504(d)
12 Annotated Code of Maryland
13 (1996 Replacement Volume and 1997 Supplement)

14 BY repealing and reenacting, with amendments,

1 Article - Real Property
2 Section 10-302
3 Annotated Code of Maryland
4 (1996 Replacement Volume and 1997 Supplement)

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

7 **Article - Real Property**

8 10-301.

9 (a) If, in connection with the sale and purchase of a new single-family
10 residential unit which is not completed at the time of contracting the sale, the vendor
11 or builder obligates the purchaser to pay and the vendor or builder receives any sum
12 of money before completion of the unit and grant of the realty to the purchaser, the
13 builder or vendor shall:

14 (1) Deposit or hold the sum in an escrow account segregated from all
15 other funds of the vendor or builder to assure the return of the sum to the purchaser
16 in the event the purchaser becomes entitled to a return of the sum;

17 (2) Obtain and maintain a corporate surety bond in the form and in the
18 amounts set forth in § 10-302 of this subtitle, conditioned on the return of the sum to
19 the purchaser in the event the purchaser becomes entitled to the return of the money;
20 or

21 (3) Obtain and maintain an irrevocable letter of credit issued by a
22 Maryland bank in the form and in the amounts set forth in § 10-303 of this subtitle.

23 (b) The vendor or builder shall maintain the escrow account, surety bond, or
24 irrevocable letter of credit until the happening of the earlier of:

25 (1) The granting of a deed to the property on which the residential unit is
26 located to the purchaser;

27 (2) The return of the sum of money to the purchaser; or

28 (3) The forfeiture of the sum by the purchaser, under the terms of the
29 contract of sale relating to the purchase of the residential unit.

30 10-301.1.

31 (a) A vendor or builder may deposit trust moneys in:

32 (1) A noninterest bearing checking account;

33 (2) One or more savings accounts; or

1 (3) Any combination of accounts in any bank or savings and loan
2 association authorized by federal or State law to do business in the State.

3 (b) Trust moneys in the hands of the vendor or builder may be invested in any
4 other investment vehicle specified by the client or beneficial owner or as they and the
5 licensee may agree.

6 10-302.

7 (a) The bond shall be payable to the State for the use and benefit of every
8 person protected by the provisions of this subtitle. The vendor or purchaser shall
9 deposit the bond with the [Insurance Administration] DEPARTMENT OF LABOR,
10 LICENSING, AND REGULATION.

11 (b) The corporate surety bond obtained pursuant to the provisions of §
12 10-301(a) shall be in a form approved by the [Insurance Administration]
13 DEPARTMENT OF LABOR, LICENSING, AND REGULATION. The bond may be either in
14 the form of an individual bond for each deposit accepted by a vendor or builder or if
15 the total amount of money and deposits accepted by the builder or vendor exceeds
16 \$10,000, it may be in the form of a blanket bond assuring the return of the deposits
17 received by the vendor or builder.

18 (c) If the bond is a blanket bond, the penalty of the bond shall be in accordance
19 with the following schedule:

20	Total Amount of Deposits Held	Penalty of Bond
21	(1) \$10,000 to \$75,000	Full amount of
22		deposit held
23	(2) \$75,000 to \$200,000	\$75,000
24	(3) \$200,000 to \$500,000	\$200,000
25	(4) Over \$500,000	\$500,000

26 (d) For the purpose of determining the penalty of any blanket bond which the
27 vendor or builder maintains in any calendar year, the total amount of deposits
28 considered held by a vendor or builder shall be determined as of May 31 of any given
29 calendar year and the penalty of the bond shall be in accordance with the amount of
30 deposits held as of May 31.

31 10-303.

32 (a) An irrevocable letter of credit obtained under § 10-301 of this subtitle shall
33 be:

34 (1) Payable to the Department of Labor, Licensing, and Regulation for
35 the use and benefit of every person protected by the provisions of this subtitle; and

36 (2) In a form approved by the Department.

37 (b) An irrevocable letter of credit may be either in the form of an individual
38 letter of credit for each deposit accepted by a vendor or builder or if the total amount

1 of money and deposits accepted by the builder exceeds \$10,000, the letter of credit
 2 may be in the form of a blanket letter of credit assuring the return of the deposits
 3 received by the vendor or builder.

4 (c) If the letter of credit is a blanket letter of credit, the amount of the letter of
 5 credit shall be in accordance with the following schedule:

6	Total Amount of Deposits Held	Amount of Letter of Credit
7	(1) \$10,000 to \$75,000	Full amount of
8		deposit held
9	(2) \$75,000 to \$200,000	\$75,000
10	(3) \$200,000 to \$500,000	\$200,000
11	(4) Over \$500,000	\$500,000

12 (d) For the purpose of determining the amount of any blanket letter of credit
 13 which the vendor or builder maintains in any calendar year, the total amount of
 14 deposits considered held by a vendor or builder shall be determined as of May 31 of
 15 any given calendar year and the amount of the letter of credit shall be in accordance
 16 with the amount of deposits held as of May 31.

17 10-303.1.

18 The Department of Labor, Licensing, and Regulation shall adopt regulations for
 19 the administration of the provisions of this subtitle relating to bonds and letters of
 20 credit.

21 10-504.

22 (d) (1) In lieu of the escrow accounts required under subsection (a) or (c) of
 23 this section, a custom home builder may obtain and maintain a corporate surety bond
 24 in the form and in the amounts required of a vendor or builder under § 10-302 of this
 25 title.

26 (2) The surety bond obtained shall be conditioned on the return of the
 27 sum to the buyer in the event the buyer becomes entitled to the return of the money.

28 (3) The custom home builder shall maintain the surety bond until the
 29 custom home builder complies with § 9-114 of this article.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
 31 effect October 1, 1998.

