

SENATE BILL 56

Unofficial Copy
N1

1998 Regular Session
8lr6028

(PRE-FILED)

By: **Chairman, Judicial Proceedings Committee (Departmental - Labor,
Licensing and Regulation)**

Requested: October 20, 1997

Introduced and read first time: January 14, 1998

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Deposits on New Homes - Surety Bonds**

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

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

12 BY repealing and reenacting, with amendments,
13 Article - Real Property
14 Section 10-302
15 Annotated Code of Maryland
16 (1996 Replacement Volume and 1997 Supplement)

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

19 **Article - Real Property**

20 10-301.

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

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

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

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

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

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

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

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

17 10-301.1.

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

19 (1) A noninterest bearing checking account;

20 (2) One or more savings accounts; or

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

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

26 10-302.

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

31 (b) The corporate surety bond obtained pursuant to the provisions of §
32 10-301(a) shall be in a form approved by the [Insurance Administration]
33 DEPARTMENT OF LABOR, LICENSING, AND REGULATION. The bond may be either in
34 the form of an individual bond for each deposit accepted by a vendor or builder or if
35 the total amount of money and deposits accepted by the builder or vendor exceeds

1 \$10,000, it may be in the form of a blanket bond assuring the return of the deposits
2 received by the vendor or builder.

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

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

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

16 10-303.

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

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

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

22 (b) An irrevocable letter of credit may be either in the form of an individual
23 letter of credit for each deposit accepted by a vendor or builder or if the total amount
24 of money and deposits accepted by the builder exceeds \$10,000, the letter of credit
25 may be in the form of a blanket letter of credit assuring the return of the deposits
26 received by the vendor or builder.

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

29 Total Amount of Deposits Held	Amount of Letter of Credit
30 (1) \$10,000 to \$75,000	Full amount of
31	deposit held
32 (2) \$75,000 to \$200,000	\$75,000
33 (3) \$200,000 to \$500,000	\$200,000
34 (4) Over \$500,000	\$500,000

1 (d) For the purpose of determining the amount of any blanket letter of credit
2 which the vendor or builder maintains in any calendar year, the total amount of
3 deposits considered held by a vendor or builder shall be determined as of May 31 of
4 any given calendar year and the amount of the letter of credit shall be in accordance
5 with the amount of deposits held as of May 31.

6 10-303.1.

7 The Department of Labor, Licensing, and Regulation shall adopt regulations for
8 the administration of the provisions of this subtitle relating to bonds and letters of
9 credit.

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