

HOUSE BILL 161

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1999 Regular Session
(9r0847)

ENROLLED BILL
-- Economic Matters/Judicial Proceedings --

Introduced by **Delegates Kach, Pendergrass, and Bobo**

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.

Speaker.

CHAPTER _____

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
4 disclaimer as to the presence of certain hazardous materials on the site of a new
5 home to certain owners under certain circumstances; providing that the
6 requirements of this Act are intended to be in addition to the requirements of
7 any other ordinance, resolution, law, or rule and that this Act may not be
8 construed to preempt or prevail over any ordinance, resolution, law, or rule more
9 stringent than this Act; making a stylistic change; *providing for a delayed*
10 *effective date*; and generally relating to the disclosure of certain hazardous
11 materials by builders to certain persons.

12 BY repealing and reenacting, with amendments,
13 Article - Real Property
14 Section 10-603, 10-604(b), and 10-607(a)
15 Annotated Code of Maryland
16 (1996 Replacement Volume and 1998 Supplement)

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

3 **Article - Real Property**

4 10-603.

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

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

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

11 (ii) Without a new home warranty or other express warranties, the
12 owner may be afforded only certain limited implied warranties as are provided by
13 law; AND

14 (III) 1. DESCRIBES ANY HAZARDOUS OR REGULATED MATERIALS,
15 INCLUDING ASBESTOS, LEAD-BASED PAINT, RADON, METHANE, UNDERGROUND
16 STORAGE TANKS, LICENSED LANDFILLS, UNLICENSED LANDFILLS, LICENSED
17 RUBBLE FILLS, UNLICENSED RUBBLE FILLS, OR OTHER ENVIRONMENTAL HAZARDS,
18 PRESENT ON THE SITE OF THE NEW HOME OF WHICH THE BUILDER HAS ACTUAL
19 KNOWLEDGE; OR

20 2. STATES THAT THE BUILDER IS MAKING NO
21 REPRESENTATIONS OR WARRANTIES AS TO WHETHER THERE IS ANY HAZARDOUS OR
22 REGULATED MATERIAL ON THE SITE OF THE NEW HOME;

23 (2) The owner shall acknowledge in writing that the owner understands
24 that the builder does not participate in a new home warranty security plan and that
25 the owner has read and understood the disclosure pursuant to paragraph (1) of this
26 subsection; and

27 (3) Any purchase or construction contract entered into which does not
28 contain the acknowledgment required by paragraph (2) of this subsection is voidable
29 by the owner.

30 (b) (1) An owner who has made the acknowledgment described in subsection
31 (a)(2) of this section may rescind the contract within 5 working days from the date of
32 the contract by providing the builder with written notice of the owner's rescission of
33 the contract; and

34 (2) Upon rescission, the owner shall be entitled to a refund of any money
35 paid to the builder for the new home.

1 10-604.

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

4 (1) Furnish to the owner at the time of the purchase or construction
5 contract:

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

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

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

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

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

14 (2) (I) DISCLOSE TO THE OWNER ANY ACTUAL KNOWLEDGE THAT THE
15 BUILDER HAS OF ANY HAZARDOUS OR REGULATED MATERIALS, INCLUDING
16 ASBESTOS, LEAD-BASED PAINT, RADON, METHANE, UNDERGROUND STORAGE
17 TANKS, LICENSED LANDFILLS, UNLICENSED LANDFILLS, LICENSED RUBBLE FILLS,
18 UNLICENSED RUBBLE FILLS, OR OTHER ENVIRONMENTAL HAZARDS, PRESENT ON
19 THE SITE OF THE NEW HOME; OR

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

23 [(2)] (3) Either:

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

26 1. Requires the builder to register every new home that the
27 builder builds; or

28 2. Does not require the builder to register every new home
29 but the builder has decided to sell the new home with a new home warranty; or

30 (ii) If the builder belongs to a new home warranty security plan
31 that does not require the builder to register every new home and the builder has not
32 decided whether or not to sell the new home with a new home warranty, give the
33 owner the option of:

34 1. Purchasing the new home with the new home warranty
35 provided by the builder's new home warranty security plan; or

1 2. Waiving the right to warranty coverage by making the
2 affirmative waiver described in § 10-607 of this subtitle.

3 10-607.

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

8 SECTION 2. AND BE IT FURTHER ENACTED, That the requirements of this
9 Act are intended to be in addition to the requirements of any other ordinance,
10 resolution, law, or rule, and that this Act may not be construed to preempt or prevail
11 over any ordinance, resolution, law, or rule more stringent than this Act.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 ~~October 1, 1999~~ January 1, 2000.