

HOUSE BILL 161

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HB 180/96 - ECM

1999 Regular Session
9r0847

By: **Delegates Kach, Pendergrass, and Bobo**
Introduced and read first time: January 28, 1999
Assigned to: Economic Matters

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
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; and generally relating to the
10 disclosure of certain hazardous materials by builders to certain persons.

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

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

18 **Article - Real Property**

19 10-603.

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

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

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

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

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

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

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

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

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

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

23 10-604.

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

26 (1) Furnish to the owner at the time of the purchase or construction
27 contract:

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

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

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

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

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

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

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

10 [(2)] (3) Either:

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

13 1. Requires the builder to register every new home that the
 14 builder builds; or

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

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

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

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

25 10-607.

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

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

34 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 35 October 1, 1999.