

HOUSE BILL 161

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HB 180/96 - ECM

1999 Regular Session  
9r0847

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

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Committee Report: Favorable  
House action: Adopted  
Read second time: February 12, 1999

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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; 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:

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

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

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

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

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

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

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

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

29 10-604.

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

32 (1) Furnish to the owner at the time of the purchase or construction  
33 contract:

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

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

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

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

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

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

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

14 [(2)] (3) Either:

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

17 1. Requires the builder to register every new home that the  
18 builder builds; or

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

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

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

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

29 10-607.

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

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

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