

SENATE BILL 575

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1999 Regular Session
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By: **Senators Kelley, Blount, Collins, Conway, Astle, and Della**
Introduced and read first time: February 5, 1999
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Home Builders Registration Act**

3 FOR the purpose of establishing the Office of Home Builder Registration in the
4 Department of Labor, Licensing, and Regulation; requiring the Secretary of
5 Labor, Licensing, and Regulation to appoint a Director of the Office of Home
6 Builder Registration; providing for the powers and duties of the Director;
7 requiring the Director to adopt certain regulations and establish certain fees;
8 requiring the Director to adopt certain performance standards; establishing a
9 Home Builders Registration Fund; specifying the use of the Fund; requiring
10 registration to act as a home builder; requiring certain liability insurance;
11 providing for the renewal of registration; providing for the denial, suspension, or
12 revocation of a registration under certain circumstances; providing for the
13 imposition of a civil penalty; providing for a consumer complaint resolution
14 procedure; requiring the Director to investigate unresolved consumer
15 complaints; authorizing the Director to impose a certain civil penalty;
16 establishing certain criminal penalties; requiring all contracts for the initial sale
17 of improved, residential real property to include certain information; defining
18 certain terms; providing for the application of this Act; requiring the
19 Department of Labor, Licensing, and Regulation to collect certain information
20 and make certain reports on or before certain dates; and generally relating to
21 the Office of Home Builder Registration and new home construction services
22 provided by home builders to consumers in the State.

23 BY adding to
24 Article - Business Regulation
25 Section 4A-101 through 4A-701, inclusive, to be under the new title "Title 4A.
26 Home Builders"
27 Annotated Code of Maryland
28 (1998 Replacement Volume)

29 BY adding to
30 Article - Real Property
31 Section 14-117(j)
32 Annotated Code of Maryland

1 (1996 Replacement Volume and 1998 Supplement)

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

4 **Article - Business Regulation**

5 TITLE 4A. HOME BUILDERS.

6 4A-101.

7 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

8 (B) "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE OF HOME BUILDER
9 REGISTRATION.

10 (C) "HOME BUILDER" MEANS ANY PERSON THAT:

11 (1) IS ENGAGED IN THE BUSINESS OF ERECTING OR OTHERWISE
12 CONSTRUCTING A NEW HOME; OR

13 (2) PURCHASES A COMPLETED NEW HOME FOR RESALE IN THE COURSE
14 OF ITS BUSINESS.

15 (D) "HOME BUILDER REGISTRATION NUMBER" MEANS A REGISTRATION
16 NUMBER ISSUED BY THE DIRECTOR TO A HOME BUILDER PURSUANT TO THE
17 PROVISIONS OF THIS TITLE.

18 (E) (1) "NEW HOME" MEANS EACH NEWLY CONSTRUCTED PRIVATE
19 DWELLING UNIT IN THE STATE AND THE FIXTURES AND STRUCTURE THAT ARE
20 MADE A PART OF A NEWLY CONSTRUCTED PRIVATE DWELLING UNIT AT THE TIME OF
21 CONSTRUCTION.

22 (2) "NEW HOME" INCLUDES A SINGLE-FAMILY RESIDENTIAL UNIT AND A
23 CUSTOM HOME AS DEFINED IN § 10-501(C) OF THE REAL PROPERTY ARTICLE.

24 (F) (1) "OWNER" MEANS ANY PERSON FOR WHOM A HOME IS BUILT OR TO
25 WHOM THE HOME IS SOLD FOR OCCUPATION BY:

26 (I) THAT PERSON OR THE FAMILY OF THAT PERSON AS A HOME;
27 AND

28 (II) THE SUCCESSORS OF THAT PERSON IN TITLE TO THE HOME OR
29 A MORTGAGOR IN POSSESSION.

30 (2) "OWNER" DOES NOT INCLUDE:

31 (I) ANY DEVELOPMENT COMPANY, ASSOCIATION, OR SUBSIDIARY
32 COMPANY OF THE HOME BUILDER; OR

1 (II) ANY PERSON OR ORGANIZATION TO WHOM THE HOME MAY BE
2 CONVEYED BY THE HOME BUILDER FOR ANY PURPOSE OTHER THAN RESIDENTIAL
3 OCCUPATION BY THAT PERSON OR ORGANIZATION.

4 4A-201.

5 (A) THERE IS AN OFFICE OF HOME BUILDER REGISTRATION IN THE
6 DEPARTMENT.

7 (B) THE OFFICE EXERCISES ITS RIGHTS, POWERS, AND DUTIES SUBJECT TO
8 THE AUTHORITY OF THE SECRETARY.

9 4A-202.

10 (A) (1) THE SECRETARY SHALL APPOINT A DIRECTOR OF THE OFFICE OF
11 HOME BUILDER REGISTRATION.

12 (2) THE DIRECTOR SERVES AT THE PLEASURE OF THE SECRETARY.

13 (B) THE DIRECTOR SHALL DEVOTE FULL TIME TO THE DUTIES OF THE
14 OFFICE.

15 (C) THE DIRECTOR IS ENTITLED TO:

16 (1) COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET; AND

17 (2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE
18 TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

19 (D) THE DIRECTOR SHALL:

20 (1) ADMINISTER AND OPERATE THE OFFICE; AND

21 (2) BE RESPONSIBLE TO THE SECRETARY.

22 (E) IN ADDITION TO THE REQUIREMENTS OF THE STATE ETHICS LAW, THE
23 DIRECTOR MAY NOT:

24 (1) HOLD ANY POSITION OR ENGAGE IN ANOTHER BUSINESS THAT
25 INTERFERES OR CONFLICTS WITH THE POSITION OF DIRECTOR;

26 (2) BE A REGISTERED HOME BUILDER;

27 (3) ENGAGE IN ANY ACT FOR WHICH A REGISTRATION IS REQUIRED
28 UNDER THIS TITLE; OR

29 (4) IN CONNECTION WITH ANY REGISTRANT, DIRECTLY OR INDIRECTLY
30 RECEIVE OR BECOME ENTITLED TO RECEIVE ANY FEE, PERQUISITE, OR
31 COMPENSATION.

1 4A-203.

2 THE DIRECTOR MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE
3 BUDGET.

4 4A-204.

5 (A) THE DIRECTOR SHALL ADOPT RULES AND REGULATIONS, INCLUDING
6 PERFORMANCE STANDARDS, TO CARRY OUT THIS TITLE.

7 (B) IN ADOPTING PERFORMANCE STANDARDS, THE DIRECTOR SHALL GIVE
8 DUE WEIGHT AND CONSIDERATION TO PERFORMANCE STANDARDS ADOPTED BY
9 OTHER GOVERNMENTAL JURISDICTIONS AND CURRENT INDUSTRY STANDARDS,
10 INCLUDING THE PERFORMANCE STANDARDS ADOPTED BY THE NATIONAL
11 ASSOCIATION OF HOME BUILDERS OR COMPARABLE NATIONAL STANDARDS.

12 4A-205.

13 (A) THE DIRECTOR SHALL MAINTAIN A LIST OF ALL REGISTRANTS.

14 (B) (1) THE DIRECTOR SHALL DISTRIBUTE A COPY OF THE MARYLAND
15 HOME BUILDERS REGISTRATION ACT AND OTHER APPLICABLE LAW AND
16 REGULATIONS TO EACH APPLICANT FOR REGISTRATION.

17 (2) THE DIRECTOR SHALL DISTRIBUTE TO EACH REGISTRANT:

18 (I) ANY AMENDMENTS TO THE MARYLAND HOME BUILDERS
19 REGISTRATION ACT OR OTHER APPLICABLE LAWS AT LEAST 30 DAYS BEFORE THE
20 EFFECTIVE DATE OF THOSE LAWS; AND

21 (II) ANY AMENDMENTS TO THE REGULATIONS AT LEAST 30 DAYS
22 BEFORE THE EFFECTIVE DATE OF THE AMENDMENT.

23 (C) IN CONSULTATION WITH THE HOME BUILDING INDUSTRY, THE DIRECTOR
24 SHALL DEVELOP A CONSUMER INFORMATION PAMPHLET WRITTEN IN PLAIN
25 ENGLISH THAT DESCRIBES:

26 (1) THE RIGHTS AND REMEDIES OF CONSUMERS IN THE PURCHASE OF A
27 NEW HOME; AND

28 (2) ANY OTHER INFORMATION THAT THE DIRECTOR CONSIDERS
29 REASONABLY NECESSARY TO ASSIST CONSUMERS.

30 4A-206.

31 (A) THERE IS A HOME BUILDERS REGISTRATION FUND.

32 (B) EACH APPLICANT FOR REGISTRATION OR RENEWAL OF REGISTRATION
33 SHALL PAY AN APPLICATION OR RENEWAL FEE OF:

34 (1) A REGISTRATION FEE OF \$300; AND

1 (2) AN ASSESSMENT OF \$10 FOR EACH BUILDING PERMIT FOR A NEW
2 HOME OBTAINED BY THE REGISTRANT DURING THE PRIOR 2-YEAR PERIOD.

3 (C) THE DIRECTOR SHALL PAY ALL FUNDS COLLECTED UNDER THIS TITLE TO
4 THE COMPTROLLER, WHO SHALL DISTRIBUTE THE FEES TO THE HOME BUILDERS
5 REGISTRATION FUND.

6 (D) (1) THE FUND SHALL BE USED TO COVER THE ACTUAL DOCUMENTED
7 DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY
8 DUTIES OF THE OFFICE.

9 (2) THE FUND IS A CONTINUING NONLAPSING FUND, NOT SUBJECT TO §
10 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

11 (3) ANY UNSPENT PORTIONS OF THE FUND MAY NOT REVERT OR BE
12 TRANSFERRED TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN THE
13 FUND TO BE USED FOR THE PURPOSES SPECIFIED IN THIS TITLE.

14 (4) NO OTHER STATE MONEY MAY BE USED TO SUPPORT THE FUND.

15 (E) (1) THE DIRECTOR SHALL ADMINISTER THE FUND.

16 (2) MONEYS IN THE FUND MAY BE EXPENDED FOR ANY LAWFUL
17 PURPOSE AUTHORIZED UNDER THE PROVISIONS OF THIS TITLE.

18 (F) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND
19 TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT
20 ARTICLE.

21 4A-301.

22 A PERSON MUST BE REGISTERED AS A HOME BUILDER WHENEVER THE PERSON
23 ACTS AS A HOME BUILDER IN THE STATE.

24 4A-302.

25 EACH PERSON THAT CONSTRUCTS NEW HOMES FOR SALE TO MEMBERS OF THE
26 PUBLIC SHALL MAINTAIN GENERAL LIABILITY INSURANCE IN AN AMOUNT OF AT
27 LEAST \$100,000.

28 4A-303.

29 (A) AN APPLICANT SHALL REGISTER BY:

30 (1) SUBMITTING TO THE DIRECTOR AN APPLICATION UNDER OATH ON
31 THE FORM THAT THE DIRECTOR PROVIDES; AND

32 (2) PAYING THE APPLICATION FEE SET FORTH IN § 4A-206(B) OF THIS
33 TITLE.

34 (B) THE APPLICATION SHALL PROVIDE:

1 (1) THE BUSINESS ADDRESS OF THE APPLICANT;

2 (2) IN THE CASE OF A CORPORATION, PARTNERSHIP, OR OTHER LEGAL
3 ENTITY:

4 (I) THE NAMES AND ADDRESSES OF ALL OFFICERS, PARTNERS,
5 AND DIRECTORS, AND ALL INDIVIDUALS HOLDING AT LEAST A 5% OWNERSHIP
6 INTEREST IN THE BUSINESS; AND

7 (II) THE FEDERAL IDENTIFICATION NUMBER;

8 (3) A STATEMENT WHETHER OR NOT THE APPLICANT HAS PREVIOUSLY
9 APPLIED FOR REGISTRATION;

10 (4) A STATEMENT WHETHER OR NOT EACH OFFICER, PARTNER,
11 DIRECTOR, OR INDIVIDUAL HOLDING AT LEAST A 5% OWNERSHIP INTEREST IN THE
12 BUSINESS HAS HELD A SIMILAR POSITION IN AN ENTITY THAT PREVIOUSLY APPLIED
13 FOR REGISTRATION;

14 (5) A STATEMENT WHETHER THERE ARE ANY OPEN JUDGMENTS OR TAX
15 LIENS AGAINST THE APPLICANT;

16 (6) (I) THE ELECTION MADE BY THE APPLICANT REGARDING DEPOSIT
17 MONEYS PURSUANT TO § 10-301 OF THE REAL PROPERTY ARTICLE; AND

18 (II) IF THE APPLICANT ELECTS TO HOLD DEPOSITS IN AN ESCROW
19 ACCOUNT, THE ACCOUNT NUMBER AND THE NAME OF THE FINANCIAL INSTITUTION;

20 (7) THE NAME AND ADDRESS OF ANY WARRANTY COMPANY, IF THE
21 APPLICANT PARTICIPATES IN A NEW HOME WARRANTY SECURITY PLAN; AND

22 (8) THE POLICY NUMBER AND THE NAME OF THE INSURANCE CARRIER
23 FOR THE GENERAL LIABILITY COVERAGE REQUIRED UNDER § 4A-302 OF THIS
24 SUBTITLE.

25 4A-304.

26 (A) THE DIRECTOR SHALL ISSUE A REGISTRATION TO EACH APPLICANT WHO
27 MEETS THE REQUIREMENTS OF THIS TITLE.

28 (B) A REGISTRATION ISSUED BY THE DIRECTOR UNDER THIS TITLE IS NOT
29 TRANSFERABLE.

30 (C) WHILE A REGISTRATION IS IN EFFECT, IT AUTHORIZES THE REGISTRANT
31 TO ACT AS A HOME BUILDER.

32 4A-305.

33 (A) UNLESS A REGISTRATION IS RENEWED AS PROVIDED IN THIS SECTION,
34 THE REGISTRATION EXPIRES ON THE SECOND ANNIVERSARY OF ITS EFFECTIVE
35 DATE.

1 (B) AT LEAST 60 DAYS BEFORE A REGISTRATION EXPIRES, THE DIRECTOR
2 SHALL MAIL TO THE REGISTRANT, AT THE LAST KNOWN ADDRESS OF THE
3 REGISTRANT:

4 (1) A RENEWAL APPLICATION FORM; AND

5 (2) A NOTICE THAT STATES:

6 (I) THE DATE ON WHICH THE CURRENT REGISTRATION EXPIRES;

7 (II) THE DATE BY WHICH THE DIRECTOR MUST RECEIVE THE
8 RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE
9 REGISTRATION EXPIRES; AND

10 (III) THE INFORMATION NECESSARY FOR CALCULATION OF THE
11 AMOUNT OF THE RENEWAL FEE UNDER § 4A-206(B)(2) OF THIS TITLE.

12 (C) BEFORE A REGISTRATION EXPIRES, THE REGISTRANT PERIODICALLY MAY
13 RENEW IT FOR AN ADDITIONAL 2-YEAR TERM, IF THE REGISTRANT:

14 (1) IS OTHERWISE ENTITLED TO BE REGISTERED;

15 (2) MEETS THE QUALIFICATIONS SET FORTH FOR AN ORIGINAL
16 REGISTRATION;

17 (3) PAYS THE RENEWAL FEE SET FORTH IN § 4A-206 OF THIS TITLE; AND

18 (4) SUBMITS TO THE DIRECTOR A RENEWAL APPLICATION ON THE FORM
19 THAT THE DIRECTOR PROVIDES.

20 (D) THE DIRECTOR SHALL RENEW THE REGISTRATION OF EACH REGISTRANT
21 WHO MEETS THE REQUIREMENTS OF THIS SECTION

22 4A-306.

23 (A) A REGISTRANT SHALL GIVE THE DIRECTOR WRITTEN NOTICE OF ANY
24 CHANGE IN BUSINESS ADDRESS, AND IN ANY INFORMATION SUBMITTED PURSUANT
25 TO § 4A-303(B)(2), (5), (6), (7), AND (8) OF THIS SUBTITLE AT LEAST 10 WORKING DAYS
26 BEFORE THE CHANGE IS TO TAKE EFFECT.

27 (B) COMPLIANCE WITH THIS REQUIREMENT BY THE REGISTRANT SHALL
28 CONTINUE FOR 1 YEAR AFTER THE EXPIRATION OF REGISTRATION.

29 4A-307.

30 EACH REGISTRANT SHALL DISPLAY THE REGISTRATION CONSPICUOUSLY AT
31 EACH BUSINESS ADDRESS OF THE REGISTRANT.

1 4A-308.

2 (A) THE DIRECTOR MAY DENY A REGISTRATION TO AN APPLICANT,
3 REPRIMAND A REGISTRANT, SUSPEND OR REVOKE A REGISTRATION, OR IMPOSE A
4 CIVIL PENALTY ON A REGISTERED HOME BUILDER IF THE DIRECTOR DETERMINES
5 THAT THE ACTION IS WARRANTED IN CONSIDERATION OF THE APPLICANT'S OR
6 REGISTERED HOME BUILDER'S COMMISSION OF ONE OR MORE OF THE FOLLOWING
7 ACTS:

8 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
9 OBTAIN A REGISTRATION;

10 (2) FRAUDULENTLY OR DECEPTIVELY USES A REGISTRATION;

11 (3) REPEATEDLY VIOLATES A PROVISION OF THIS TITLE;

12 (4) IS FOUND LIABLE FOR ENGAGING IN A PATTERN OF UNFAIR OR
13 DECEPTIVE TRADE PRACTICES UNDER THE CONSUMER PROTECTION ACT BY A FINAL
14 ADMINISTRATIVE ORDER OR JUDICIAL DECISION;

15 (5) REPEATEDLY VIOLATES ANY OTHER STATE OR FEDERAL LAW OR
16 REGULATION THAT RELATES TO THE HOME BUILDER'S FITNESS AND
17 QUALIFICATION OR ABILITY TO BUILD HOUSES;

18 (6) ENGAGES IN A PATTERN OF POOR WORKMANSHIP AS EVIDENCED BY:

19 (I) REPEATED FAILURE TO COMPLY WITH DECISIONS AND ORDERS
20 OF THE DIRECTOR TO REMEDY CONSTRUCTION PROBLEMS, AS REQUIRED BY §
21 4A-401(F) OF THIS TITLE;

22 (II) REPEATED BUILDING CODE VIOLATIONS; OR

23 (III) REPEATED JUDGMENTS OR ARBITRATION AWARDS AGAINST
24 THE HOME BUILDER DUE TO UNCOMPLETED OR SUBSTANDARD WORK;

25 (7) REPEATEDLY ENGAGES IN FRAUD, DECEPTION,
26 MISREPRESENTATION, OR KNOWING OMISSION OF MATERIAL FACTS IN
27 CONNECTION WITH A HOME BUILDING CONTRACT; OR

28 (8) HAS HAD A SIMILAR REGISTRATION OR LICENSE DENIED,
29 SUSPENDED, OR REVOKED IN ANOTHER STATE OR JURISDICTION, OR HAS HAD THE
30 RENEWAL OF THE REGISTRATION OR LICENSE DENIED FOR ANY CAUSE OTHER THAN
31 FAILURE TO PAY A RENEWAL FEE.

32 (B) THE DIRECTOR SHALL PROVIDE NOTICE AND AN OPPORTUNITY TO
33 REQUEST A HEARING TO CONTEST THE PROPOSED DISCIPLINARY ACTION PURSUANT
34 TO TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

1 4A-309.

2 (A) THE DIRECTOR MAY DENY A REGISTRATION TO ANY APPLICANT OR
3 SUSPEND OR REVOKE A REGISTRATION IF AN OFFICER, PARTNER, DIRECTOR, OR
4 OWNER OF MORE THAN 5% OWNERSHIP OF THE BUSINESS ENTITY HAS HELD A
5 SIMILAR POSITION WITH A HOME BUILDER WHICH HAS HAD A SIMILAR
6 REGISTRATION OR LICENSE DENIED, SUSPENDED, OR REVOKED BY THE DIRECTOR,
7 OR IN ANOTHER STATE OR JURISDICTION, FOR ANY CAUSE OTHER THAN FAILURE TO
8 PAY A RENEWAL FEE.

9 (B) FOR THE PURPOSES OF THIS SECTION, INTERESTS HELD BY A PARENT,
10 SPOUSE, OR CHILD SHALL BE INCLUDED IN CONSIDERING WHETHER THERE IS
11 OVERLAPPING OWNERSHIP BETWEEN TWO BUSINESS ENTITIES.

12 4A-401.

13 (A) AN OWNER MAY FILE A WRITTEN COMPLAINT UNDER OATH WITH THE
14 DIRECTOR ALLEGING THAT A HOME BUILDER HAS FAILED TO COMPLETE WORK IN
15 COMPLIANCE WITH THE CONTRACT, ANY WRITTEN ADDENDA OR CHANGE ORDERS
16 TO THE CONTRACT, ANY MANUFACTURER'S INSTALLATION INSTRUCTIONS, ANY
17 APPLICABLE PERFORMANCE STANDARDS AS SPECIFIED IN THE CONTRACT OR BY
18 LAW, OR ANY IMPLIED OR EXPRESS WARRANTIES.

19 (B) THE COMPLAINT SHALL BE FILED NO LATER THAN 6 MONTHS AFTER THE
20 OWNER LEARNED, OR SHOULD HAVE LEARNED, ABOUT THE ALLEGED FAILURE, AND
21 NO LATER THAN 2 YEARS AFTER THE USE AND OCCUPANCY PERMIT FOR THE HOME
22 WAS ISSUED.

23 (C) THE DIRECTOR SHALL FORWARD THE COMPLAINT TO THE HOME
24 BUILDER, OFFER TO ASSIST THE HOME BUILDER AND THE OWNER TO RESOLVE THE
25 DISPUTE THROUGH CONCILIATION, AND AFFORD THE HOME BUILDER REASONABLE
26 TIME TO MAKE ANY REPAIRS AGREED TO AND EVIDENCED BY A WRITTEN
27 CONCILIATION AGREEMENT SIGNED BY BOTH PARTIES.

28 (D) IF THE OWNER STATES IN THE COMPLAINT THAT THE HOME BUILDER HAS
29 ALREADY BEEN NOTIFIED OF THE DISPUTE AND GIVEN A REASONABLE TIME TO
30 RESOLVE IT, BUT HAS FAILED TO DO SO, THE DIRECTOR MAY INVESTIGATE THE
31 COMPLAINT WITHOUT ATTEMPTING CONCILIATION.

32 (E) IF THE COMPLAINT HAS NOT BEEN RESOLVED BY CONCILIATION, OR IF
33 THE OWNER STATES THAT THE HOME BUILDER HAS NOT RESOLVED IT WITHIN A
34 REASONABLE TIME AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE
35 DIRECTOR SHALL:

36 (1) OBTAIN FROM THE HOME BUILDER A WRITTEN RESPONSE TO THE
37 COMPLAINT; AND

38 (2) INVESTIGATE THE COMPLAINT TO DETERMINE ITS VALIDITY AND
39 THE EXTENT OF HOME BUILDER RESPONSIBILITY.

1 (F) AT THE CONCLUSION OF THE INVESTIGATION, THE DIRECTOR SHALL
2 ISSUE AN ORDER DETERMINING EITHER THAT:

3 (1) THE HOME BUILDER IS NOT RESPONSIBLE FOR THE PROBLEMS
4 COMPLAINED OF; OR

5 (2) THE HOME BUILDER IS RESPONSIBLE FOR PART OR ALL OF THE
6 PROBLEM AND THE DIRECTOR SHALL ORDER THE HOME BUILDER TO REMEDY THE
7 PROBLEM WITHIN A STATED REASONABLE TIME.

8 (G) IF THE HOME BUILDER FAILS TO PROVIDE THE REMEDY STATED IN THE
9 ORDER WITHIN THE TIME PERIOD SET FORTH, THE DIRECTOR MAY ORDER THE
10 HOME BUILDER TO:

11 (1) PAY THE OWNER A REASONABLE AMOUNT NECESSARY FOR THE
12 OWNER TO REMEDY THE PROBLEM; AND

13 (2) PAY A CIVIL PENALTY NOT TO EXCEED \$1,000 PER ITEM THAT THE
14 HOME BUILDER FAILS TO REPAIR.

15 4A-402.

16 ANY PARTY AGGRIEVED BY THE DECISION AND ORDER OF THE DIRECTOR
17 UNDER THIS SUBTITLE MAY TAKE AN APPEAL AS ALLOWED IN §§ 10-222 AND 10-223
18 OF THE STATE GOVERNMENT ARTICLE.

19 4A-501

20 (A) A HOME BUILDER MUST PROVIDE AN OWNER OR PROSPECTIVE OWNER
21 WITH THE CONSUMER INFORMATION PAMPHLET PUBLISHED BY THE DIRECTOR
22 PURSUANT TO § 4A-205 OF THIS TITLE PRIOR TO ENTERING INTO A CONTRACT.

23 (B) THE OWNER OR PROSPECTIVE OWNER SHALL ACKNOWLEDGE IN WRITING
24 RECEIPT OF THE CONSUMER INFORMATION PAMPHLET.

25 4A-502.

26 (A) EXCEPT FOR A BUILDING PERMIT FOR CONSTRUCTION TO BE PERFORMED
27 DIRECTLY BY A PROPERTY OWNER SOLELY FOR THE PROPERTY OWNER'S OWN USE,
28 THE BUILDING AND PERMITS DEPARTMENT OF A COUNTY MAY NOT ISSUE A PERMIT
29 FOR HOME BUILDING UNLESS THE PERMIT INCLUDES THE HOME BUILDER
30 REGISTRATION NUMBER OF A REGISTERED HOME BUILDER.

31 (B) PRIOR TO ISSUING A PERMIT FOR HOME BUILDING TO A PROPERTY
32 OWNER, THE BUILDING AND PERMITS DEPARTMENT OF A COUNTY SHALL OBTAIN
33 THE SIGNATURE OF THE PROPERTY OWNER CONFIRMING THAT THE PERMIT IS
34 BEING ISSUED SOLELY FOR THE PROPERTY OWNER'S OWN USE.

1 4A-503.

2 (A) IN THIS SECTION, "BUILDING CODE" INCLUDES A CODE THAT DEALS WITH
3 MECHANICAL, ELECTRICAL, FIRE, PLUMBING, ENERGY, HEATING, VENTILATION, OR
4 AIR-CONDITIONING MATTERS.

5 (B) A COUNTY OR MUNICIPAL CORPORATION SHALL NOTIFY THE DIRECTOR
6 OF EACH HOME BUILDER WHO FAILS TO CORRECT A VIOLATION OF THE APPLICABLE
7 LOCAL OR STATE BUILDING CODE WITHIN A REASONABLE TIME AFTER THE HOME
8 BUILDER RECEIVES NOTICE OF THE VIOLATION.

9 4A-601.

10 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON MAY NOT ACT
11 OR OFFER TO ACT AS A HOME BUILDER IN THE STATE UNLESS THE PERSON IS A
12 REGISTERED HOME BUILDER.

13 (B) A PERSON THAT VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
14 AND, ON FIRST CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 AND ON
15 SECOND OR SUBSEQUENT CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING
16 \$5,000.

17 4A-602.

18 (A) (1) THE DIRECTOR MAY BRING A CIVIL ADMINISTRATIVE ACTION
19 AGAINST ANY PERSON THAT ACTS IN VIOLATION OF § 4A-601(A) OF THIS SUBTITLE.

20 (2) NOTICE AND A HEARING SHALL BE PROVIDED PURSUANT TO TITLE
21 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

22 (B) IF THE DIRECTOR FINDS AFTER A HEARING THAT THE PERSON HAS
23 ENGAGED IN THESE ACTIVITIES WITHOUT BEING REGISTERED, THE DIRECTOR MAY:

24 (1) ORDER THE PERSON TO CEASE AND DESIST FROM THE UNLAWFUL
25 PRACTICE; AND

26 (2) IMPOSE A CIVIL PENALTY OF NOT MORE THAN \$1,000 PER INCIDENT
27 OF UNLAWFUL PRACTICE.

28 (C) ANY PARTY AGGRIEVED BY THE DECISION AND ORDER OF THE DIRECTOR
29 MAY TAKE AN APPEAL AS PROVIDED BY §§ 10-222 AND 10-223 OF THE STATE
30 GOVERNMENT ARTICLE.

31 (D) (1) A PURCHASER WHO HAS CONTRACTED WITH A HOME BUILDER WHO
32 DID NOT HAVE A VALID HOME BUILDER REGISTRATION AT THE TIME THAT THE
33 CONTRACT WAS SIGNED MAY RESCIND THE CONTRACT AND IS ENTITLED TO ALL
34 MONEYS PAID TO THE HOME BUILDER.

1 (2) THE HOME BUILDER SHALL FORFEIT AND THE PURCHASER MAY
2 RETAIN ANY MATERIALS AND LABOR THAT IMPROVED ANY REAL PROPERTY OF THE
3 OWNER.

4 4A-603.

5 A PERSON MAY NOT ADVERTISE IN ANY WAY THAT THE PERSON IS REGISTERED
6 UNDER THIS TITLE UNLESS THE ADVERTISEMENT STATES THE HOME BUILDER
7 REGISTRATION NUMBER OF THE PERSON IN ONE OF THE FOLLOWING FORMS:

8 "MARYLAND HOME BUILDER REGISTRATION NO. _____" OR

9 "MHBR NO. _____."

10 4A-604.

11 (A) THIS SECTION ONLY APPLIES IF THERE IS NO GREATER CRIMINAL
12 PENALTY PROVIDED UNDER THIS TITLE OR OTHER APPLICABLE LAW.

13 (B) A PERSON WHO ENGAGES IN REPEATED VIOLATIONS OF THIS TITLE IS
14 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
15 EXCEEDING \$2,500.

16 4A-701.

17 THIS TITLE MAY BE CITED AS THE MARYLAND HOME BUILDERS REGISTRATION
18 ACT.

19 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
20 read as follows:

21 **Article - Real Property**

22 14-117.

23 (J) A CONTRACT FOR THE INITIAL SALE OF IMPROVED, RESIDENTIAL REAL
24 PROPERTY TO A MEMBER OF THE PUBLIC WHO INTENDS TO OCCUPY OR RENT THE
25 PROPERTY FOR RESIDENTIAL PURPOSES SHALL INCLUDE THE FOLLOWING:

26 (1) THE HOME BUILDER REGISTRATION NUMBER OF THE SELLER OF
27 THE RESIDENTIAL REAL PROPERTY ISSUED BY THE DEPARTMENT OF LABOR,
28 LICENSING, AND REGULATION PURSUANT TO TITLE 4A OF THE BUSINESS
29 REGULATION ARTICLE;

30 (2) A PROVISION REFERENCING ALL STANDARDS WITH WHICH THE
31 SELLER SHALL COMPLY IN THE CONSTRUCTION AND IMPROVEMENT OF THE
32 RESIDENCE INCLUDING ANY PERFORMANCE STANDARDS AND BUILDING CODES;

33 (3) A PROVISION SETTING FORTH THE PURCHASER'S RIGHT TO RECEIVE
34 A CONSUMER INFORMATION PAMPHLET;

1 (4) A PROVISION THAT, IN THE EVENT THERE IS AN UNRESOLVED
2 DISPUTE INVOLVING \$500 OR MORE IN VALUE BETWEEN THE SELLER AND THE
3 PURCHASER WHICH ARISES FROM THE CONTRACT OR ANY WRITTEN AMENDMENT
4 THERETO, THE DISPUTE MAY BE SUBMITTED TO MEDIATION OR ARBITRATION AS
5 FOLLOWS:

6 (I) EITHER SELLER OR BUYER MAY, BY WRITTEN NOTICE SENT TO
7 THE OTHER PARTY, REQUIRE THAT THE DISPUTE BE SUBMITTED TO MEDIATION. ANY
8 AGREEMENT REACHED IN MEDIATION SHALL BE SET FORTH IN WRITING WHICH,
9 WHEN SIGNED BY THE PARTIES, SHALL CONSTITUTE A BINDING AGREEMENT.

10 (II) WITH THE AGREEMENT OF ALL PARTIES, THE DISPUTE MAY BE
11 SETTLED BY BINDING ARBITRATION.

12 (III) UNLESS THE PARTIES OTHERWISE AGREE, THE MEDIATOR OR
13 ARBITRATOR SHALL BE SELECTED FROM THE LIST OF APPROVED MEDIATORS AND
14 ARBITRATORS COMPILED BY ANY CIRCUIT COURT IN THIS STATE.

15 (IV) THE COST OF MEDIATION OR ARBITRATION SHALL BE SHARED
16 EQUALLY BY SELLER AND BUYER.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
18 construed only prospectively and may not be applied or interpreted to have any effect
19 on or application to any Act or omission of a home builder arising before the effective
20 date of this Act; that it shall apply only to contracts entered into on or after January
21 1, 2000; and that home builders shall be registered beginning on or after January 1,
22 2000.

23 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall supersede
24 any existing laws of any county or municipality in the State of Maryland or of the City
25 of Baltimore regarding registration of home builders with the exception of
26 Montgomery County, where Section 1 of this Act shall not apply.

27 SECTION 5. AND BE IT FURTHER ENACTED, That the Department of Labor,
28 Licensing, and Regulation, in consultation with the home building industry, shall
29 conduct a study of the need and feasibility of creating a guaranty fund to pay claims
30 brought by home buyers against home builders and shall report on the results of the
31 study by December 31, 1999 to the Chairman and Vice Chairman of the Senate
32 Economic and Environmental Affairs Committee and the Chairman and Vice
33 Chairman of the House Economic Matters Committee.

34 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 1999.