

BY: Economic Matters Committee

AMENDMENTS TO SENATE BILL NO. 380

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike "Builder Registration" and substitute "Builders".

AMENDMENT NO. 2

On pages 1 and 2, strike beginning with "establishing" in line 3 on page 1 through "State" in line 36 on page 2 and substitute "prohibiting a person from claiming to be or acting as a home builder unless the person has been issued a certain builder registration number by the Chief of the Division of Consumer Protection of the Office of the Attorney General; providing that certain lenders are exempt from registration; providing that certain contracts are not enforceable unless performed by a registered home builder; establishing a certain application and renewal process for home builder registration; establishing a Home Builder's Registration Fund; requiring a home builder to post the builder registration number on certain properties where the home builder is doing certain work; prohibiting a county or municipal corporation from issuing a building permit for the construction of a new home unless the permit includes the builder registration number of a registered home builder, subject to certain exceptions; requiring a person who advertises that the person is a registered home builder include certain information in the advertisement; requiring the Chief, in consultation with certain industries, to develop a certain consumer information pamphlet; requiring a home builder to provide a contract purchaser with a consumer information pamphlet prior to entering into a contract for the initial sale of a new home; requiring a home builder to include certain information in a contract for the initial sale of a new home; prohibiting a person from making certain false representations relating to a builder registration number or engaging in business as a home builder without having a current builder registration number; requiring a county or municipal corporation to notify the Chief of the failure of a home builder to correct certain violations after a certain period of time; authorizing the Chief to deny an application or renewal for a builder registration number or revoke or suspend a builder registration number under certain circumstances; requiring a consumer to submit a complaint against a home builder to arbitration and exhaust any remedies available under a new home warranty under certain circumstances subject to certain

(Over)

exceptions; requiring any additional requirements to be placed on home builders to be made in a certain manner; altering the penalty schedule of certain blanket bonds and blanket letters of credit; providing that a violation of certain provisions of this Act is an unfair or deceptive trade practice under the Maryland Consumer Protection Act; limiting the applicable penalties under the Maryland Consumer Protection Act for certain violations to civil penalties; exempting Montgomery County from the application of this Act; defining certain terms; providing for the application of this Act; providing for the termination of certain provisions of this Act; providing for the delayed effective date of this Act; and generally relating to the registration of home builders”.

AMENDMENT NO. 3

On page 2, strike in their entirety lines 37 through 42, inclusive, and substitute:

“BY repealing and reenacting, with amendments,

Article - Commercial Law

Section 13-301(14) and 13-411

Annotated Code of Maryland

(1990 Replacement Volume and 1999 Supplement)

BY adding to

Article - Commercial Law

Section 14-2901 through 14-2919, inclusive, to be under the new subtitle “Subtitle 29.

Maryland Home Builders Act”

Annotated Code of Maryland

(1990 Replacement Volume and 1999 Supplement)

BY repealing and reenacting, with amendments,

Article - Real Property

Section 10-302 and 10-303

Annotated Code of Maryland

(1996 Replacement Volume and 1999 Supplement)”.

AMENDMENT NO. 4

On pages 3 through 26, strike in their entirety the lines beginning with line 5 on page 3 through line 34 on page 26 and substitute:

“Article - Commercial Law

13-301.

Unfair or deceptive trade practices include any:

(14) Violation of a provision of:

(i) This title;

(ii) An order of the Attorney General or agreement of a party relating to unit pricing under Title 14, Subtitle 1 of this article;

(iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt Collection Act;

(iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door Sales Act;

(v) Title 14, Subtitle 9 of this article, Kosher Products;

(vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;

(vii) Section 14-1302 of this article;

(viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales Act;

(ix) Section 22-415 of the Transportation Article;

(x) Title 14, Subtitle 20 of this article;

(xi) Title 14, Subtitle 15 of this article, the Automotive Warranty

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Enforcement Act;

(xii) Title 14, Subtitle 21 of this article;

(xiii) Section 18-107 of the Transportation Article;

(xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone

Solicitations Act;

(xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts Act;

(xvi) Title 10, Subtitle 6 of the Real Property Article;

(xvii) Title 10, Subtitle 8 of the Real Property Article;

(xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act; [or]

(xix) Title 14, Subtitle 26 of this article, the Maryland Door-to-Door

Solicitations Act; or

(XX) SECTION 14-2912 OF THIS ARTICLE; OR

13-411.

(a) Except as provided in subsection (b) of this section, any person who violates any provision of this title is guilty of a misdemeanor and, unless another criminal penalty is specifically provided elsewhere, on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding one year or both, in addition to any civil penalties.

(b) A person may not be imprisoned for violation of any provision of an order of the Attorney General or an agreement of a party relating to unit pricing under Title 14, Subtitle 1 of this article.

(C) THIS SECTION DOES NOT APPLY TO VIOLATIONS OF THE MARYLAND HOME BUILDERS ACT.

SUBTITLE 29. MARYLAND HOME BUILDERS ACT.

14-2901.

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

(B) "BUILDER REGISTRATION NUMBER" MEANS A REGISTRATION NUMBER ISSUED BY THE CHIEF TO A HOME BUILDER UNDER THIS SUBTITLE.

(C) "CHIEF" MEANS THE CHIEF OF THE DIVISION.

(D) "CONSUMER" MEANS AN OWNER OR CONTRACT PURCHASER.

(E) "CONTRACT PURCHASER" MEANS A PERSON WHO HAS ENTERED INTO A CONTRACT WITH A HOME BUILDER TO PURCHASE A NEW HOME, BUT WHO HAS NOT YET SETTLED ON THE PURCHASE OF THE NEW HOME.

(F) "DIVISION" MEANS THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL.

(G) "EXEMPT LENDER" MEANS A LENDER EXEMPT FROM THE REQUIREMENTS OF REGISTRATION AS PROVIDED IN § 14-2902(C) OF THIS SUBTITLE.

(H) "FIXTURES" DOES NOT INCLUDE ANY APPLIANCES, GOODS, OR OTHER FEATURES OF A NEW HOME BROUGHT INTO OR INCORPORATED INTO THE NEW HOME THAT ARE COVERED BY MANUFACTURER'S WARRANTIES.

(I) "FUND" MEANS THE HOME BUILDERS REGISTRATION FUND.

(J) (1) "HOME BUILDER" MEANS A PERSON, AS DEFINED IN § 1-201 OF THIS ARTICLE, THAT:

(Over)

(I) UNDERTAKES TO ERECT OR OTHERWISE CONSTRUCT A NEW HOME;

(II) IS A CUSTOM HOME BUILDER, AS DEFINED IN § 10-501 OF THE REAL PROPERTY ARTICLE; OR

(III) INSTALLS , RETAILS, OR BROKERS NEW INDUSTRIALIZED BUILDINGS INTENDED FOR RESIDENTIAL USE OR NEW MOBILE HOMES INTENDED FOR RESIDENTIAL USE.

(2) “HOME BUILDER” DOES NOT INCLUDE:

(I) AN EMPLOYEE OF A HOME BUILDER THAT IS REGISTERED UNDER THIS SUBTITLE OR IS AN EXEMPT LENDER, SO LONG AS THAT EMPLOYEE DOES NOT WORK AS A HOME BUILDER OTHER THAN AS AN EMPLOYEE OF THE REGISTERED HOME BUILDER OR EXEMPT LENDER;

(II) A SUBCONTRACTOR OR OTHER VENDOR HIRED BY THE HOME BUILDER TO PERFORM SERVICES OR SUPPLY MATERIALS FOR THE CONSTRUCTION OF A NEW HOME AND WHO DOES NOT OTHERWISE MEET THE REQUIREMENTS OF THIS SUBTITLE;

(III) A MANUFACTURER OF INDUSTRIALIZED BUILDINGS INTENDED FOR RESIDENTIAL USE OR OF MOBILE HOMES, EXCEPT IF THE MANUFACTURER ALSO INSTALLS THE MANUFACTURED HOMES OR MOBILE HOMES;

(IV) A REAL ESTATE DEVELOPER WHO DOES NOT CONSTRUCT NEW HOMES; OR

(V) A PERSON WHO ERECTS OR CONSTRUCTS NEW HOMES SOLELY IN MONTGOMERY COUNTY.

(K) “INDIVIDUAL APPLICANT” MEANS AN INDIVIDUAL WHO IS A HOME

BUILDER AND APPLIES FOR A BUILDER REGISTRATION NUMBER UNDER THIS SUBTITLE.

(L) "INDUSTRIALIZED BUILDING" HAS THE MEANING STATED IN ARTICLE 83B, § 6-202 OF THE CODE.

(M) "INSTALL" HAS THE MEANING STATED IN ARTICLE 83B, § 6-202 OF THE CODE.

(N) (1) "MOBILE HOME" HAS THE MEANING STATED IN ARTICLE 83B, § 6-202 OF THE CODE.

(2) "MOBILE HOME" INCLUDES STRUCTURES CONSTRUCTED TO THE STANDARDS CONTAINED IN 24 CFR PART 3280, "MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS".

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

(2) "NEW HOME" INCLUDES SINGLE-FAMILY RESIDENTIAL UNITS AND CUSTOM HOMES, AS DEFINED IN § 10-501 OF THE REAL PROPERTY ARTICLE.

(P) (1) "OWNER" MEANS A PERSON FOR WHOM A NEW HOME IS BUILT OR TO WHOM A NEW HOME IS SOLD, FOR RESIDENTIAL OCCUPANCY BY THE PERSON OR THE FAMILY OF THE PERSON.

(2) "OWNER" INCLUDES A CONTRACT PURCHASER WHO HAS ENTERED INTO A CONTRACT WITH A HOME BUILDER FOR THE CONSTRUCTION AND PURCHASE OF A NEW HOME.

(3) "OWNER" DOES NOT INCLUDE:

(Over)

(I) A DEVELOPMENT COMPANY, ASSOCIATION, OR SUBSIDIARY COMPANY OF THE HOME BUILDER; OR

(II) A PERSON TO WHOM THE NEW HOME IS CONVEYED BY THE HOME BUILDER FOR A PURPOSE OTHER THAN RESIDENTIAL OCCUPANCY.

(Q) "PRINCIPAL" MEANS:

(1) EACH OFFICER, DIRECTOR, GENERAL PARTNER, AND LIMITED LIABILITY COMPANY MANAGER OF THE HOME BUILDER, AS APPLICABLE; AND

(2) IN THE CASE OF A BUSINESS ENTITY THAT DOES NOT HAVE SECURITIES REGISTERED FOR TRADING ON A NATIONAL EXCHANGE, THE NAMES, ADDRESSES, AND SOCIAL SECURITY NUMBERS OF ALL INDIVIDUALS HOLDING A 35% OR GREATER OWNERSHIP INTEREST IN THE HOME BUILDER.

4-2902.

(A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A PERSON MAY NOT CLAIM TO BE A HOME BUILDER OR ACT AS A HOME BUILDER UNLESS THE PERSON HAS BEEN ISSUED A BUILDER REGISTRATION NUMBER BY THE CHIEF IN ACCORDANCE WITH THIS SUBTITLE.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A CONTRACT FOR THE PERFORMANCE OF ANY ACT FOR WHICH A BUILDER REGISTRATION NUMBER IS REQUIRED IS NOT ENFORCEABLE UNLESS THE HOME BUILDER WAS REGISTERED AT THE TIME THE CONTRACT WAS SIGNED BY THE OWNER.

(C) THE FOLLOWING LENDERS ARE EXEMPT FROM THE REQUIREMENTS RELATING TO REGISTRATION UNDER THIS SUBTITLE WHEN THE LENDER UNDERTAKES TO COMPLETE A HOME BUILDER'S UNFINISHED PROJECT PURSUANT TO A DEFAULT IN OBLIGATIONS OF THE HOME BUILDER TO THE LENDER:

(1) A MORTGAGE LENDER AS DEFINED IN § 11-501(J)(1)(II) OF THE FINANCIAL INSTITUTIONS ARTICLE THAT IS A LICENSEE UNDER TITLE 11, SUBTITLE 5 OF THE FINANCIAL INSTITUTIONS ARTICLE;

(2) A BANK, TRUST COMPANY, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, OR CREDIT UNION INCORPORATED OR CHARTERED UNDER THE LAWS OF THIS STATE OR THE UNITED STATES THAT MAINTAINS ITS PRINCIPAL OFFICE IN THIS STATE;

(3) AN OUT-OF-STATE BANK AS DEFINED IN § 5-1001 OF THE FINANCIAL INSTITUTIONS ARTICLE THAT HAS A BRANCH IN THIS STATE THAT ACCEPT DEPOSITS;

(4) AN INSTITUTION INCORPORATED UNDER FEDERAL LAW AS A SAVINGS ASSOCIATION OR SAVINGS BANK THAT DOES NOT MAINTAIN ITS PRINCIPAL OFFICE IN THIS STATE BUT HAS A BRANCH THAT ACCEPTS DEPOSITS IN THIS STATE; AND

(5) A SUBSIDIARY OR AFFILIATE OF AN INSTITUTION DESCRIBED IN PARAGRAPH (2), (3), OR (4) OF THIS SUBSECTION THAT IS SUBJECT TO AUDIT OR EXAMINATION BY A REGULATORY BODY OR AGENCY OF THIS STATE, THE UNITED STATES, OR THE STATE WHERE THE SUBSIDIARY OR AFFILIATE MAINTAINS ITS PRINCIPAL OFFICE.

(D) AN EXEMPT LENDER IS SUBJECT ONLY TO §§ 14-2908, 14-2909, 14-2910, 14-2911, 14-2912, 14-2913, 14-2915, AND 14-2916 OF THIS SUBTITLE.

14-2903.

(A) A PERSON SEEKING A BUILDER REGISTRATION NUMBER SHALL SUBMIT TO THE CHIEF A WRITTEN APPLICATION UNDER OATH ON A FORM PROVIDED BY THE CHIEF.

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- (B) THE APPLICATION SHALL INCLUDE:
- (1) THE APPLICANT'S NAME;
 - (2) THE PRINCIPAL BUSINESS ADDRESS AND TELEPHONE NUMBER OF THE APPLICANT;
 - (3) IF THE APPLICANT IS AN INDIVIDUAL APPLICANT, THE SOCIAL SECURITY NUMBER OF THE APPLICANT;
 - (4) IF THE APPLICANT IS A BUSINESS ENTITY OR ORGANIZATION:
 - (I) THE APPLICANT'S FEDERAL EMPLOYER IDENTIFICATION NUMBER; AND
 - (II) THE NAMES, ADDRESSES, AND SOCIAL SECURITY NUMBERS OF ALL PRINCIPALS OF THE APPLICANT;
 - (5) A STATEMENT INDICATING WHETHER OR NOT THE APPLICANT HAS PREVIOUSLY APPLIED FOR REGISTRATION IN THIS STATE AND THE DISPOSITION OF ALL PRIOR APPLICATIONS;
 - (6) A LIST OF ALL STATES AND OTHER JURISDICTIONS IN WHICH THE APPLICANT PRESENTLY HOLDS A SIMILAR REGISTRATION OR LICENSE;
 - (7) A STATEMENT INDICATING WHETHER THERE ARE ANY UNSATISFIED JUDGMENTS OR TAX LIENS AGAINST THE APPLICANT;
 - (8) (I) THE ELECTION MADE BY THE APPLICANT REGARDING THE HOLDING OF DEPOSIT MONEYS UNDER § 10-301 OF THE REAL PROPERTY ARTICLE;
AND
 - (II) IF THE APPLICANT ELECTS TO HOLD DEPOSITS IN AN

ESCROW ACCOUNT, THE ACCOUNT NUMBER AND NAME OF THE FINANCIAL INSTITUTION IN WHICH THE ACCOUNT IS BEING HELD;

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

(10) THE NAME OF THE INSURER THAT PROVIDES THE APPLICANT WITH GENERAL LIABILITY INSURANCE AND THE POLICY NUMBERS OF ALL SUCH POLICIES.

(C) EACH APPLICATION SHALL BE ACCOMPANIED BY A NONREFUNDABLE FEE OF \$100.

(D) THE CHIEF SHALL ISSUE A BUILDER REGISTRATION NUMBER TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.

14-2904.

(A) UNLESS A BUILDER REGISTRATION NUMBER IS RENEWED AS PROVIDED IN THIS SECTION, THE BUILDER REGISTRATION NUMBER SHALL EXPIRE ON THE LAST DAY OF THE 24TH MONTH FOLLOWING THE EFFECTIVE DATE OF THE ISSUANCE OF THE BUILDER REGISTRATION NUMBER.

(B) AT LEAST 60 DAYS BEFORE A BUILDER REGISTRATION NUMBER EXPIRES, THE CHIEF SHALL MAIL TO THE REGISTRANT, AT THE REGISTRANT'S LAST KNOWN ADDRESS:

(1) A RENEWAL APPLICATION FORM; AND

(2) A NOTICE THAT STATES:

(I) THE DATE ON WHICH THE CURRENT BUILDER REGISTRATION NUMBER EXPIRES; AND

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(II) THE DATE BY WHICH THE CHIEF MUST RECEIVE THE RENEWAL APPLICATION FOR A RENEWAL TO BE ISSUED AND MAILED BEFORE THE CURRENT BUILDER REGISTRATION NUMBER EXPIRES.

(C) EACH RENEWAL APPLICATION SUBMITTED TO THE CHIEF SHALL BE ACCOMPANIED BY A NONREFUNDABLE FEE OF \$100.

(D) THE CHIEF SHALL RENEW THE BUILDER REGISTRATION NUMBER OF EACH REGISTRANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.

14-2905.

A HOME BUILDER MAY NOT TRANSFER, ASSIGN, OR PLEDGE A BUILDER REGISTRATION NUMBER.

14-2906.

(A) (1) THERE IS A HOME BUILDER'S REGISTRATION FUND.

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

(3) ANY UNSPENT PORTIONS OF THE FUND SHALL REMAIN IN THE FUND AND MAY NOT REVERT OR BE TRANSFERRED TO THE GENERAL FUND OF THE STATE.

(B) THE CHIEF SHALL PAY ALL FEES COLLECTED UNDER THIS SUBTITLE TO THE COMPTROLLER OF THE STATE, WHO SHALL DISTRIBUTE THE FEES TO THE FUND.

(C) THE CHIEF SHALL ADMINISTER THE FUND.

(D) THE CHIEF MAY ONLY WITHDRAW AND USE MONEY FROM THE FUND

FOR THE PURPOSES OF COMPLYING WITH AND ENFORCING THIS SUBTITLE, INCLUDING THE HIRING OF STAFF NECESSARY FOR THE ADMINISTRATION OF THIS SUBTITLE.

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

14-2907.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A HOME BUILDER SHALL POST PROMINENTLY THE BUILDER REGISTRATION NUMBER OF THE HOME BUILDER AT EACH PROPERTY WHERE THE HOME BUILDER IS DOING ANY WORK FOR WHICH REGISTRATION IS REQUIRED UNDER THIS SUBTITLE.

(B) IF A HOME BUILDER IS DOING WORK ON MULTIPLE NEW HOMES WITHIN ONE PROJECT OR SUBDIVISION, THE HOME BUILDER IS ONLY REQUIRED TO POST THE HOME BUILDER'S BUILDER REGISTRATION NUMBER AT ONE CENTRAL LOCATION IN THE PROJECT OR SUBDIVISION AND NOT AT EACH INDIVIDUAL HOME SITE.

14-2908.

(A) NOTHING IN THIS SUBTITLE SHALL BE CONSTRUED TO RELIEVE A HOME BUILDER FROM THE OBLIGATION TO OBTAIN ALL OTHER PERMITS, LICENSES, AND OTHER AUTHORIZATIONS FOR THE CONSTRUCTION OF A NEW HOME.

(B) EXCEPT AS PROVIDED IN SUBSECTIONS (C) AND (D) OF THIS SECTION, A COUNTY OR MUNICIPAL CORPORATION MAY NOT ISSUE A BUILDING PERMIT FOR THE CONSTRUCTION OF A NEW HOME UNLESS THE PERMIT INCLUDES THE BUILDER REGISTRATION NUMBER OF A REGISTERED HOME BUILDER.

(C) A COUNTY OR MUNICIPAL CORPORATION MAY ISSUE A BUILDING

(Over)

PERMIT WITHOUT A BUILDER REGISTRATION NUMBER FOR THE CONSTRUCTION OF A NEW HOME IF:

(1) THE PERMIT IS FOR THE CONSTRUCTION OF A NEW HOME THAT WILL BE PERFORMED DIRECTLY BY THE OWNER OF THE PROPERTY;

(2) THE NEW HOME IS SOLELY FOR THE USE OF THE OWNER OF THE PROPERTY; AND

(3) BEFORE ISSUING THE PERMIT, THE COUNTY OR MUNICIPAL CORPORATION OBTAINS THE SIGNATURE OF THE PROPERTY OWNER CONFIRMING THAT THE PERMIT IS BEING ISSUED SOLELY FOR THE PURPOSE OF THE OWNER OF THE PROPERTY TO PERFORM WORK ON THE PROPERTY.

(D) A COUNTY OR MUNICIPAL CORPORATION MAY ISSUE A BUILDING PERMIT REQUESTED BY AN EXEMPT LENDER WITHOUT A BUILDER REGISTRATION NUMBER.

14-2909.

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

"MARYLAND HOME BUILDER REGISTRATION NO. _____"; OR

"MHR NO. _____"

14-2910.

(A) IN CONSULTATION WITH THE HOME BUILDING INDUSTRY, THE INDUSTRIALIZED BUILDING INDUSTRY, AND THE MOBILE HOME INDUSTRY, THE CHIEF SHALL DEVELOP A CONSUMER INFORMATION PAMPHLET WRITTEN IN PLAIN

ENGLISH THAT DESCRIBES:

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

(2) ANY OTHER INFORMATION THAT THE CHIEF CONSIDERS REASONABLY NECESSARY TO ASSIST CONSUMERS IN CONNECTION WITH THE PURCHASE OF A NEW HOME.

(B) THE CHIEF SHALL PROVIDE EACH REGISTERED HOME BUILDER WITH A SUFFICIENT NUMBER OF COPIES OF THE CONSUMER INFORMATION PAMPHLETS AS NEEDED BY THE HOME BUILDER.

(C) A HOME BUILDER SHALL PROVIDE EACH CONTRACT PURCHASER WITH THE CONSUMER INFORMATION PAMPHLET BEFORE ENTERING INTO A CONTRACT FOR THE INITIAL SALE OF A NEW HOME.

(D) THE CONTRACT PURCHASER SHALL ACKNOWLEDGE IN WRITING THE RECEIPT OF THE CONSUMER INFORMATION PAMPHLET.

(E) THE FAILURE OF A HOME BUILDER TO PROVIDE A COPY OF THE CONSUMER PROTECTION PAMPHLET TO A CONTRACT PURCHASER MAY NOT BE USED AS A BASIS FOR INVALIDATION OF THE CONTRACT FOR THE INITIAL SALE OF A NEW HOME.

14-2911.

(A) A HOME BUILDER SHALL INCLUDE IN ANY CONTRACT FOR THE INITIAL SALE OF A NEW HOME THE INFORMATION REQUIRED UNDER § 14-117(J) OF THE REAL PROPERTY ARTICLE.

(B) THE FAILURE OF A HOME BUILDER TO INCLUDE THE INFORMATION REQUIRED UNDER § 14-117(J) OF THE REAL PROPERTY ARTICLE MAY NOT BE USED AS A BASIS FOR INVALIDATION OF THE CONTRACT FOR THE INITIAL SALE OF A NEW

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HOME.
14-2912.

A PERSON MAY NOT:

(1) KNOWINGLY AND INTENTIONALLY PRESENT OR ATTEMPT TO PRESENT THE BUILDER REGISTRATION NUMBER OF ANOTHER AS THE PERSON'S OWN;

(2) GIVE FALSE INFORMATION OF A MATERIAL NATURE TO THE CHIEF FOR THE PURPOSE OF OBTAINING A BUILDER REGISTRATION NUMBER;

(3) FALSELY REPRESENT THAT THE PERSON IS A REGISTERED HOME BUILDER;

(4) KNOWINGLY AND INTENTIONALLY USE OR ATTEMPT TO USE A BUILDER REGISTRATION NUMBER THAT HAS EXPIRED, BEEN SUSPENDED, OR BEEN REVOKED; OR

(5) KNOWINGLY AND INTENTIONALLY ENGAGE IN THE BUSINESS OF A HOME BUILDER WITHOUT HAVING A CURRENT BUILDER REGISTRATION NUMBER UNLESS THE SELLER IS AN EXEMPT LENDER.

14-2913.

A COUNTY OR MUNICIPAL CORPORATION SHALL NOTIFY THE CHIEF OF EACH HOME BUILDER AGAINST WHOM A FINAL DETERMINATION AND ORDER HAS BEEN ISSUED FOR FAILURE TO CORRECT A VIOLATION OF THE APPLICABLE MUNICIPAL, COUNTY, OR STATE BUILDING CODE WITHIN THE TIME ALLOWED BY THE COUNTY OR MUNICIPAL CORPORATION AFTER THE HOME BUILDER RECEIVED NOTICE OF THE VIOLATION AND AT LEAST 90 DAYS HAVE PASSED WITHOUT THE HOME BUILDER DILIGENTLY ATTEMPTING TO RESOLVE THE BUILDING CODE VIOLATION.

14-2914.

(A) THE CHIEF MAY DENY AN APPLICATION OR RENEWAL FOR A BUILDER REGISTRATION NUMBER OR REVOKE OR SUSPEND A BUILDER REGISTRATION NUMBER, IF THE CHIEF CONDUCTS AN INVESTIGATION AND CONCLUDES IN A FINAL ORDER THAT THE APPLICANT OR REGISTERED HOME BUILDER HAS KNOWINGLY AND INTENTIONALLY:

(1) ENGAGED IN A PATTERN OF POOR WORKMANSHIP AS EVIDENCED BY ONE OR MORE OF THE FOLLOWING:

(I) REPEATED UNRESOLVED BUILDING CODE VIOLATIONS OF WHICH THE CHIEF HAS BEEN NOTIFIED UNDER § 14-2913 OF THIS SUBTITLE;

(II) REPEATED UNSATISFIED ARBITRATION AWARDS AGAINST THE APPLICANT OR REGISTERED HOME BUILDER BASED ON INCOMPLETE OR SUBSTANDARD WORK THAT RESULTS IN THE CONSUMERS, IN WHOSE NAMES THE ARBITRATION AWARDS ARE ENTERED, FILING COMPLAINTS WITH THE CHIEF UNDER THIS SUBTITLE; OR

(III) AN UNSATISFIED FINAL JUDGMENT THAT RESULTS IN A CONSUMER, IN WHOSE NAME THE JUDGMENT IS ENTERED, FILING A COMPLAINT WITH THE CHIEF UNDER TITLE 13 OF THIS ARTICLE;

(2) VIOLATED ANY PROVISION OF § 14-2912 OF THIS SUBTITLE; OR

(3) VIOLATED ANY PROVISION OF § 14-117(J) OF THE REAL PROPERTY ARTICLE.

(B) THE CHIEF MAY DENY AN APPLICATION OR RENEWAL FOR A BUILDER REGISTRATION NUMBER IF:

(1) THE INDIVIDUAL APPLICANT OR A PRINCIPAL OF THE APPLICANT OR REGISTERED HOME BUILDER HAS HELD A SIMILAR POSITION WITH A HOME

(Over)

BUILDER WHO HAS HAD A SIMILAR REGISTRATION OR LICENSE DENIED OR REVOKED BY THE CHIEF OR ANOTHER STATE OR JURISDICTION, FOR ANY CAUSE OTHER THAN FAILURE TO PAY A RENEWAL FEE;

(2) THE CHIEF CONDUCTS AN INVESTIGATION INTO THE DENIAL OR REVOCATION OF THE PRIOR REGISTRATION OR LICENSE; AND

(3) AFTER THE INVESTIGATION, THE CHIEF CONCLUDES IN A FINAL ORDER THAT THE DENIAL OR REVOCATION OF THE PRIOR REGISTRATION OR LICENSE RESULTED SOLELY OR PRIMARILY FROM THE ACTS OF:

(I) THE INDIVIDUAL APPLICANT OR REGISTERED HOME BUILDER; OR

(II) A PRINCIPAL OF THE INDIVIDUAL APPLICANT OR REGISTERED HOME BUILDER WHOSE APPLICATION OR RENEWAL IS THEN UNDER CONSIDERATION BY THE CHIEF.

(C) AN APPLICANT OR REGISTERED HOME BUILDER WHOSE APPLICATION OR RENEWAL IS DENIED MAY APPEAL THE DECISION OF THE CHIEF AS PROVIDED IN THE ADMINISTRATIVE PROCEDURE ACT.

14-2915.

A PERSON WHO VIOLATES ANY PROVISION OF § 14-2912 OF THIS SUBTITLE IS GUILTY OF AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE.

14-2916.

(A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A CONSUMER SHALL COMPLY WITH SUBSECTION (B) OF THIS SECTION BEFORE THE CONSUMER MAY FILE A COMPLAINT WITH THE DIVISION UNDER TITLE 13 OF THIS ARTICLE FOR:

(1) AN ALLEGED VIOLATION OF ANY PROVISION OF THIS SUBTITLE;

(2) AN ALLEGED FAILURE OF A HOME BUILDER TO COMPLY WITH THE TERMS OF A CONTRACT FOR THE INITIAL SALE OF A NEW HOME; OR

(3) AN ALLEGED FAILURE OF A HOME BUILDER TO CONSTRUCT A NEW HOME TO THE PROPER PERFORMANCE STANDARDS OF A NEW HOME AS SET FORTH IN THE CONTRACT.

(B) BEFORE FILING A COMPLAINT UNDER SUBSECTION (A) OF THIS SECTION, A CONSUMER SHALL:

(1) SUBMIT THE MATTER TO ARBITRATION UNDER TITLE 3, SUBTITLE 2 OF THE COURTS ARTICLE AND OBTAIN A FINAL DISPOSITION; AND

(2) EXHAUST ANY REMEDIES AVAILABLE UNDER A NEW HOME WARRANTY ISSUED BY A THIRD PARTY INSURED WARRANTY COMPANY, PURSUANT TO TITLE 10, SUBTITLE 6 OF THE REAL PROPERTY ARTICLE.

(C) (1) THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION DO NOT APPLY TO THIS SUBSECTION.

(2) (I) A CONSUMER MAY FILE A COMPLAINT WITH THE DIVISION UNDER TITLE 13 OF THIS ARTICLE UPON PROVIDING PROOF TO THE DIVISION THAT A CONDITION OR DEFECT TO A NEW HOME THAT SUBJECTS THE PERSON'S LIFE, SAFETY, OR WELL-BEING TO IMMINENT DANGER.

(II) THE DIVISION'S INVESTIGATION OF A COMPLAINT FILED UNDER THIS PARAGRAPH SHALL BE LIMITED SOLELY TO THE CONDITION OR DEFECT THAT SUBJECTS THE PERSON'S LIFE, SAFETY, OR WELL-BEING TO IMMINENT DANGER.

(3) A CONSUMER MAY FILE A COMPLAINT WITH THE DIVISION UNDER TITLE 13 OF THIS ARTICLE IF THE CONSUMER HAS OBTAINED A FINAL JUDGMENT AGAINST A HOME BUILDER AND THE HOME BUILDER HAS FAILED TO SATISFY THAT JUDGMENT.

(D) WHEN A CONSUMER SUBMITS A CLAIM TO ARBITRATION UNDER SUBSECTION (B) OF THIS SECTION, ANY PERFORMANCE STANDARDS OR GUIDELINES REFERENCED IN THE CONTRACT OF SALE FOR THE NEW HOME PURSUANT TO § 14-117(J)(2)(III) OF THE REAL PROPERTY ARTICLE SHALL APPLY IN THE ARBITRATION.

(E) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRARY, AT ANY TIME BEFORE FILING A COMPLAINT UNDER SUBSECTION (A) OF THIS SECTION, A CONSUMER MAY REQUEST THAT AN ALLEGED DISPUTE BETWEEN THE CONSUMER AND A HOME BUILDER THAT MEETS THE REQUIREMENTS OF SUBSECTION (A)(1) THROUGH (3) OF THIS SECTION OR § 13-301 OF THIS ARTICLE, BE SUBMITTED TO THE CONCILIATION PROCESS AVAILABLE THROUGH THE DIVISION SET FORTH IN § 13-402 OF THIS ARTICLE.

(2) THE FILING OF A COMPLAINT BY THE CONSUMER UNDER § 13-401 OF THIS ARTICLE IS NOT A PREREQUISITE TO A CONSUMER INVOKING THE CONCILIATION PROCESS UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) THE RESULT OF A CONCILIATION PROCESS:

(I) MAY NOT BE DEEMED AS A COMPLAINT FILED WITH THE DIVISION AGAINST THE HOME BUILDER; AND

(II) DOES NOT WAIVE THE REQUIREMENTS OF THIS SECTION REGARDING FILING A COMPLAINT WITH THE DIVISION.

14-2917.

(A) THIS SUBTITLE DOES NOT AUTHORIZE THE CHIEF TO ADOPT RULES, REGULATIONS, OR STANDARDS APPLICABLE TO HOME BUILDERS OR OTHER

SUBJECT MATTER OF THIS SUBTITLE.

(B) ANY ADDITIONAL REQUIREMENTS TO BE PLACED ON HOME BUILDERS SHALL BE MADE ONLY BY AMENDMENT OF THIS SUBTITLE.

14-2918.

SUBJECT TO THE MARYLAND PROGRAM EVALUATION ACT, THIS SUBTITLE SHALL TERMINATE AND BE OF NO EFFECT AFTER OCTOBER 1, 2004.

14-2919.

THIS SUBTITLE MAY BE CITED AS THE "MARYLAND HOME BUILDERS ACT".

Article - Real Property

10-302.

(a) The bond shall be payable to the State for the use and benefit of every person protected by the provisions of this subtitle. The vendor or purchaser shall deposit the bond with the Department of Labor, Licensing, and Regulation.

(b) The corporate surety bond obtained pursuant to the provisions of § 10-301(a) shall be in a form approved by the Department of Labor, Licensing, and Regulation. The bond may be either in the form of an individual bond for each deposit accepted by a vendor or builder or if the total amount of money and deposits accepted by the builder or vendor exceeds \$10,000, it may be in the form of a blanket bond assuring the return of the deposits received by the vendor or builder.

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

Total Amount of Deposits Held

Penalty of Bond

(Over)

<u>(1) \$10,000 to [\$75,000] \$100,000</u>	<u>Full amount of deposit held</u>
<u>(2) [\$75,000] \$100,000 to \$200,000</u>	<u>[\$75,000] \$100,000</u>
<u>(3) \$200,000 to \$500,000</u>	<u>\$200,000</u>
<u>(4) Over \$500,000</u>	<u>\$500,000</u>

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

10-303.

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

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

(2) In a form approved by the Department.

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

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

<u>Total Amount of Deposits Held</u>	<u>Amount of Letter of Credit</u>
<u>(1) \$10,000 to [\$75,000] \$100,000</u>	<u>Full amount of deposit held</u>
<u>(2) [\$75,000] \$100,000 to \$200,000</u>	<u>[\$75,000] \$100,000</u>
<u>(3) \$200,000 to \$500,000</u>	<u>\$200,000</u>
<u>(4) Over \$500,000</u>	<u>\$500,000</u>

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

14-117.

(J) (1) THIS SUBSECTION APPLIES TO BALTIMORE CITY AND ALL OTHER COUNTIES EXCEPT MONTGOMERY COUNTY.

(2) A CONTRACT FOR THE INITIAL SALE OF A NEW HOME, AS DEFINED IN § 14-2901 OF THE COMMERCIAL LAW ARTICLE, SHALL INCLUDE THE FOLLOWING:

(I) THE BUILDER REGISTRATION NUMBER OF THE SELLER OF THE NEW HOME UNLESS THE SELLER IS AN EXEMPT LENDER AS DEFINED IN § 14-901 OF THE COMMERCIAL LAW ARTICLE;

(II) A PROVISION STATING THAT THE NEW HOME SHALL BE CONSTRUCTED IN ACCORDANCE WITH ALL APPLICABLE BUILDING CODES IN EFFECT AT THE TIME OF THE CONSTRUCTION OF THE NEW HOME;

(III) A PROVISION REFERENCING ALL PERFORMANCE STANDARDS OR GUIDELINES:

1. THAT THE SELLER SHALL COMPLY WITH IN THE CONSTRUCTION OF THE NEW HOME; AND

2. THAT SHALL APPLY IN THE PERFORMANCE OF THE CONTRACT AND ANY ARBITRATION OR ADJUDICATION OF A CLAIM ARISING FROM THE CONTRACT;

(IV) A PROVISION DETAILING THE PURCHASER'S RIGHT TO

(Over)

RECEIVE A CONSUMER INFORMATION PAMPHLET AS PROVIDED UNDER § 14-2911 OF THE COMMERCIAL LAW ARTICLE; AND

(V) A PROVISION THAT SUMMARIZES THE ARBITRATION REQUIREMENTS AND THE EXCEPTIONS TO THOSE REQUIREMENTS UNDER § 14-2916 OF THE COMMERCIAL LAW ARTICLE.

(3) THE PERFORMANCE STANDARDS OR GUIDELINES DESCRIBED IN PARAGRAPH (J)(2) OF THIS SUBSECTION SHALL BE:

(I) THE PERFORMANCE STANDARDS OR GUIDELINES ADOPTED AT THE TIME OF THE CONTRACT BY THE NATIONAL ASSOCIATION OF HOME BUILDERS;

(II) ANY PERFORMANCE STANDARDS OR GUIDELINES ADOPTED BY THE HOME BUILDER AND INCORPORATED INTO THE CONTRACT THAT ARE EQUAL TO OR MORE STRINGENT THAN THE PERFORMANCE STANDARDS ADOPTED AT THE TIME OF THE CONTRACT BY THE NATIONAL ASSOCIATION OF HOME BUILDERS; OR

(III) ANY PERFORMANCE STANDARDS OR GUIDELINES ADOPTED AT THE TIME OF THE CONTRACT BY A COUNTY OR MUNICIPAL CORPORATION THAT ARE EQUAL TO OR MORE STRINGENT THAN THE PERFORMANCE STANDARDS OR GUIDELINES ADOPTED AT THE TIME OF THE CONTRACT BY THE NATIONAL ASSOCIATION OF HOME BUILDERS.

(4) THE INFORMATION REQUIRED BY PARAGRAPH (2) OF THIS SUBSECTION SHALL BE PRINTED IN CONSPICUOUS TYPE.

(5) SUBJECT TO THE MARYLAND PROGRAM EVALUATION ACT, THIS SUBSECTION SHALL TERMINATE AND BE OF NO EFFECT AFTER OCTOBER 1, 2004.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed only prospectively and may not be applied or interpreted to have any effect on or application to any act or

omission of a home builder arising before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall supersede any existing laws of any county or municipal corporation in the State of Maryland or the City of Baltimore regarding registration of home builders with the exception of Montgomery County where the provisions of this Act do not apply.

SECTION 4. AND BE IT FURTHER ENACTED, That the Consumer Protection Division of the Office of the Attorney General shall convene a study panel during the 2004 Interim, to be staffed by the Office of Attorney General, which includes members of the Senate of Maryland, appointed by the President of the Senate, members of the House of Delegates, appointed by the Speaker of the House, representatives of the Department of Labor, Licensing, and Regulation, appointed by the Governor, and representatives of the home builder industry appointed by the Governor. The study panel shall review the feasibility of a new home builder guaranty fund. The Office of the Attorney General shall report to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2-1246 of the State Government Article, on the study panel's recommendations on or before December 1, 2004.

On page 26, in line 35, strike "6." and substitute "5."