

HOUSE BILL 811

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C2

2000 Regular Session
(01r1755)

ENROLLED BILL
-- Economic Matters/Finance --

Introduced by **Delegates Kach, Busch, Gordon, Love, Pendergrass, Krysiak, Barve, Brown, Donoghue, Eckardt, Fulton, Goldwater, Harrison, Hill, J. Kelly, Kirk, La Vay, McClenahan, McHale, Minnick, Mitchell, Moe, Walkup, Klima, and Pitkin**

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 **Maryland Home Builders Act Builder Registration Act**

3 FOR the purpose of ~~prohibiting a person from claiming to be or acting as a home~~
4 ~~builder unless the person has been issued a certain builder registration number~~
5 ~~by the Chief of the Division of Consumer Protection of the Office of the Attorney~~
6 ~~General; providing that certain lenders are exempt from registration; providing~~
7 ~~that certain contracts are not enforceable unless performed by a registered home~~
8 ~~builder; establishing a certain application and renewal process for home builder~~
9 ~~registration; establishing a Home Builder's Registration Fund; requiring a home~~
10 ~~builder to post the builder registration number on certain properties where the~~
11 ~~home builder is doing certain work; prohibiting a county or municipal~~
12 ~~corporation from issuing a building permit for the construction of a new home~~
13 ~~unless the permit includes the builder registration number of a registered home~~
14 ~~builder, subject to certain exceptions; requiring a person who advertises that the~~

1 person is a registered home builder include certain information in the
2 advertisement; requiring the Chief, in consultation with the home building
3 industry ~~certain industries~~, to develop a certain consumer information
4 pamphlet; requiring a home builder to provide a contract purchaser with a
5 consumer information pamphlet prior to entering into a contract for the initial
6 sale of a new home; requiring a home builder to include certain information in a
7 contract for the initial sale of a new home; prohibiting a person from making
8 certain false representations relating to a builder registration number or
9 engaging in business as a home builder without having a current builder
10 registration number; requiring a county or municipal corporation to notify the
11 Chief of the failure of a home builder to correct certain violations after a certain
12 period of time; authorizing the Chief to deny an application or renewal for a
13 builder registration number or revoke or suspend a builder registration number
14 under certain circumstances; requiring a consumer to submit a complaint
15 against a home builder to arbitration and exhaust any remedies available under
16 a new home warranty under certain circumstances subject to certain exceptions;
17 requiring any additional requirements to be placed on home builders to be made
18 in a certain manner; altering the penalty schedule of certain blanket bonds and
19 blanket letters of credit; providing that a violation of certain provisions of this
20 Act is an unfair or deceptive trade practice under the Maryland Consumer
21 Protection Act; limiting the applicable penalties under the Maryland Consumer
22 Protection Act for certain violations to civil penalties; exempting certain
23 counties Montgomery County from the application of this Act; defining certain
24 terms; providing for the application of this Act; providing for the termination of
25 certain provisions of this Act; providing for the delayed effective date of this Act;
26 and generally relating to the registration of home builders. establishing the
27 Home Builder Registration Unit in the Consumer Protection Division of the
28 Office of the Attorney General; providing that certain lenders are exempt from
29 registration provided they hire a registered builder; providing for the powers,
30 rights, and duties of the Director of the Unit; requiring the Division, together
31 with certain persons to create a certain consumer information pamphlet;
32 establishing a Home Builder Registration Fund and describing its qualities;
33 specifying the means and manner of acquisition and disbursement of the assets of
34 the Registration Fund; requiring certain audits of the Registration Fund;
35 prohibiting a person from acting as, offering to act as, holding oneself out to be,
36 or impersonating a home builder in the State without certain registration under
37 certain circumstances; requiring a person to meet certain requirements to be
38 registered under this Act; establishing application and renewal processes and
39 requirements to become or remain registered under this Act; requiring the Unit to
40 register or renew the registration of an applicant or registrant under certain
41 circumstances; providing for certain qualities, powers, and restrictions of a
42 registration under this Act; providing for the expiration, denial, suspension, or
43 revocation of a registration under certain circumstances; requiring the Division
44 to provide a registrant with certain notice and opportunities for hearings under
45 certain circumstances; requiring a registrant to provide certain information to
46 the Unit under certain circumstances; requiring a registrant to display its home
47 builder registration number under certain circumstances; providing that any
48 remedies are in addition to any remedies available under the Consumer

1 Protection Act or any other laws; requiring a county to notify the Unit of certain
 2 acts or omissions of a registrant under certain circumstances; requiring certain
 3 information to be included in a purchase contract for a new home; providing that
 4 certain installers are responsible for certain defects; requiring a registrant to
 5 comply with certain construction standards under certain circumstances;
 6 providing that a contract for the purchase of a new home is not enforceable under
 7 certain circumstances; establishing certain criminal and civil penalties for
 8 violations of certain provisions of this Act; requiring all contracts for the initial
 9 sale of improved, new residential real property to include certain information;
 10 providing for the construction and application of certain provisions of this Act;
 11 defining certain terms; providing for the application of this Act; requiring that
 12 the Division study the feasibility of a new home builder guaranty fund and a
 13 certain report of its findings; requiring the Division to submit a certain annual
 14 report to the Governor and General Assembly; providing for a delayed effective
 15 date; and generally relating to the registration of home builders in the State.

16 ~~BY repealing and reenacting, with amendments,~~
 17 ~~Article—Commercial Law~~
 18 ~~Section 13-301(14) and 13-411~~
 19 ~~Annotated Code of Maryland~~
 20 ~~(1990 Replacement Volume and 1999 Supplement)~~

21 ~~BY adding to~~
 22 ~~Article—Commercial Law~~
 23 ~~Section 14-2901 through 14-2919, inclusive, to be under the new subtitle~~
 24 ~~"Subtitle 29. Maryland Home Builders Act"~~
 25 ~~Annotated Code of Maryland~~
 26 ~~(1990 Replacement Volume and 1999 Supplement)~~

27 ~~BY repealing and reenacting, with amendments,~~
 28 ~~Article—Real Property~~
 29 ~~Section 10-302 and 10-303~~
 30 ~~Annotated Code of Maryland~~
 31 ~~(1996 Replacement Volume and 1999 Supplement)~~

32 BY adding to
 33 Article - Business Regulation
 34 Section 4.5-101 through 4.5-701, inclusive, to be under the new title "Title 4.5.
 35 Home Builder Registration"
 36 Annotated Code of Maryland
 37 (1998 Replacement Volume and 1999 Supplement)

38 BY adding to
 39 Article - Real Property
 40 Section 14-117(j)

1 Annotated Code of Maryland
2 (1996 Replacement Volume and 1999 Supplement)

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

5 ~~Article – Commercial Law~~

6 ~~13-301.~~

7 ~~Unfair or deceptive trade practices include any:~~

8 ~~(14) Violation of a provision of:~~

9 ~~(i) This title;~~

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

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

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

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

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

18 ~~(vii) Section 14-1302 of this article;~~

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

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

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

23 ~~(xi) Title 14, Subtitle 15 of this article, the Automotive Warranty~~
24 ~~Enforcement Act;~~

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

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

27 ~~(xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone~~
28 ~~Solicitations Act;~~

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

- 1 (xvi) Title 10, Subtitle 6 of the Real Property Article;
- 2 (xvii) Title 10, Subtitle 8 of the Real Property Article;
- 3 (xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act;
- 4 [or]
- 5 (xix) Title 14, Subtitle 26 of this article, the Maryland Door to Door
- 6 Solicitations Act; or
- 7 (XX) SECTION 14-2912 OF THIS ARTICLE; OR
- 8 13-411.

9 (a) Except as provided in subsection (b) of this section, any person who

10 violates any provision of this title is guilty of a misdemeanor and, unless another

11 criminal penalty is specifically provided elsewhere, on conviction is subject to a fine

12 not exceeding \$1,000 or imprisonment not exceeding one year or both, in addition to

13 any civil penalties.

14 (b) A person may not be imprisoned for violation of any provision of an order of

15 the Attorney General or an agreement of a party relating to unit pricing under Title

16 14, Subtitle 1 of this article.

17 (C) THIS SECTION DOES NOT APPLY TO VIOLATIONS OF THE MARYLAND HOME

18 BUILDERS ACT.

19 SUBTITLE 29. MARYLAND HOME BUILDERS ACT.

20 14-2901.

21 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS

22 INDICATED.

23 (B) "BUILDER REGISTRATION NUMBER" MEANS A REGISTRATION NUMBER

24 ISSUED BY THE CHIEF TO A HOME BUILDER UNDER THIS SUBTITLE.

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

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

27 (E) "CONTRACT PURCHASER" MEANS A PERSON WHO HAS ENTERED INTO A

28 CONTRACT WITH A HOME BUILDER TO PURCHASE A NEW HOME, BUT WHO HAS NOT

29 YET SETTLED ON THE PURCHASE OF THE NEW HOME.

30 (D) (F) "DIVISION" MEANS THE DIVISION OF CONSUMER PROTECTION OF

31 THE OFFICE OF THE ATTORNEY GENERAL.

32 (G) "EXEMPT LENDER" MEANS A LENDER EXEMPT FROM THE REQUIREMENTS

33 OF REGISTRATION AS PROVIDED IN § 14-2902(C) OF THIS SUBTITLE.

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

4 ~~(F)~~ (I) "FUND" MEANS THE HOME BUILDERS REGISTRATION FUND.

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

7 ~~(1)~~ UNDERTAKES TO ERECT OR OTHERWISE CONSTRUCT A NEW
8 HOME;

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

11 ~~(III)~~ INSTALLS MANUFACTURED HOMES, RETAILS, OR BROKERS
12 NEW INDUSTRIALIZED BUILDINGS INTENDED FOR RESIDENTIAL USE OR NEW
13 MOBILE HOMES INTENDED FOR RESIDENTIAL USE.

14 ~~(2)~~ "HOME BUILDER" DOES NOT INCLUDE:

15 ~~(1)~~ AN EMPLOYEE OF A HOME BUILDER THAT IS REGISTERED
16 UNDER THIS SUBTITLE OR IS AN EXEMPT LENDER, SO LONG AS THAT EMPLOYEE
17 DOES NOT WORK AS A HOME BUILDER OTHER THAN AS AN EMPLOYEE OF THE
18 REGISTERED HOMEBUILDER HOME BUILDER OR EXEMPT LENDER;

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

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

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

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

31 ~~(H)~~ (K) "INDIVIDUAL APPLICANT" MEANS AN INDIVIDUAL WHO IS A HOME
32 BUILDER AND APPLIES FOR A BUILDER REGISTRATION NUMBER UNDER THIS
33 SUBTITLE.

34 ~~(L)~~ "INDUSTRIALIZED BUILDING" HAS THE MEANING STATED IN ARTICLE 83B,
35 § 6-202 OF THE CODE.

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

3 ~~(J)~~ "MANUFACTURED HOME" MEANS A BUILDING MANUFACTURED AT A SITE
4 OTHER THAN THE SITE WHERE THE BUILDING IS INTENDED FOR USE AS A
5 RESIDENTIAL DWELLING.

6 ~~(K)~~ ~~(N)~~ ~~(1)~~ "MOBILE HOME" HAS THE MEANING STATED IN ARTICLE 83B, §
7 6-202 OF THE CODE.

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

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

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

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

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

23 ~~(3)~~ "OWNER" DOES NOT INCLUDE:

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

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

28 ~~(N)~~ ~~(Q)~~ "PRINCIPAL" MEANS:

29 ~~(1)~~ ALL OFFICERS, DIRECTORS, GENERAL PARTNERS, AND LIMITED
30 LIABILITY COMPANY MANAGERS EACH OFFICER, DIRECTOR, GENERAL PARTNER, AND
31 LIMITED LIABILITY COMPANY MANAGER OF THE HOME BUILDER, AS APPLICABLE;
32 AND

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

1 4-2902.

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

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

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

14 (1) ~~A MORTGAGE LENDER AS DEFINED IN § 11-501(J)(1)(II) OF THE~~
15 ~~FINANCIAL INSTITUTIONS ARTICLE THAT IS A LICENSEE UNDER TITLE 11, SUBTITLE~~
16 ~~5 OF THE FINANCIAL INSTITUTIONS ARTICLE;~~

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

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

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

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

33 (D) ~~AN EXEMPT LENDER IS SUBJECT ONLY TO §§ 14-2908, 14-2909, 14-2910,~~
34 ~~14-2911, 14-2912, 14-2913, 14-2915, AND 14-2916 OF THIS SUBTITLE.~~

35 14-2903.

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

1 ~~(B) THE APPLICATION SHALL INCLUDE:~~

2 ~~(1) THE APPLICANT'S NAME;~~

3 ~~(2) THE PRINCIPAL BUSINESS ADDRESS AND TELEPHONE NUMBER OF~~
4 ~~THE APPLICANT;~~

5 ~~(3) IF THE APPLICANT IS AN INDIVIDUAL APPLICANT, THE SOCIAL~~
6 ~~SECURITY NUMBER OF THE APPLICANT;~~

7 ~~(4) IF THE APPLICANT IS A BUSINESS ENTITY OR ORGANIZATION:~~

8 ~~(I) THE APPLICANT'S FEDERAL EMPLOYER IDENTIFICATION~~
9 ~~NUMBER; AND~~

10 ~~(II) THE NAMES, ADDRESSES, AND SOCIAL SECURITY NUMBERS OF~~
11 ~~ALL PRINCIPALS OF THE APPLICANT;~~

12 ~~(5) A STATEMENT INDICATING WHETHER OR NOT THE APPLICANT HAS~~
13 ~~PREVIOUSLY APPLIED FOR REGISTRATION IN THIS STATE AND THE DISPOSITION OF~~
14 ~~ALL PRIOR APPLICATIONS;~~

15 ~~(6) A LIST OF ALL STATES AND OTHER JURISDICTIONS IN WHICH THE~~
16 ~~APPLICANT PRESENTLY HOLDS A SIMILAR REGISTRATION OR LICENSE;~~

17 ~~(7) A STATEMENT INDICATING WHETHER THERE ARE ANY UNSATISFIED~~
18 ~~JUDGMENTS OR TAX LIENS AGAINST THE APPLICANT;~~

19 ~~(8) (I) THE ELECTION MADE BY THE APPLICANT REGARDING THE~~
20 ~~HOLDING OF DEPOSIT MONEYS UNDER § 10-301 OF THE REAL PROPERTY ARTICLE;~~
21 ~~AND~~

22 ~~(II) IF THE APPLICANT ELECTS TO HOLD DEPOSITS IN AN ESCROW~~
23 ~~ACCOUNT, THE ACCOUNT NUMBER AND NAME OF THE FINANCIAL INSTITUTION IN~~
24 ~~WHICH THE ACCOUNT IS BEING HELD;~~

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

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

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

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

1 14-2904.

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

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

9 (1) A RENEWAL APPLICATION FORM; AND

10 (2) A NOTICE THAT STATES:

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

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

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

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

20 14-2905.

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

23 14-2906.

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

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

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

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

32 (C) THE CHIEF SHALL ADMINISTER THE FUND.

1 (D) ~~THE CHIEF MAY ONLY WITHDRAW AND USE MONEY FROM THE FUND FOR~~
2 ~~THE PURPOSES OF COMPLYING WITH AND ENFORCING THIS SUBTITLE, INCLUDING~~
3 ~~THE HIRING OF STAFF NECESSARY FOR THE ADMINISTRATION OF THIS SUBTITLE.~~

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

7 ~~14-2907.~~

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

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

17 ~~14-2908.~~

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

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

25 (C) ~~A COUNTY OR MUNICIPAL CORPORATION MAY ISSUE A BUILDING PERMIT~~
26 ~~WITHOUT A BUILDER REGISTRATION NUMBER FOR THE CONSTRUCTION OF A NEW~~
27 ~~HOME IF:~~

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

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

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

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

1 14-2909.

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

6 "MARYLAND HOME BUILDER REGISTRATION NO. _____"; OR

7 "MHBR NO. _____"

8 14-2910.

9 (A) ~~IN CONSULTATION WITH THE HOME BUILDING INDUSTRY, THE~~
10 ~~INDUSTRIALIZED BUILDING INDUSTRY, AND THE MOBILE HOME INDUSTRY, THE~~
11 ~~CHIEF SHALL DEVELOP A CONSUMER INFORMATION PAMPHLET WRITTEN IN PLAIN~~
12 ~~ENGLISH THAT DESCRIBES:~~

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

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

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

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

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

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

30 14-2911.

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

34 (B) ~~THE FAILURE OF A HOME BUILDER TO INCLUDE THE INFORMATION~~
35 ~~REQUIRED UNDER § 14-117(J) OF THE REAL PROPERTY ARTICLE MAY NOT BE USED AS~~

~~1 A BASIS FOR INVALIDATION OF THE CONTRACT FOR THE INITIAL SALE OF A NEW
2 HOME.~~

~~3 14-2912.~~

~~4 A PERSON MAY NOT KNOWINGLY AND INTENTIONALLY:~~

~~5 (1) KNOWINGLY AND INTENTIONALLY PRESENT OR ATTEMPT TO
6 PRESENT THE BUILDER REGISTRATION NUMBER OF ANOTHER AS THE PERSON'S
7 OWN;~~

~~8 (2) GIVE FALSE INFORMATION OF A MATERIAL NATURE TO THE CHIEF
9 FOR THE PURPOSE OF OBTAINING A BUILDER REGISTRATION NUMBER;~~

~~10 (3) FALSELY REPRESENT THAT THE PERSON IS A REGISTERED HOME
11 BUILDER;~~

~~12 (4) KNOWINGLY AND INTENTIONALLY USE OR ATTEMPT TO USE A
13 BUILDER REGISTRATION NUMBER THAT HAS EXPIRED, BEEN SUSPENDED, OR BEEN
14 REVOKED; OR~~

~~15 (5) KNOWINGLY AND INTENTIONALLY ENGAGE IN THE BUSINESS OF A
16 HOME BUILDER WITHOUT HAVING A CURRENT BUILDER REGISTRATION NUMBER
17 UNLESS THE SELLER IS AN EXEMPT LENDER.~~

~~18 14-2913.~~

~~19 A COUNTY OR MUNICIPAL CORPORATION SHALL NOTIFY THE CHIEF OF EACH
20 HOME BUILDER AGAINST WHOM A FINAL DETERMINATION AND ORDER HAS BEEN
21 ISSUED FOR FAILURE TO CORRECT A VIOLATION OF THE APPLICABLE LOCAL
22 MUNICIPAL, COUNTY, OR STATE BUILDING CODE WITHIN THE TIME ALLOWED BY
23 THE COUNTY OR MUNICIPAL CORPORATION AFTER THE HOMEBUILDER HOME
24 BUILDER RECEIVED NOTICE OF THE VIOLATION AND AT LEAST 90 DAYS HAVE
25 PASSED WITHOUT THE HOME BUILDER DILIGENTLY ATTEMPTING TO RESOLVE THE
26 BUILDING CODE VIOLATION.~~

~~27 14-2914.~~

~~28 (A) THE CHIEF MAY DENY AN APPLICATION OR RENEWAL FOR A BUILDER
29 REGISTRATION NUMBER OR REVOKE OR SUSPEND A BUILDER REGISTRATION
30 NUMBER, IF THE CHIEF CONDUCTS AN INVESTIGATION AND CONCLUDES IN A FINAL
31 ORDER THAT THE APPLICANT OR REGISTERED HOME BUILDER HAS KNOWINGLY AND
32 INTENTIONALLY:~~

~~33 (1) ENGAGED IN A PATTERN OF POOR WORKMANSHIP AS EVIDENCED BY
34 ONE OR MORE OF THE FOLLOWING:~~

~~35 (1) REPEATED UNRESOLVED BUILDING CODE VIOLATIONS OF
36 WHICH THE CHIEF HAS BEEN NOTIFIED UNDER § 14-2913 OF THIS SUBTITLE;~~

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

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

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

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

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

14 (1) THE INDIVIDUAL APPLICANT OR A PRINCIPAL OF THE APPLICANT OR
15 REGISTERED HOME BUILDER HAS HELD A SIMILAR POSITION WITH A HOME BUILDER
16 WHO HAS HAD A SIMILAR REGISTRATION OR LICENSE DENIED OR REVOKED BY THE
17 CHIEF OR ANOTHER STATE OR JURISDICTION, FOR ANY CAUSE OTHER THAN
18 FAILURE TO PAY A RENEWAL FEE;

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

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

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

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

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

32 14-2915.

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

1 14-2916.

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

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

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

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

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

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

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

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

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

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

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

32 (D) WHEN A CONSUMER SUBMITS A CLAIM TO ARBITRATION UNDER
33 SUBSECTION (B) OF THIS SECTION, ANY PERFORMANCE STANDARDS OR GUIDELINES
34 REFERENCED IN THE CONTRACT OF SALE FOR THE NEW HOME PURSUANT TO §
35 14-117(J)(2)(III) OF THE REAL PROPERTY ARTICLE SHALL PREVAIL APPLY IN THE
36 ARBITRATION.

1 ~~(E) UPON FILING A COMPLAINT TO SUBSECTION (A) ABOVE, A CONSUMER~~
2 ~~SHALL HAVE THE RIGHT TO REQUEST THAT THE DIVISION INVOKE THE~~
3 ~~CONCILIATION PROCESS SET FORTH IN 13-402 OF THIS ARTICLE.~~

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

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

14 ~~(3) THE RESULT OF A CONCILIATION PROCESS:~~

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

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

19 14-2917.

20 ~~(A) THIS SUBTITLE DOES NOT AUTHORIZE THE CHIEF TO ADOPT RULES,~~
21 ~~REGULATIONS, OR STANDARDS APPLICABLE TO HOME BUILDERS OR OTHER SUBJECT~~
22 ~~MATTER OF THIS SUBTITLE.~~

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

25 14-2918.

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

28 14-2919.

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

30 **Article -- Real Property**

31 10-302.

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

1 (b) The corporate surety bond obtained pursuant to the provisions of §
 2 10-301(a) shall be in a form approved by the Department of Labor, Licensing, and
 3 Regulation. The bond may be either in the form of an individual bond for each deposit
 4 accepted by a vendor or builder or if the total amount of money and deposits accepted
 5 by the builder or vendor exceeds \$10,000, it may be in the form of a blanket bond
 6 assuring the return of the deposits received by the vendor or builder.

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

9 Total Amount of Deposits Held	Penalty of Bond
10 (1) \$10,000 to [\$75,000] \$100,000	Full amount of deposit held
11 (2) [\$75,000] \$100,000 to \$200,000	[\$75,000] \$100,000
12 (3) \$200,000 to \$500,000	\$200,000
13 (4) Over \$500,000	\$500,000

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

19 10-303.

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

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

24 (2) In a form approved by the Department.

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

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

32 Total Amount of Deposits Held	Amount of Letter of Credit
33 (1) \$10,000 to [\$75,000] \$100,000	Full amount of deposit held
34 (2) [\$75,000] \$100,000 to \$200,000	[\$75,000] \$100,000
35 (3) \$200,000 to \$500,000	\$200,000
36 (4) Over \$500,000	\$500,000

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

1 any given calendar year and the amount of the letter of credit shall be in accordance
2 with the amount of deposits held as of May 31.

3 ~~14-117.~~

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

6 ~~(2) A CONTRACT FOR THE INITIAL SALE OF A NEW HOME, AS DEFINED IN
7 § 14-2901 OF THE COMMERCIAL LAW ARTICLE, SHALL INCLUDE THE FOLLOWING:~~

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

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

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

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

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

21 ~~(IV) A PROVISION DETAILING THE PURCHASER'S RIGHT TO RECEIVE
22 A CONSUMER INFORMATION PAMPHLET AS PROVIDED UNDER § 14-2911 OF THE
23 COMMERCIAL LAW ARTICLE; AND~~

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

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

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

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

35 ~~(III) ANY PERFORMANCE STANDARDS OR GUIDELINES ADOPTED AT
36 THE TIME OF THE CONTRACT BY A COUNTY OR MUNICIPAL CORPORATION THAT ARE~~

~~1 EQUAL TO OR MORE STRINGENT THAN THE PERFORMANCE STANDARDS OR
2 GUIDELINES ADOPTED AT THE TIME OF THE CONTRACT BY THE NATIONAL
3 ASSOCIATION OF HOME BUILDERS.~~

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

~~6 (5) SUBJECT TO THE MARYLAND PROGRAM EVALUATION ACT, THIS
7 SUBSECTION SHALL TERMINATE AND BE OF NO EFFECT AFTER OCTOBER 1, 2004.~~

~~8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
9 construed only prospectively and may not be applied or interpreted to have any effect
10 on or application to any act or omission of a home builder arising before the effective
11 date of this Act.~~

~~12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall supersede
13 any existing laws of any county or municipal corporation in the State of Maryland or
14 the City of Baltimore regarding registration of home builders with the exception of
15 Montgomery County and Washington County where the provisions of this Act do not
16 apply.~~

~~17 SECTION 4. AND BE IT FURTHER ENACTED, That the Consumer Protection
18 Division of the Office of the Attorney General shall convene a study panel during the
19 2004 Interim, to be staffed by the Office of Attorney General, which includes members
20 of the Senate of Maryland, appointed by the President of the Senate, members of the
21 House of Delegates, appointed by the Speaker of the House, representatives of the
22 Department of Labor, Licensing, and Regulation, appointed by the Governor, and
23 representatives of the home builder industry appointed by the Governor. The study
24 panel shall review the feasibility of a new home builder guaranty fund. The Office of
25 the Attorney General shall report to the Senate Finance Committee and the House
26 Economic Matters Committee, in accordance with § 2-1246 of the State Government
27 Article, on the study panel's recommendations on or before December 1, 2004.~~

~~28 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 January 1, 2001.~~

30 *Article - Business Regulation*

31 *TITLE 4.5. HOME BUILDER REGISTRATION.*

32 *SUBTITLE 1. DEFINITIONS.*

33 *4.5-101.*

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

35 *(B) "CONSUMER" MEANS AN OWNER OR A CONTRACT PURCHASER.*

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

4 (D) "DIVISION" MEANS THE CONSUMER PROTECTION DIVISION OF THE
5 OFFICE OF THE ATTORNEY GENERAL.

6 (E) "EXEMPT LENDER" MEANS A LENDER EXEMPT FROM THE REQUIREMENTS
7 OF REGISTRATION AS PROVIDED IN § 4.5-501(C).

8 (F) (1) "HOME BUILDER" MEANS A PERSON THAT UNDERTAKES TO ERECT
9 OR OTHERWISE CONSTRUCT A NEW HOME.

10 (2) "HOME BUILDER" INCLUDES:

11 (I) A CUSTOM HOME BUILDER AS DEFINED IN § 10-501 OF THE
12 REAL PROPERTY ARTICLE;

13 (II) A NEW HOME BUILDER SUBJECT TO § 10-301 OF THE REAL
14 PROPERTY ARTICLE; AND

15 (III) THE INSTALLER OR RETAILER OF A MOBILE HOME OR AN
16 INDUSTRIALIZED BUILDING INTENDED FOR RESIDENTIAL USE.

17 (3) "HOME BUILDER" DOES NOT INCLUDE:

18 (I) AN EMPLOYEE OF A REGISTRANT WHO DOES NOT HOLD
19 HIMSELF OR HERSELF OUT FOR HIRE IN HOME BUILDING EXCEPT AS AN EMPLOYEE
20 OF A REGISTRANT;

21 (II) SUBCONTRACTORS OR OTHER VENDORS HIRED BY THE
22 REGISTRANT TO PERFORM SERVICES OR SUPPLY MATERIALS FOR THE
23 CONSTRUCTION OF A NEW HOME WHO DO NOT OTHERWISE MEET THE
24 REQUIREMENTS OF THIS TITLE;

25 (III) THE MANUFACTURER OF INDUSTRIALIZED BUILDINGS
26 INTENDED FOR RESIDENTIAL USE OR OF MOBILE HOMES, UNLESS THE
27 MANUFACTURER ALSO INSTALLS THE INDUSTRIALIZED BUILDINGS OR MOBILE
28 HOMES;

29 (IV) A REAL ESTATE DEVELOPER WHO DOES NOT CONSTRUCT
30 HOMES;

31 (V) A FINANCIAL INSTITUTION THAT LENDS FUNDS FOR THE
32 CONSTRUCTION OR PURCHASE OF RESIDENTIAL DWELLINGS IN THE STATE; OR

33 (VI) A PERSON WHO ERECTS OR CONSTRUCTS NEW HOMES SOLELY
34 IN MONTGOMERY COUNTY.

35 (G) "HOME BUILDER REGISTRATION NUMBER" MEANS A REGISTRATION
36 NUMBER ISSUED BY THE DIRECTOR TO A REGISTRANT UNDER THIS TITLE.

1 (H) "INDUSTRIALIZED BUILDING" HAS THE MEANING STATED IN ARTICLE 83B,
2 § 6-202 OF THE CODE.

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

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

7 (K) (1) "NEW HOME" MEANS EACH NEWLY CONSTRUCTED RESIDENTIAL
8 DWELLING UNIT IN THE STATE AND THE FIXTURES AND STRUCTURE THAT ARE
9 MADE A PART OF A NEWLY CONSTRUCTED PRIVATE DWELLING UNIT AT THE TIME OF
10 CONSTRUCTION.

11 (2) "NEW HOME" INCLUDES:

12 (I) A CUSTOM HOME AS DEFINED IN § 10-501(C) OF THE REAL
13 PROPERTY ARTICLE;

14 (II) A NEW HOME TO WHICH § 10-301 OF THE REAL PROPERTY
15 ARTICLE APPLIES;

16 (III) AN INDUSTRIALIZED BUILDING INTENDED FOR RESIDENTIAL
17 USE; AND

18 (IV) A MOBILE HOME.

19 (L) (1) "OWNER" MEANS A PERSON FOR WHOM A NEW HOME IS BUILT OR TO
20 WHOM A NEW HOME IS SOLD FOR OCCUPATION BY:

21 (I) THAT PERSON OR THE FAMILY OF THAT PERSON AS A HOME;
22 OR

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

25 (2) "OWNER" INCLUDES A CONTRACT PURCHASER WHO CONTRACTS
26 WITH A REGISTRANT FOR THE CONSTRUCTION AND PURCHASE OF A NEW HOME.

27 (3) "OWNER" DOES NOT INCLUDE:

28 (I) A DEVELOPMENT COMPANY, ASSOCIATION, OR SUBSIDIARY
29 COMPANY OF A REGISTRANT; OR

30 (II) A PERSON OR ORGANIZATION TO WHOM THE HOME MAY BE
31 CONVEYED BY THE REGISTRANT FOR A PURPOSE OTHER THAN RESIDENTIAL
32 OCCUPATION BY THAT PERSON OR ORGANIZATION.

33 (M) "PRINCIPAL" MEANS:

1 (1) A SOLE PROPRIETOR, OFFICER, DIRECTOR, GENERAL PARTNER, OR
2 LIMITED LIABILITY COMPANY MANAGER OF AN APPLICANT OR REGISTRANT;

3 (2) A PERSON WITH AT LEAST 10 PERCENT OWNERSHIP IN AN
4 APPLICANT OR REGISTRANT OR A SUBSIDIARY OF AN APPLICANT OR REGISTRANT;
5 AND

6 (3) PARENTS, SPOUSES, AND CHILDREN WITH A COMBINED 10 PERCENT
7 OWNERSHIP IN AN APPLICANT OR REGISTRANT OR A SUBSIDIARY OF AN APPLICANT
8 OR REGISTRANT.

9 (N) "REGISTRANT" MEANS A PERSON REGISTERED TO BUILD NEW HOMES.

10 (O) "REGISTRATION FUND" MEANS THE HOME BUILDER REGISTRATION FUND.

11 SUBTITLE 2. HOME BUILDER REGISTRATION UNIT; HOME BUILDER REGISTRATION
12 FUND.

13 4.5-201.

14 THERE IS A HOME BUILDER REGISTRATION UNIT IN THE DIVISION.

15 4.5-202.

16 (A) THE UNIT SHALL MAINTAIN A LIST OF ALL REGISTRANTS.

17 (B) (1) THE UNIT SHALL MAKE AVAILABLE TO EACH APPLICANT FOR
18 REGISTRATION A COPY OF THIS TITLE AND OTHER APPLICABLE LAWS AND
19 REGULATIONS.

20 (2) THE UNIT SHALL MAKE AVAILABLE TO EACH REGISTRANT ANY
21 AMENDMENTS TO THIS TITLE OR OTHER APPLICABLE LAWS OR REGULATIONS AT
22 LEAST 30 DAYS BEFORE THE EFFECTIVE DATE OF THE AMENDMENTS.

23 (C) (1) IN CONSULTATION WITH THE HOME BUILDING INDUSTRY, THE UNIT
24 SHALL DEVELOP A CONSUMER INFORMATION PAMPHLET WRITTEN IN PLAIN
25 ENGLISH THAT DESCRIBES:

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

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

30 (2) THE DIVISION SHALL PROVIDE EACH REGISTERED HOME BUILDER
31 WITH A SUFFICIENT NUMBER OF COPIES OF THE CONSUMER INFORMATION
32 PAMPHLETS AS NEEDED BY THE HOME BUILDER.

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

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

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

10 (D) THE UNIT SHALL COLLECT AND MAINTAIN INFORMATION ON THE
11 RESOLUTION OF CONSUMER COMPLAINTS INVOLVING NEW HOME BUILDERS.

12 4.5-203.

13 (A) (1) THERE IS A HOME BUILDER REGISTRATION FUND.

14 (2) THE DIVISION SHALL ADMINISTER THE REGISTRATION FUND.

15 (3) THE REGISTRATION FUND SHALL BE USED TO COVER THE ACTUAL
16 DOCUMENTED DIRECT AND INDIRECT COSTS INCURRED FOR THE ADMINISTRATION
17 AND ENFORCEMENT OF THE MARYLAND HOME BUILDERS REGISTRATION ACT.

18 (4) THE REGISTRATION FUND IS A CONTINUING, NONLAPSING FUND,
19 AND IS SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

20 (5) UNSPENT ASSETS OF THE REGISTRATION FUND SHALL REMAIN IN
21 THE REGISTRATION FUND AND MAY NOT REVERT OR BE TRANSFERRED TO THE
22 GENERAL FUND OF THE STATE.

23 (6) THE REGISTRATION FUND MAY NOT BE SUPPORTED BY
24 APPROPRIATIONS OF STATE FUNDS.

25 (B) (1) BY REGULATION, THE DIVISION SHALL ESTABLISH REASONABLE
26 FEES THAT MAY NOT EXCEED \$600 OVER A 2-YEAR PERIOD, AND A FEE SCHEDULE
27 FOR THE ISSUANCE AND RENEWAL OF REGISTRATIONS.

28 (2) THE FEES CHARGED SHALL APPROXIMATE THE DIRECT AND
29 INDIRECT COSTS OF ADMINISTERING AND ENFORCING THE MARYLAND HOME
30 BUILDERS REGISTRATION ACT.

31 (C) THE DIVISION SHALL PAY ALL FUNDS COLLECTED UNDER § 4.5-303 OF
32 THIS TITLE TO THE COMPTROLLER, WHO SHALL DISTRIBUTE THE FEES TO THE
33 REGISTRATION FUND.

34 (D) THE OFFICE OF LEGISLATIVE AUDITS SHALL AUDIT THE ACCOUNTS AND
35 TRANSACTIONS OF THE REGISTRATION FUND UNDER § 2-1220 OF THE STATE
36 GOVERNMENT ARTICLE.

SUBTITLE 3. REGISTRATION.

2 4.5-301.

3 EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON MAY NOT ACT AS A
4 HOME BUILDER IN THE STATE UNLESS THE PERSON IS REGISTERED AS A HOME
5 BUILDER UNDER THIS TITLE.

6 4.5-302.

7 (A) EACH PERSON THAT CONSTRUCTS NEW HOMES FOR SALE TO THE PUBLIC
8 SHALL MAINTAIN GENERAL LIABILITY INSURANCE FOR AT LEAST \$100,000.

9 (B) IF A HOME BUILDER'S REGISTRATION HAS BEEN REVOKED AND THE
10 HOME BUILDER APPLIES FOR A NEW REGISTRATION, THE UNIT SHALL, IN ITS
11 DISCRETION, APPROVE THE APPLICATION ON THE APPLICANT'S FULFILLMENT OF
12 SPECIFIED TERMS AND CONDITIONS, INCLUDING THE POSTING OF A BOND FOR THE
13 BENEFIT OF SUBCONTRACTORS, SUPPLIERS, AND CONSUMERS AND THE PAYMENT
14 OF ANY JUDGMENTS OR AWARDS DUE TO ANY SUBCONTRACTORS, SUPPLIERS, AND
15 CONSUMERS FOR A PERIOD OF 4 YEARS FROM THE DATE OF THE APPROVAL OF
16 REGISTRATION, AFTER WHICH THE LICENSING BOND SHALL EXPIRE AND SHALL NO
17 LONGER BE REQUIRED TO BE MAINTAINED BY THE REGISTERED HOME BUILDER.

18 4.5-303.

19 (A) TO APPLY FOR REGISTRATION, AN APPLICANT SHALL:

20 (1) SUBMIT TO THE UNIT UNDER OATH AN APPLICATION ON THE FORM
21 PROVIDED BY THE UNIT; AND

22 (2) PAY A NONREFUNDABLE APPLICATION FEE ESTABLISHED THROUGH
23 REGULATION.

24 (B) THE APPLICATION SHALL REQUIRE AN APPLICANT TO PROVIDE:

25 (1) THE APPLICANT'S NAME;

26 (2) THE APPLICANT'S BUSINESS ADDRESS, TELEPHONE NUMBER, AND,
27 IF APPLICABLE, ELECTRONIC MAIL ADDRESS;

28 (3) IN THE CASE OF AN APPLICANT WHO IS AN INDIVIDUAL, THE
29 APPLICANT'S SOCIAL SECURITY NUMBER;

30 (4) IN THE CASE OF AN APPLICANT OTHER THAN AN INDIVIDUAL:

31 (I) THE APPLICANT'S FEDERAL EMPLOYER IDENTIFICATION
32 NUMBER; AND

33 (II) THE NAMES, ADDRESSES, AND SOCIAL SECURITY NUMBERS OF
34 ALL PRINCIPALS OF THE APPLICANT;

1 (5) THE NAMES OF ALL APPLICANTS AND PRINCIPALS WHO HAVE
2 PREVIOUSLY APPLIED FOR REGISTRATION, AND THE DISPOSITION OF ALL PREVIOUS
3 APPLICATIONS;

4 (6) THE NAMES OF ANY APPLICANT OR PRINCIPAL THAT WAS A
5 PRINCIPAL IN AN ENTITY THAT PREVIOUSLY APPLIED FOR REGISTRATION;

6 (7) A LIST OF ALL STATES AND OTHER JURISDICTIONS IN WHICH THE
7 APPLICANT HOLDS A SIMILAR REGISTRATION OR LICENSE;

8 (8) A LIST OF ALL STATES AND OTHER JURISDICTIONS IN WHICH THE
9 APPLICANT HAS HAD A SIMILAR REGISTRATION OR LICENSE SUSPENDED OR
10 REVOKED;

11 (9) A STATEMENT WHETHER ANY PENDING JUDGMENTS OR TAX LIENS
12 EXIST AGAINST THE APPLICANT;

13 (10) (I) THE ELECTION MADE BY THE APPLICANT REGARDING DEPOSIT
14 MONEYS UNDER § 10-301 OF THE REAL PROPERTY ARTICLE; AND

15 (II) IF THE APPLICANT ELECTS TO HOLD DEPOSITS IN AN ESCROW
16 ACCOUNT, THE ACCOUNT NUMBER AND THE NAME OF THE FINANCIAL INSTITUTION
17 THAT HOLDS THE ESCROW ACCOUNT;

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

20 (12) THE NAME OF THE INSURANCE CARRIER AND THE POLICY NUMBER
21 OF THE GENERAL LIABILITY COVERAGE REQUIRED UNDER § 4.5-302 OF THIS
22 SUBTITLE.

23 4.5-304.

24 (A) THE UNIT SHALL REGISTER AND ISSUE A HOME BUILDER REGISTRATION
25 NUMBER TO AN APPLICANT THAT MEETS THE REQUIREMENTS OF THIS TITLE.

26 (B) A REGISTRATION ISSUED UNDER THIS TITLE MAY NOT BE TRANSFERRED,
27 ASSIGNED, OR PLEDGED.

28 (C) A VALID REGISTRATION AUTHORIZES THE REGISTRANT TO ACT AS A
29 HOME BUILDER IN THE STATE.

30 (D) A HOME BUILDER THAT HOLDS A LICENSE OR REGISTRATION IN
31 MONTGOMERY COUNTY MAY ACT AS A HOME BUILDER IN THAT COUNTY ONLY,
32 UNLESS THE HOME BUILDER IS ALSO REGISTERED UNDER THIS TITLE.

33 4.5-305.

34 (A) (1) UNLESS RENEWED UNDER THIS SECTION, A REGISTRATION EXPIRES
35 ON THE SECOND ANNIVERSARY OF ITS EFFECTIVE DATE.

1 (2) A REGISTRANT THAT MEETS THE REQUIREMENTS OF SUBSECTION
2 (C) OF THIS SECTION MAY OBTAIN A RENEWAL OF A REGISTRATION BEFORE THE
3 REGISTRATION EXPIRES FOR AN ADDITIONAL 2-YEAR TERM.

4 (3) ONCE EXPIRED, A REGISTRATION MAY NOT BE RENEWED.

5 (B) AT LEAST 60 DAYS BEFORE A REGISTRATION EXPIRES, THE DIRECTOR
6 SHALL MAIL THE REGISTRANT, AT THE LAST KNOWN ADDRESS OF THE REGISTRANT:

7 (1) A RENEWAL APPLICATION FORM; AND

8 (2) A NOTICE THAT STATES:

9 (I) THE DATE ON WHICH THE CURRENT REGISTRATION EXPIRES;
10 AND

11 (II) THE DATE BY WHICH THE DIRECTOR MUST RECEIVE THE
12 RENEWAL APPLICATION FOR A RENEWAL TO BE ISSUED AND MAILED BEFORE THE
13 REGISTRATION EXPIRES.

14 (C) THE UNIT SHALL RENEW THE REGISTRATION OF EACH REGISTRANT
15 THAT:

16 (1) SUBMITS TO THE UNIT A RENEWAL APPLICATION ON THE FORM
17 PROVIDED BY THE UNIT;

18 (2) WOULD QUALIFY FOR AN INITIAL REGISTRATION;

19 (3) PAYS THE RENEWAL FEE ESTABLISHED BY REGULATION; AND

20 (4) IS OTHERWISE ENTITLED TO BE REGISTERED.

21 4.5-306.

22 (A) A REGISTRANT SHALL PROVIDE THE UNIT WRITTEN NOTICE OF ANY
23 CHANGE IN THE INFORMATION SUBMITTED UNDER § 4.5-303(B) OF THIS SUBTITLE
24 WITHIN 10 WORKING DAYS AFTER THE CHANGE IS EFFECTIVE.

25 (B) A REGISTRANT SHALL COMPLY WITH SUBSECTION (A) OF THIS SECTION
26 FOR 1 YEAR AFTER THE REGISTRANT CEASES TO BE REGISTERED.

27 4.5-307.

28 (A) EACH REGISTRANT SHALL DISPLAY ITS HOME BUILDER REGISTRATION
29 NUMBER CONSPICUOUSLY ON ALL PROPERTIES AT WHICH THE REGISTRANT IS
30 PERFORMING WORK THAT REQUIRES REGISTRATION UNDER THIS TITLE.

31 (B) IF A REGISTRANT IS BUILDING MULTIPLE HOMES IN ONE PROJECT AREA
32 OR SUBDIVISION, THE REGISTRANT MAY POST ITS HOME BUILDER REGISTRATION
33 NUMBER IN ONE CENTRAL CONSPICUOUS LOCATION IN THE PROJECT AREA OR
34 SUBDIVISION.

1 4.5-308.

2 (A) THE UNIT MAY DENY REGISTRATION TO AN APPLICANT, REPRIMAND A
3 REGISTRANT, SUSPEND OR REVOKE A REGISTRATION, OR IMPOSE A CIVIL PENALTY
4 ON A REGISTRANT IF THE UNIT DETERMINES THAT THE APPLICANT OR
5 REGISTRANT:

6 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINED OR ATTEMPTED TO
7 OBTAIN A REGISTRATION;

8 (2) FRAUDULENTLY OR DECEPTIVELY USED A REGISTRATION;

9 (3) PRESENTED OR ATTEMPTED TO PRESENT THE HOME BUILDER
10 REGISTRATION NUMBER OF ANOTHER REGISTRANT AS THE APPLICANT'S OR
11 REGISTRANT'S HOME BUILDER REGISTRATION NUMBER;

12 (4) USED OR ATTEMPTED TO USE AN EXPIRED, SUSPENDED, OR
13 REVOKED HOME BUILDER REGISTRATION NUMBER;

14 (5) IMPERSONATED OR FALSELY REPRESENTED ONESELF AS A
15 REGISTERED HOME BUILDER;

16 (6) REPEATEDLY VIOLATED THIS TITLE;

17 (7) ENGAGED IN A PATTERN OF UNFAIR OR DECEPTIVE TRADE
18 PRACTICES UNDER THE CONSUMER PROTECTION ACT, AS DETERMINED BY A FINAL
19 ADMINISTRATIVE ORDER OR JUDICIAL DECISION;

20 (8) REPEATEDLY VIOLATED A STATE OR FEDERAL LAW OR REGULATION
21 THAT RELATES TO THE FITNESS AND QUALIFICATION OR ABILITY OF THE
22 APPLICANT OR REGISTRANT TO BUILD HOMES;

23 (9) ENGAGED IN A PATTERN OF POOR WORKMANSHIP EVIDENCED BY
24 ONE OR MORE OF THE FOLLOWING:

25 (I) REPEATED UNRESOLVED BUILDING CODE VIOLATIONS;

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

31 (III) AN UNSATISFIED FINAL JUDGMENT THAT RESULTS IN A
32 CONSUMER, IN WHOSE NAME THE JUDGMENT IS ENTERED, FILING A COMPLAINT
33 WITH THE DIVISION UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE;

34 (10) REPEATEDLY ENGAGED IN FRAUD, DECEPTION,
35 MISREPRESENTATION, OR KNOWING OMISSIONS OF MATERIAL FACTS RELATED TO
36 HOME BUILDING CONTRACTS;

1 (11) HAD A SIMILAR REGISTRATION OR LICENSE DENIED, SUSPENDED,
 2 OR REVOKED IN ANOTHER STATE OR JURISDICTION; OR

3 (12) HAD THE RENEWAL OF A SIMILAR REGISTRATION OR LICENSE
 4 DENIED FOR ANY CAUSE OTHER THAN FAILURE TO PAY A RENEWAL FEE.

5 (B) (1) THE UNIT MAY DENY A REGISTRATION TO A NONPUBLICLY TRADED
 6 APPLICANT OR SUSPEND OR REVOKE A REGISTRATION OF A NONPUBLICLY TRADED
 7 REGISTRANT IF A PRINCIPAL OF THE APPLICANT OR REGISTRANT, OTHER THAN A
 8 FINANCIAL INSTITUTION OR A NONPROFIT ORGANIZATION, THAT OWNS AT LEAST 10
 9 PERCENT OF THE APPLICANT OR REGISTRANT, WAS A PRINCIPAL OF A HOME
 10 BUILDER THAT HAD A SIMILAR REGISTRATION OR LICENSE DENIED, SUSPENDED, OR
 11 REVOKED BY THE UNIT OR IN ANOTHER STATE OR JURISDICTION FOR ANY CAUSE
 12 OTHER THAN A FAILURE TO PAY A RENEWAL FEE IF THE UNIT DETERMINES THAT
 13 THE INTERESTS OF THE PUBLIC CANNOT BE PROTECTED IF THE APPLICANT OR
 14 REGISTRANT IS ALLOWED TO ACT AS A HOME BUILDER IN THE STATE.

15 (2) FOR THE PURPOSES OF THIS SUBSECTION, THE INTERESTS OF A
 16 PRINCIPAL INCLUDE INTERESTS HELD BY THE PARENTS, SPOUSE, OR CHILDREN OF
 17 THE PRINCIPAL.

18 (C) THE UNIT SHALL PROVIDE AN APPLICANT OR REGISTRANT NOTICE AND
 19 AN OPPORTUNITY TO REQUEST A HEARING UNDER TITLE 10, SUBTITLE 2 OF THE
 20 STATE GOVERNMENT ARTICLE TO CONTEST A PROPOSED DISCIPLINARY ACTION.

21 SUBTITLE 4. REMEDIES.

22 4.5-401.

23 (A) THE DIVISION SHALL ENCOURAGE THE OWNER OR BUYER TO PURSUE
 24 RESOLUTION OF THE DISPUTE PURSUANT TO THE EXISTING CONTRACT.

25 (B) THE OWNER'S OR BUYER'S REMEDIES UNDER THIS SUBTITLE SHALL NOT
 26 SUPERSEDE ANY CONSUMER CONTRACTUAL OBLIGATIONS, AND ARE IN ADDITION
 27 TO ANY REMEDIES THE OWNER OR BUYER MAY HAVE UNDER THE CONSUMER
 28 PROTECTION ACT OR ANY OTHER LAW.

29 SUBTITLE 5. PROHIBITED ACTS; PENALTIES.

30 4.5-501.

31 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON MAY NOT
 32 ACT AS, OFFER TO ACT AS, HOLD ONESELF OUT AS, OR IMPERSONATE A REGISTRANT
 33 IN THE STATE UNLESS THE PERSON IS A REGISTRANT.

34 (B) A PERSON THAT VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
 35 AND, ON FIRST CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 AND ON
 36 SECOND OR SUBSEQUENT CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING
 37 \$5,000.

1 (C) THE FOLLOWING LENDERS ARE EXEMPT FROM THE REQUIREMENTS
2 RELATING TO REGISTRATION UNDER THIS TITLE WHEN THE LENDER HIRES A
3 SECOND REGISTERED HOME BUILDER WHO WOULD UNDERTAKE TO COMPLETE A
4 FIRST HOME BUILDER'S UNFINISHED PROJECT PURSUANT TO A DEFAULT IN
5 OBLIGATIONS OF THE FIRST HOME BUILDER TO THE LENDER:

6 (1) A MORTGAGE LENDER AS DEFINED IN § 11-501(J)(1)(II) OF THE
7 FINANCIAL INSTITUTIONS ARTICLE THAT IS A LICENSEE UNDER TITLE 11, SUBTITLE
8 5 OF THE FINANCIAL INSTITUTIONS ARTICLE;

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

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

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

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

25 (D) AN EXEMPT LENDER IS SUBJECT ONLY TO §§ 4.5-202(C), 4.5-401, 4.5-503,
26 4.5-601, 4.5-602, AND 4.5-603 OF THIS TITLE.

27 4.5-502.

28 (A) SUBJECT TO THE NOTICE AND HEARING PROVISIONS OF TITLE 10,
29 SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, THE DIVISION MAY BRING A
30 CIVIL ADMINISTRATIVE ACTION AGAINST A PERSON THAT VIOLATES § 4.5-501(A) OF
31 THIS SUBTITLE.

32 (B) AFTER A HEARING, IF THE DIRECTOR FINDS THAT THE PERSON HAS
33 VIOLATED § 4.5-501(A) OF THIS SUBTITLE, THE DIRECTOR MAY:

34 (1) ORDER THE PERSON TO CEASE AND DESIST FROM THE UNLAWFUL
35 PRACTICE; AND

36 (2) IMPOSE A CIVIL PENALTY OF NOT MORE THAN \$1,000 FOR EACH DAY
37 OF UNLAWFUL PRACTICE.

1 (C) ANY PARTY AGGRIEVED BY A DECISION AND ORDER OF THE DIRECTOR
2 UNDER THIS SECTION MAY MAKE AN APPEAL AS PROVIDED UNDER §§ 10-222 AND
3 10-223 OF THE STATE GOVERNMENT ARTICLE.

4 4.5-503.

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 "MHBR NO. _____".

9 4.5-504.

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

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

15 SUBTITLE 6. MISCELLANEOUS PROVISIONS.

16 4.5-601.

17 (A) EXCEPT FOR A BUILDING PERMIT FOR CONSTRUCTION TO BE PERFORMED
18 DIRECTLY BY A LANDOWNER SOLELY FOR THE LANDOWNER'S OWN USE, THE
19 BUILDING AND PERMITS DEPARTMENT OF A COUNTY MAY NOT ISSUE A PERMIT FOR
20 HOME BUILDING UNLESS THE PERMIT INCLUDES THE HOME BUILDER
21 REGISTRATION NUMBER OF A REGISTRANT.

22 (B) BEFORE ISSUING A PERMIT FOR HOME BUILDING TO A LANDOWNER, THE
23 BUILDING AND PERMITS DEPARTMENT OF A COUNTY SHALL OBTAIN THE
24 SIGNATURE OF THE LANDOWNER AFFIRMING THAT THE PERMIT IS BEING ISSUED
25 SOLELY FOR THE PURPOSE OF THE LANDOWNER PERFORMING WORK ON THE
26 LANDOWNER'S OWN PROPERTY.

27 (C) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO RELIEVE A
28 REGISTRANT FROM THE OBLIGATION TO OBTAIN ALL OTHER PERMITS, LICENSES,
29 AND OTHER AUTHORIZATIONS FOR THE CONSTRUCTION OF A NEW HOME.

30 4.5-602.

31 (A) IN THIS SECTION, "BUILDING CODE" INCLUDES A CODE PROVISION
32 CONCERNING MECHANICAL, ELECTRICAL, FIRE, PLUMBING, ENERGY, HEATING,
33 VENTILATION, OR AIR-CONDITIONING MATTERS.

34 (B) A COUNTY OR MUNICIPAL CORPORATION SHALL NOTIFY THE DIRECTOR
35 OF EACH REGISTRANT WHO FAILS TO CORRECT A VIOLATION OF THE APPLICABLE

1 LOCAL OR STATE BUILDING CODE WITHIN A REASONABLE TIME AFTER THE
2 REGISTRANT RECEIVES NOTICE OF THE VIOLATION.

3 4.5-603.

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

7 4.5-604.

8 A HOME BUILDER WHO INSTALLS AN INDUSTRIALIZED BUILDING INTENDED
9 FOR RESIDENTIAL USE OR A MOBILE HOME IS RESPONSIBLE TO THE OWNER FOR
10 CORRECTING ANY DEFECTS IN ANY COMPONENT INCORPORATED INTO THE NEW
11 HOME EXCEPT FOR THOSE INDUSTRIALIZED BUILDINGS OR MOBILE HOMES THAT
12 ARE THE RESPONSIBILITY OF THE MANUFACTURER OF THE INDUSTRIALIZED
13 BUILDING AND MOBILE HOME PURSUANT TO ARTICLE 83B, TITLE 6, SUBTITLE 2 OF
14 THE CODE.

15 4.5-605.

16 A CONTRACT FOR THE PERFORMANCE OF ANY ACT FOR WHICH A HOME
17 BUILDER REGISTRATION NUMBER IS REQUIRED IS NOT ENFORCEABLE UNLESS THE
18 HOME BUILDER WAS REGISTERED AT THE TIME THAT THE CONTRACT WAS SIGNED
19 BY THE OWNER.

20 SUBTITLE 7. SHORT TITLE.

21 4.5-701.

22 THIS TITLE MAY BE CITED AS THE MARYLAND HOME BUILDER REGISTRATION
23 ACT.

24 ARTICLE - REAL PROPERTY

25 14-117.

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

28 (2) A CONTRACT FOR THE INITIAL SALE OF A NEW HOME, AS DEFINED IN
29 THIS SUBTITLE, SHALL INCLUDE THE FOLLOWING:

30 (I) THE BUILDER REGISTRATION NUMBER OF THE SELLER OF THE
31 NEW HOME;

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

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

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

5 2. THAT SHALL PREVAIL IN THE PERFORMANCE OF THE
 6 CONTRACT AND ANY ARBITRATION OR ADJUDICATION OF A CLAIM ARISING FROM
 7 THE CONTRACT; AND

8 (IV) A PROVISION DETAILING THE PURCHASER'S RIGHT TO
 9 RECEIVE A CONSUMER INFORMATION PAMPHLET AS PROVIDED UNDER THE HOME
 10 BUILDER REGISTRATION ACT.

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

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

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

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

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

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
 27 construed only prospectively and may not be applied or interpreted to have any effect
 28 on or application to any act or omission of a home builder arising before the effective
 29 date of this Act; that it shall apply only to contracts entered into on or after January 1,
 30 2001; and that home builders shall be registered beginning on or after January 1,
 31 2001.

32 SECTION 3. AND BE IT FURTHER ENACTED, That the Consumer Protection
 33 Division of the Office of the Attorney General shall study the feasibility of a new home
 34 builder guaranty fund. The Consumer Protection Division shall report its findings and
 35 recommendations to the Senate Finance Committee and the House Economic Matters
 36 Committee, in accordance with § 2-1246 of the State Government Article, on or before
 37 October 1, 2003.

38 SECTION 4. AND BE IT FURTHER ENACTED, That on or before November 1,
 39 2001 and annually thereafter, the Consumer Protection Division of the Office of the

1 Attorney General shall submit an annual report of its activities regarding home
2 builders and provide copies of the report to the Governor, and, subject to § 2-1246 of the
3 State Government Article, the General Assembly.

4 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 January 1, 2001.