

HOUSE BILL 811

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C2

2000 Regular Session  
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CF 0lr1136

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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**

Introduced and read first time: February 11, 2000

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Home Builders 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 contracts are not enforceable unless performed  
7 by a registered home builder; establishing a certain application and renewal  
8 process for home builder registration; establishing a Home Builder's  
9 Registration Fund; requiring a home builder to post the builder registration  
10 number on certain properties where the home builder is doing certain work;  
11 prohibiting a county or municipal corporation from issuing a building permit for  
12 the construction of a new home unless the permit includes the builder  
13 registration number of a registered home builder, subject to certain exceptions;  
14 requiring a person who advertises that the person is a registered home builder  
15 include certain information in the advertisement; requiring the Chief, in  
16 consultation with the home building industry, to develop a certain consumer  
17 information pamphlet; requiring a home builder to provide a contract purchaser  
18 with a consumer information pamphlet prior to entering into a contract for the  
19 initial sale of a new home; requiring a home builder to include certain  
20 information in a contract for the initial sale of a new home; prohibiting a person  
21 from making certain false representations relating to a builder registration  
22 number or engaging in business as a home builder without having a current  
23 builder registration number; requiring a county or municipal corporation to  
24 notify the Chief of the failure of a home builder to correct certain violations after  
25 a certain period of time; authorizing the Chief to deny an application or renewal  
26 for a builder registration number or revoke or suspend a builder registration  
27 number under certain circumstances; requiring a consumer to submit a  
28 complaint against a home builder to arbitration and exhaust any remedies  
29 available under a new home warranty under certain circumstances subject to  
30 certain exceptions; requiring any additional requirements to be placed on home  
31 builders to be made in a certain manner; altering the penalty schedule of certain  
32 blanket bonds and blanket letters of credit; providing that a violation of certain

1 provisions of this Act is an unfair or deceptive trade practice under the  
2 Maryland Consumer Protection Act; limiting the applicable penalties under the  
3 Maryland Consumer Protection Act for certain violations to civil penalties;  
4 exempting certain counties from the application of this Act; defining certain  
5 terms; providing for the application of this Act; providing for the termination of  
6 certain provisions of this Act; providing for the delayed effective date of this Act;  
7 and generally relating to the registration of home builders.

8 BY repealing and reenacting, with amendments,  
9 Article - Commercial Law  
10 Section 13-301(14) and 13-411  
11 Annotated Code of Maryland  
12 (1990 Replacement Volume and 1999 Supplement)

13 BY adding to  
14 Article - Commercial Law  
15 Section 14-2901 through 14-2919, inclusive, to be under the new subtitle  
16 "Subtitle 29. Maryland Home Builders Act"  
17 Annotated Code of Maryland  
18 (1990 Replacement Volume and 1999 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article - Real Property  
21 Section 10-302 and 10-303  
22 Annotated Code of Maryland  
23 (1996 Replacement Volume and 1999 Supplement)

24 BY adding to  
25 Article - Real Property  
26 Section 14-117(j)  
27 Annotated Code of Maryland  
28 (1996 Replacement Volume and 1999 Supplement)

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

31 **Article - Commercial Law**

32 13-301.

33 Unfair or deceptive trade practices include any:

34 (14) Violation of a provision of:

35 (i) This title;

- 1 (ii) An order of the Attorney General or agreement of a party  
 2 relating to unit pricing under Title 14, Subtitle 1 of this article;
- 3 (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt  
 4 Collection Act;
- 5 (iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door  
 6 Sales Act;
- 7 (v) Title 14, Subtitle 9 of this article, Kosher Products;
- 8 (vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;
- 9 (vii) Section 14-1302 of this article;
- 10 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales  
 11 Act;
- 12 (ix) Section 22-415 of the Transportation Article;
- 13 (x) Title 14, Subtitle 20 of this article;
- 14 (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty  
 15 Enforcement Act;
- 16 (xii) Title 14, Subtitle 21 of this article;
- 17 (xiii) Section 18-107 of the Transportation Article;
- 18 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone  
 19 Solicitations Act;
- 20 (xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts  
 21 Act;
- 22 (xvi) Title 10, Subtitle 6 of the Real Property Article;
- 23 (xvii) Title 10, Subtitle 8 of the Real Property Article;
- 24 (xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act;  
 25 [or]
- 26 (xix) Title 14, Subtitle 26 of this article, the Maryland Door-to-Door  
 27 Solicitations Act; or
- 28 (XX) SECTION 14-2912 OF THIS ARTICLE; OR
- 29 13-411.

30 (a) Except as provided in subsection (b) of this section, any person who  
 31 violates any provision of this title is guilty of a misdemeanor and, unless another

1 criminal penalty is specifically provided elsewhere, on conviction is subject to a fine  
2 not exceeding \$1,000 or imprisonment not exceeding one year or both, in addition to  
3 any civil penalties.

4 (b) A person may not be imprisoned for violation of any provision of an order of  
5 the Attorney General or an agreement of a party relating to unit pricing under Title  
6 14, Subtitle 1 of this article.

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

9 SUBTITLE 29. MARYLAND HOME BUILDERS ACT.

10 14-2901.

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

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

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

16 (D) "DIVISION" MEANS THE DIVISION OF CONSUMER PROTECTION OF THE  
17 OFFICE OF THE ATTORNEY GENERAL.

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

21 (F) "FUND" MEANS THE HOME BUILDERS REGISTRATION FUND.

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

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

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

28 (III) INSTALLS MANUFACTURED HOMES OR MOBILE HOMES  
29 INTENDED FOR RESIDENTIAL USE.

30 (2) "HOME BUILDER" DOES NOT INCLUDE:

31 (I) AN EMPLOYEE OF A HOME BUILDER THAT IS REGISTERED  
32 UNDER THIS SUBTITLE, SO LONG AS THAT EMPLOYEE DOES NOT WORK AS A HOME  
33 BUILDER OTHER THAN AS AN EMPLOYEE OF THE REGISTERED HOMEBUILDER;

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

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

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

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

12 (H) "INDIVIDUAL APPLICANT" MEANS AN INDIVIDUAL WHO IS A HOME  
13 BUILDER AND APPLIES FOR A BUILDER REGISTRATION NUMBER UNDER THIS  
14 SUBTITLE.

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

17 (J) "MANUFACTURED HOME" MEANS A BUILDING MANUFACTURED AT A SITE  
18 OTHER THAN THE SITE WHERE THE BUILDING IS INTENDED FOR USE AS A  
19 RESIDENTIAL DWELLING.

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

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

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

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

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

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

37 (3) "OWNER" DOES NOT INCLUDE:

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

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

5 (N) "PRINCIPAL" MEANS:

6 (1) ALL OFFICERS, DIRECTORS, GENERAL PARTNERS, AND LIMITED  
7 LIABILITY COMPANY MANAGERS OF THE HOME BUILDER, AS APPLICABLE; AND

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

12 4-2902.

13 (A) A PERSON MAY NOT CLAIM TO BE A HOME BUILDER OR ACT AS A HOME  
14 BUILDER UNLESS THE PERSON HAS BEEN ISSUED A BUILDER REGISTRATION  
15 NUMBER BY THE CHIEF IN ACCORDANCE WITH THIS SUBTITLE.

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

20 14-2903.

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

24 (B) THE APPLICATION SHALL INCLUDE:

25 (1) THE APPLICANT'S NAME;

26 (2) THE PRINCIPAL BUSINESS ADDRESS AND TELEPHONE NUMBER OF  
27 THE APPLICANT;

28 (3) IF THE APPLICANT IS AN INDIVIDUAL APPLICANT, THE SOCIAL  
29 SECURITY NUMBER OF THE APPLICANT;

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

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) A STATEMENT INDICATING WHETHER OR NOT THE APPLICANT HAS  
2 PREVIOUSLY APPLIED FOR REGISTRATION IN THIS STATE AND THE DISPOSITION OF  
3 ALL PRIOR APPLICATIONS;

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

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

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

11 (II) IF THE APPLICANT ELECTS TO HOLD DEPOSITS IN AN ESCROW  
12 ACCOUNT, THE ACCOUNT NUMBER AND NAME OF THE FINANCIAL INSTITUTION IN  
13 WHICH THE ACCOUNT IS BEING HELD;

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

16 (10) THE NAME OF THE INSURER THAT PROVIDES THE APPLICANT WITH  
17 GENERAL LIABILITY INSURANCE AND THE POLICY NUMBERS OF ANY POLICIES.

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

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

22 14-2904.

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

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

30 (1) A RENEWAL APPLICATION FORM; AND

31 (2) A NOTICE THAT STATES:

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

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

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

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

5 14-2905.

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

8 14-2906.

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

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

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

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

17 (C) THE CHIEF SHALL ADMINISTER THE FUND.

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

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

24 14-2907.

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

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



1 14-2908.

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

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

9 (C) A COUNTY OR MUNICIPAL CORPORATION MAY ISSUE A BUILDING PERMIT  
10 WITHOUT A BUILDER REGISTRATION NUMBER FOR THE CONSTRUCTION OF A NEW  
11 HOME IF:

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

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

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

20 14-2909.

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

25 "MARYLAND HOME BUILDER REGISTRATION NO. \_\_\_\_\_"; OR

26 "MHBR NO. \_\_\_\_\_"

27 14-2910.

28 (A) IN CONSULTATION WITH THE HOME BUILDING INDUSTRY, THE CHIEF  
29 SHALL DEVELOP A CONSUMER INFORMATION PAMPHLET WRITTEN IN PLAIN  
30 ENGLISH THAT DESCRIBES:

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

33 (2) ANY OTHER INFORMATION THAT THE CHIEF CONSIDERS  
34 REASONABLY NECESSARY TO ASSIST CONSUMERS.

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

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

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

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

13 14-2911.

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

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

21 14-2912.

22 A PERSON MAY NOT KNOWINGLY AND INTENTIONALLY:

23 (1) PRESENT OR ATTEMPT TO PRESENT THE BUILDER REGISTRATION  
24 NUMBER OF ANOTHER AS THE PERSON'S OWN;

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

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

29 (4) USE OR ATTEMPT TO USE A BUILDER REGISTRATION NUMBER THAT  
30 HAS EXPIRED, BEEN SUSPENDED, OR BEEN REVOKED; OR

31 (5) ENGAGE IN THE BUSINESS OF A HOME BUILDER WITHOUT HAVING A  
32 CURRENT BUILDER REGISTRATION NUMBER.

33 14-2913.

34 A COUNTY OR MUNICIPAL CORPORATION SHALL NOTIFY THE CHIEF OF EACH  
35 HOME BUILDER AGAINST WHOM A FINAL DETERMINATION AND ORDER HAS BEEN  
36 ISSUED FOR FAILURE TO CORRECT A VIOLATION OF THE APPLICABLE LOCAL OR

1 STATE BUILDING CODE WITHIN THE TIME ALLOWED BY THE COUNTY OR MUNICIPAL  
2 CORPORATION AFTER THE HOMEBUILDER RECEIVED NOTICE OF THE VIOLATION  
3 AND AT LEAST 90 DAYS HAVE PASSED WITHOUT THE HOME BUILDER DILIGENTLY  
4 ATTEMPTING TO RESOLVE THE BUILDING CODE VIOLATION.

5 14-2914.

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

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

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

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

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

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

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

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

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

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

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

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

3 (II) A PRINCIPAL OF THE INDIVIDUAL APPLICANT OR REGISTERED  
4 HOME BUILDER.

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

8 14-2915.

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

12 14-2916.

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

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

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

19 (3) AN ALLEGED FAILURE OF A HOME BUILDER TO CONSTRUCT A NEW  
20 HOME TO THE PROPER PERFORMANCE STANDARDS OF A NEW HOME.

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

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

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

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

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

34 (II) THE DIVISION'S INVESTIGATION OF A COMPLAINT FILED  
35 UNDER THIS PARAGRAPH SHALL BE LIMITED SOLELY TO THE CONDITION OR DEFECT

1 THAT SUBJECTS THE PERSON'S LIFE, SAFETY, OR WELL-BEING TO IMMINENT  
2 DANGER.

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

7 (D) WHEN A CONSUMER SUBMITS A CLAIM TO ARBITRATION UNDER  
8 SUBSECTION (B) OF THIS SECTION, ANY PERFORMANCE STANDARDS OR GUIDELINES  
9 REFERENCED IN THE CONTRACT OF SALE FOR THE NEW HOME PURSUANT TO §  
10 14-117(J)(2)(III) OF THE REAL PROPERTY ARTICLE SHALL PREVAIL IN THE  
11 ARBITRATION.

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

15 14-2917.

16 (A) THIS SUBTITLE DOES NOT AUTHORIZE THE CHIEF TO ADOPT RULES,  
17 REGULATIONS, OR STANDARDS APPLICABLE TO HOME BUILDERS OR OTHER SUBJECT  
18 MATTER OF THIS SUBTITLE.

19 (B) ANY ADDITIONAL REQUIREMENTS TO BE PLACED ON HOME BUILDERS  
20 SHALL BE MADE THROUGH CHANGES TO THIS SUBTITLE.

21 14-2918.

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

24 14-2919.

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

26 **Article - Real Property**

27 10-302.

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

31 (b) The corporate surety bond obtained pursuant to the provisions of §  
32 10-301(a) shall be in a form approved by the Department of Labor, Licensing, and  
33 Regulation. The bond may be either in the form of an individual bond for each deposit  
34 accepted by a vendor or builder or if the total amount of money and deposits accepted  
35 by the builder or vendor exceeds \$10,000, it may be in the form of a blanket bond  
36 assuring the return of the deposits received by the vendor or builder.

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

3 Total Amount of Deposits Held	Penalty of Bond
4 (1) \$10,000 to [\$75,000] \$100,000	Full amount of deposit held
5 (2) [\$75,000] \$100,000 to \$200,000	[\$75,000] \$100,000
6 (3) \$200,000 to \$500,000	\$200,000
7 (4) Over \$500,000	\$500,000

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

13 10-303.

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

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

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

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

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

26 Total Amount of Deposits Held	Amount of Letter of Credit
27 (1) \$10,000 to [\$75,000] \$100,000	Full amount of deposit held
28 (2) [\$75,000] \$100,000 to \$200,000	[\$75,000] \$100,000
29 (3) \$200,000 to \$500,000	\$200,000
30 (4) Over \$500,000	\$500,000

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

1 14-117.

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

4 (2) A CONTRACT FOR THE INITIAL SALE OF A NEW HOME, AS DEFINED IN  
5 § 14-2901 OF THE COMMERCIAL LAW ARTICLE, SHALL INCLUDE THE FOLLOWING:

6 (I) THE BUILDER REGISTRATION NUMBER OF THE SELLER OF THE  
7 NEW HOME;

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

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

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

15 2. THAT SHALL PREVAIL IN THE PERFORMANCE OF THE  
16 CONTRACT AND ANY ARBITRATION OR ADJUDICATION OF A CLAIM ARISING FROM  
17 THE CONTRACT;

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

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

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

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

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

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

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

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

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

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

14       SECTION 4. AND BE IT FURTHER ENACTED, That the Consumer Protection  
15 Division of the Office of the Attorney General shall convene a study panel during the  
16 2004 Interim, to be staffed by the Office of Attorney General, which includes members  
17 of the Senate of Maryland, appointed by the President of the Senate, members of the  
18 House of Delegates, appointed by the Speaker of the House, representatives of the  
19 Department of Labor, Licensing, and Regulation, appointed by the Governor, and  
20 representatives of the home builder industry appointed by the Governor. The study  
21 panel shall review the feasibility of a new home builder guaranty fund. The Office of  
22 the Attorney General shall report to the Senate Finance Committee and the House  
23 Economic Matters Committee, in accordance with § 2-1246 of the State Government  
24 Article, on the study panel's recommendations on or before December 1, 2004.

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