
By: **Senators Kelley, Forehand, Hughes, McFadden, Blount, Dorman,
Madden, Sfikas, Hafer, Van Hollen, Della, Lawlah, Mitchell, and
Hollinger**

Introduced and read first time: February 3, 2000

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Home Builder Registration Act**

3 FOR the purpose of establishing the Office of Home Builder Registration in the
4 Department of Labor, Licensing, and Regulation; requiring the Secretary of
5 Labor, Licensing, and Regulation to appoint a Director of the Office; providing
6 for the powers, rights, and duties of the Director; requiring the Director to adopt
7 certain regulations; requiring the Director, together with certain persons to
8 create a certain consumer information pamphlet; establishing a Home Builder
9 Registration Fund and describing its qualities; specifying the means and
10 manner of acquisition and disbursement of the assets of the Registration Fund;
11 requiring certain audits of the Registration Fund; prohibiting a person from
12 acting as, offering to act as, holding oneself out to be, or impersonating a home
13 builder in the State without certain registration under certain circumstances;
14 requiring a person to meet certain requirements to be registered under this Act;
15 establishing application and renewal processes and requirements to become or
16 remain registered under this Act; requiring the Director to register or renew the
17 registration of an applicant or registrant under certain circumstances; providing
18 for certain qualities, powers, and restrictions of a registration under this Act;
19 providing for the expiration, denial, suspension, or revocation of a registration
20 under certain circumstances; requiring the Director to provide a registrant with
21 certain notice and opportunities for hearings under certain circumstances;
22 requiring a registrant to provide certain information to the Director under
23 certain circumstances; requiring a registrant to display its home builder
24 registration number under certain circumstances; authorizing an owner to file a
25 complaint with the Director under certain circumstances; requiring the Director
26 to handle complaints in a specified manner; establishing a Home Builder
27 Guaranty Fund; requiring the Director to administer the Guaranty Fund in a
28 certain manner; specifying the means and manner of acquisition and
29 disbursement of the assets of the Guaranty Fund; authorizing certain persons to
30 submit a claim against the Guaranty Fund under certain circumstances;
31 establishing the process and requirements of obtaining an award from the
32 Guaranty Fund; requiring the Director to handle and adjudicate claims against
33 the Guaranty Fund in a specified manner; establishing who bears the burden of

1 proof in certain hearings; providing that the Director is subrogated to the rights
2 of a claimant and is entitled to a judgment against a registrant under certain
3 circumstances; providing for the reimbursement of the Guaranty Fund by a
4 registrant under certain circumstances; authorizing the Director to refer certain
5 debts to the Central Collection Unit under certain circumstances; establishing
6 that the Director may be a creditor of a registrant in certain circumstances;
7 providing that a lien in favor of the State may be created against a registrant
8 under certain circumstances; prohibiting certain county offices from issuing
9 certain permits under certain circumstances; requiring a county to notify the
10 Director of certain acts or omissions of a registrant under certain circumstances;
11 requiring certain information to be included in a purchase contract for a new
12 home; providing that certain installers are responsible for certain defects;
13 requiring a registrant to comply with certain construction standards under
14 certain circumstances; providing that a contract for the purchase of a new home
15 is not enforceable under certain circumstances; establishing certain criminal
16 and civil penalties for violations of certain provisions of this Act; requiring all
17 contracts for the initial sale of improved, new residential real property to
18 include certain information; providing for the construction and application of
19 certain provisions of this Act; defining certain terms; providing for the
20 application of this Act; providing for the termination of this Act; and generally
21 relating to the registration of home builders in the State.

22 BY adding to

23 Article - Business Regulation
24 Section 4.5-101 through 4.5-801, inclusive, to be under the new title "Title 4.5.
25 Home Builder Registration"
26 Annotated Code of Maryland
27 (1998 Replacement Volume and 1999 Supplement)

28 BY adding to

29 Article - Real Property
30 Section 14-117(j)
31 Annotated Code of Maryland
32 (1996 Replacement Volume and 1999 Supplement)

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

35 **Article - Business Regulation**

36 **TITLE 4.5. HOME BUILDER REGISTRATION.**

37 **SUBTITLE 1. DEFINITIONS.**

38 4.5-101.

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

1 (B) "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE OF HOME BUILDER
2 REGISTRATION.

3 (C) "GUARANTY FUND" MEANS THE HOME BUILDER GUARANTY FUND.

4 (D) (1) "HOME BUILDER" MEANS A PERSON THAT UNDERTAKES TO ERECT
5 OR OTHERWISE CONSTRUCT A NEW HOME.

6 (2) "HOME BUILDER" INCLUDES:

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

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

11 (III) THE INSTALLER OF A MOBILE HOME OR AN INDUSTRIALIZED
12 BUILDING INTENDED FOR RESIDENTIAL USE.

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

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

17 (II) SUBCONTRACTORS OR OTHER VENDORS HIRED BY THE
18 REGISTRANT TO PERFORM SERVICES OR SUPPLY MATERIALS FOR THE
19 CONSTRUCTION OF A NEW HOME WHO DO NOT OTHERWISE MEET THE
20 REQUIREMENTS OF THIS TITLE;

21 (III) THE MANUFACTURER OF MANUFACTURED HOMES INTENDED
22 FOR RESIDENTIAL USE OR OF MOBILE HOMES, UNLESS THE MANUFACTURER ALSO
23 INSTALLS THE MANUFACTURED HOMES OR MOBILE HOMES;

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

26 (V) A FINANCIAL INSTITUTION THAT LENDS FUNDS FOR THE
27 CONSTRUCTION OR PURCHASE OF RESIDENTIAL DWELLINGS IN THE STATE.

28 (E) "HOME BUILDER REGISTRATION NUMBER" MEANS A REGISTRATION
29 NUMBER ISSUED BY THE DIRECTOR TO A REGISTRANT UNDER THIS TITLE.

30 (F) "INDUSTRIALIZED BUILDING" HAS THE MEANING STATED IN ARTICLE 83B,
31 § 6-202 OF THE CODE.

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

1 (H) "MANUFACTURED HOME" MEANS A BUILDING MANUFACTURED AT A SITE
2 OTHER THAN THE SITE AT WHICH IT IS INTENDED FOR USE AS A RESIDENTIAL
3 DWELLING.

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

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

10 (2) "NEW HOME" INCLUDES:

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

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

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

17 (IV) A MOBILE HOME.

18 (K) "OFFICE" MEANS THE OFFICE OF HOME BUILDER REGISTRATION.

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; OR

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

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

26 (3) "OWNER" DOES NOT INCLUDE:

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

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

32 (M) "PRINCIPAL" MEANS:

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

1 (2) A PERSON WITH AT LEAST 10 PERCENT OWNERSHIP IN AN
2 APPLICANT OR REGISTRANT OR A SUBSIDIARY OF AN APPLICANT OR REGISTRANT.

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

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

5 SUBTITLE 2. OFFICE OF HOME BUILDER REGISTRATION; HOME BUILDER
6 REGISTRATION FUND.

7 4.5-201.

8 (A) THERE IS AN OFFICE OF HOME BUILDER REGISTRATION IN THE
9 DEPARTMENT.

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

12 4.5-202.

13 (A) (1) THE SECRETARY SHALL APPOINT A FULL-TIME DIRECTOR OF THE
14 OFFICE.

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

16 (B) THE DIRECTOR IS ENTITLED TO:

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

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

20 (C) THE DIRECTOR SHALL:

21 (1) ADMINISTER AND OPERATE THE OFFICE; AND

22 (2) BE RESPONSIBLE TO THE SECRETARY.

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

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

27 (2) BE A REGISTRANT;

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

1 (4) IN CONNECTION WITH ANY REGISTRANT, DIRECTLY OR INDIRECTLY
2 RECEIVE OR BECOME ENTITLED TO RECEIVE ANY FEE, PERQUISITE, OR
3 COMPENSATION.

4 4.5-203.

5 THE DIRECTOR MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE
6 BUDGET.

7 4.5-204.

8 THE DIRECTOR SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS
9 OF THIS TITLE.

10 4.5-205.

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

12 (B) (1) THE DIRECTOR SHALL MAKE AVAILABLE TO EACH APPLICANT FOR
13 REGISTRATION A COPY OF THIS TITLE AND OTHER APPLICABLE LAWS AND
14 REGULATIONS.

15 (2) THE DIRECTOR SHALL MAKE AVAILABLE TO EACH REGISTRANT ANY
16 AMENDMENTS TO THIS TITLE OR OTHER APPLICABLE LAWS OR REGULATIONS AT
17 LEAST 30 DAYS BEFORE THE EFFECTIVE DATE OF THE AMENDMENTS.

18 (C) (1) IN CONSULTATION WITH THE HOME BUILDING INDUSTRY AND THE
19 CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL,
20 THE DIRECTOR SHALL DEVELOP A CONSUMER INFORMATION PAMPHLET WRITTEN
21 IN PLAIN LANGUAGE THAT DESCRIBES:

22 (I) THE RIGHTS AND REMEDIES OF CONSUMERS IN THE PURCHASE
23 OF A NEW HOME; AND

24 (II) ANY OTHER INFORMATION THAT THE DIRECTOR CONSIDERS
25 REASONABLY NECESSARY TO ASSIST CONSUMERS.

26 (2) THE DIRECTOR SHALL MAKE COPIES OF THE CONSUMER
27 INFORMATION PAMPHLET AVAILABLE TO A REGISTRANT ON REQUEST AND ON
28 RECEIPT OF A REASONABLE FEE.

29 (D) THE DIRECTOR SHALL COLLECT AND MAINTAIN INFORMATION ON THE
30 RESOLUTION OF CONSUMER COMPLAINTS INVOLVING NEW HOME BUILDERS.

31 4.5-206.

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

33 (2) THE DIRECTOR SHALL ADMINISTER THE REGISTRATION FUND.

1 (3) THE REGISTRATION FUND SHALL BE USED TO COVER THE ACTUAL
2 DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE DUTIES OF THE
3 OFFICE.

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

6 (5) UNSPENT ASSETS OF THE REGISTRATION FUND SHALL REMAIN IN
7 THE REGISTRATION FUND AND MAY NOT REVERT OR BE TRANSFERRED TO THE
8 GENERAL FUND OF THE STATE.

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

11 (B) (1) BY REGULATION, THE DIRECTOR SHALL ESTABLISH REASONABLE
12 FEES AND A FEE SCHEDULE FOR THE ISSUANCE AND RENEWAL OF REGISTRATIONS.

13 (2) IN ESTABLISHING THE FEES, THE DIRECTOR SHALL CONSIDER:

14 (I) THE NUMBER OF UNITS CONSTRUCTED BY THE APPLICANT OR
15 REGISTRANT IN THE PREVIOUS 2 YEARS; OR

16 (II) IN THE CASE OF A NEW APPLICANT, THE NUMBER OF UNITS
17 THAT THE APPLICANT PLANS TO CONSTRUCT IN THE NEXT 2 YEARS.

18 (3) THE FEES CHARGED SHALL APPROXIMATE THE DIRECT AND
19 INDIRECT COSTS OF MAINTAINING THE OFFICE AND FULFILLING THE DUTIES OF
20 THE OFFICE.

21 (C) THE DIRECTOR SHALL PAY ALL FUNDS COLLECTED UNDER § 4.5-303 OF
22 THIS TITLE TO THE COMPTROLLER, WHO SHALL DISTRIBUTE THE FEES TO THE
23 REGISTRATION FUND.

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

27 SUBTITLE 3. REGISTRATION.

28 4.5-301.

29 EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON MAY NOT ACT AS A
30 HOME BUILDER IN THE STATE UNLESS THE PERSON IS REGISTERED AS A HOME
31 BUILDER UNDER THIS TITLE.

32 4.5-302.

33 EACH PERSON THAT CONSTRUCTS NEW HOMES FOR SALE TO THE PUBLIC
34 SHALL MAINTAIN:

1 (1) GENERAL LIABILITY INSURANCE FOR AT LEAST \$100,000; AND

2 (2) A BOND FOR THE USE AND BENEFIT OF SUBCONTRACTORS AND
3 SUPPLIERS FOR AT LEAST \$250,000.

4 4.5-303.

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

6 (1) SUBMIT TO THE DIRECTOR UNDER OATH AN APPLICATION ON THE
7 FORM PROVIDED BY THE DIRECTOR; AND

8 (2) PAY A NONREFUNDABLE APPLICATION FEE ESTABLISHED THROUGH
9 REGULATION.

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

11 (1) THE APPLICANT'S NAME;

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

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

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

17 (I) THE APPLICANT'S FEDERAL EMPLOYER IDENTIFICATION
18 NUMBER; AND

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

21 (5) THE NAMES OF ALL APPLICANTS AND PRINCIPALS WHO HAVE
22 PREVIOUSLY APPLIED FOR REGISTRATION, AND THE DISPOSITION OF ALL PREVIOUS
23 APPLICATIONS;

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

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

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

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

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

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

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

8 (12) THE NAME OF THE INSURANCE CARRIER AND THE POLICY NUMBER
9 OF THE GENERAL LIABILITY COVERAGE REQUIRED UNDER § 4.5-302 OF THIS
10 SUBTITLE.

11 (C) THE APPLICANT SHALL ALSO FURNISH THE INFORMATION REQUIRED IN
12 SUBSECTION (B) OF THIS SECTION RELATED TO THE PARENTS, SPOUSES, AND
13 CHILDREN OF AN APPLICANT OR PRINCIPAL.

14 4.5-304.

15 (A) THE DIRECTOR SHALL REGISTER AND ISSUE A HOME BUILDER
16 REGISTRATION NUMBER TO AN APPLICANT THAT MEETS THE REQUIREMENTS OF
17 THIS TITLE.

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

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

22 (D) A HOME BUILDER THAT HOLDS A LICENSE OR REGISTRATION IN A
23 COUNTY APPROVED BY THE DIRECTOR UNDER § 4.5-708 OF THIS TITLE MAY ACT AS A
24 HOME BUILDER IN THAT COUNTY ONLY, UNLESS THE HOME BUILDER IS ALSO
25 REGISTERED UNDER THIS TITLE.

26 4.5-305.

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

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

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

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

35 (1) A RENEWAL APPLICATION FORM; AND

1 (2) A NOTICE THAT STATES:

2 (I) THE DATE ON WHICH THE CURRENT REGISTRATION EXPIRES;
3 AND

4 (II) THE DATE BY WHICH THE DIRECTOR MUST RECEIVE THE
5 RENEWAL APPLICATION FOR A RENEWAL TO BE ISSUED AND MAILED BEFORE THE
6 REGISTRATION EXPIRES.

7 (C) THE DIRECTOR SHALL RENEW THE REGISTRATION OF EACH REGISTRANT
8 THAT:

9 (1) SUBMITS TO THE DIRECTOR A RENEWAL APPLICATION ON THE FORM
10 PROVIDED BY THE DIRECTOR;

11 (2) WOULD QUALIFY FOR AN INITIAL REGISTRATION;

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

13 (4) IS OTHERWISE ENTITLED TO BE REGISTERED.

14 4.5-306.

15 (A) A REGISTRANT SHALL PROVIDE THE DIRECTOR WRITTEN NOTICE OF ANY
16 CHANGE IN THE INFORMATION SUBMITTED UNDER § 4.5-303(B) OF THIS SUBTITLE
17 WITHIN 10 WORKING DAYS AFTER THE CHANGE IS EFFECTIVE.

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

20 4.5-307.

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

24 (B) IF A REGISTRANT IS BUILDING MULTIPLE HOMES IN ONE PROJECT AREA
25 OR SUBDIVISION, THE REGISTRANT MAY POST ITS HOME BUILDER REGISTRATION
26 NUMBER IN ONE CENTRAL CONSPICUOUS LOCATION IN THE PROJECT AREA OR
27 SUBDIVISION.

28 4.5-308.

29 (A) THE DIRECTOR MAY DENY REGISTRATION TO AN APPLICANT, REPRIMAND
30 A REGISTRANT, SUSPEND OR REVOKE A REGISTRATION, OR IMPOSE A CIVIL PENALTY
31 ON A REGISTRANT IF THE DIRECTOR DETERMINES THAT THE APPLICANT OR
32 REGISTRANT:

33 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINED OR ATTEMPTED TO
34 OBTAIN A REGISTRATION;

- 1 (2) FRAUDULENTLY OR DECEPTIVELY USED A REGISTRATION;
- 2 (3) PRESENTED OR ATTEMPTED TO PRESENT THE HOME BUILDER
3 REGISTRATION NUMBER OF ANOTHER REGISTRANT AS THE APPLICANT'S OR
4 REGISTRANT'S HOME BUILDER REGISTRATION NUMBER;
- 5 (4) USED OR ATTEMPTED TO USE AN EXPIRED, SUSPENDED, OR
6 REVOKED HOME BUILDER REGISTRATION NUMBER;
- 7 (5) IMPERSONATED OR FALSELY REPRESENTED ONESELF AS A
8 REGISTERED HOME BUILDER;
- 9 (6) REPEATEDLY VIOLATED THIS TITLE;
- 10 (7) ENGAGED IN A PATTERN OF UNFAIR OR DECEPTIVE TRADE
11 PRACTICES UNDER THE CONSUMER PROTECTION ACT, AS DETERMINED BY A FINAL
12 ADMINISTRATIVE ORDER OR JUDICIAL DECISION;
- 13 (8) REPEATEDLY VIOLATED A STATE OR FEDERAL LAW OR REGULATION
14 THAT RELATES TO THE FITNESS AND QUALIFICATION OR ABILITY OF THE
15 APPLICANT OR REGISTRANT TO BUILD HOMES;
- 16 (9) ENGAGED IN A PATTERN OF POOR WORKMANSHIP EVIDENCED BY:
- 17 (I) REPEATED BUILDING CODE VIOLATIONS; OR
- 18 (II) REPEATED JUDGMENTS OR ARBITRATION AWARDS AGAINST
19 THE APPLICANT OR REGISTRANT DUE TO UNCOMPLETED OR SUBSTANDARD WORK;
- 20 (10) REPEATEDLY ENGAGED IN FRAUD, DECEPTION,
21 MISREPRESENTATION, OR KNOWING OMISSIONS OF MATERIAL FACTS RELATED TO
22 HOME BUILDING CONTRACTS;
- 23 (11) HAD A SIMILAR REGISTRATION OR LICENSE DENIED, SUSPENDED,
24 OR REVOKED IN ANOTHER STATE OR JURISDICTION; OR
- 25 (12) HAD THE RENEWAL OF A SIMILAR REGISTRATION OR LICENSE
26 DENIED FOR ANY CAUSE OTHER THAN FAILURE TO PAY A RENEWAL FEE.
- 27 (B) (1) THE DIRECTOR MAY DENY A REGISTRATION TO A NONPUBLICLY
28 TRADED APPLICANT OR SUSPEND OR REVOKE A REGISTRATION OF A NONPUBLICLY
29 TRADED REGISTRANT IF A PRINCIPAL OF THE APPLICANT OR REGISTRANT, OTHER
30 THAN A FINANCIAL INSTITUTION OR A NONPROFIT ORGANIZATION, THAT OWNS AT
31 LEAST 10 PERCENT OF THE APPLICANT OR REGISTRANT, WAS A PRINCIPAL OF A
32 HOME BUILDER THAT HAD A SIMILAR REGISTRATION OR LICENSE DENIED,
33 SUSPENDED, OR REVOKED BY THE DIRECTOR OR IN ANOTHER STATE OR
34 JURISDICTION FOR ANY CAUSE OTHER THAN A FAILURE TO PAY A RENEWAL FEE IF
35 THE DIRECTOR DETERMINES THAT THE INTERESTS OF THE PUBLIC CANNOT BE
36 PROTECTED IF THE APPLICANT OR REGISTRANT IS ALLOWED TO ACT AS A HOME
37 BUILDER IN THE STATE.

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

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

7 SUBTITLE 4. COMPLAINTS.

8 4.5-401.

9 AN OWNER MAY FILE A WRITTEN COMPLAINT UNDER OATH WITH THE
 10 DIRECTOR ALLEGING THAT:

11 (1) THE REGISTRANT HAS FAILED TO COMPLETE WORK THAT COMPLIES
 12 WITH:

- 13 (I) THE PURCHASE CONTRACT;
- 14 (II) A WRITTEN ADDENDUM OR CHANGE ORDER TO THE PURCHASE
 15 CONTRACT;
- 16 (III) A MANUFACTURER'S INSTALLATION INSTRUCTIONS;
- 17 (IV) AN APPLICABLE PERFORMANCE STANDARD OR BUILDING
 18 CODE; OR
- 19 (V) AN IMPLIED OR EXPRESS WARRANTY; AND

20 (2) THE REGISTRANT HAS FAILED TO PROPERLY HANDLE OR PAY ANY
 21 ESCROW ACCOUNTS, DEPOSIT MONEYS, PROGRESS PAYMENTS, PAYMENTS TO
 22 SUBCONTRACTORS OR SUPPLIERS, OR OTHER OBLIGATIONS AS REQUIRED BY THE
 23 PURCHASE CONTRACT, LAW, OR REGULATION.

24 4.5-402.

25 THE DIRECTOR SHALL:

- 26 (1) FORWARD A COPY OF THE COMPLAINT TO THE REGISTRANT;
- 27 (2) OFFER MEDIATION SERVICES TO RESOLVE THE COMPLAINT; AND
- 28 (3) PROVIDE ADVICE AND REFERRALS TO OTHER AVAILABLE AVENUES
 29 OF DISPUTE RESOLUTION.

1 ASSESS EACH REGISTRANT A FEE OF \$100 AS NECESSARY TO REPLENISH THE
2 GUARANTY FUND TO A MINIMUM OF \$500,000.

3 (C) IF A REGISTRANT FAILS TO PAY AN ASSESSMENT WITHIN 60 DAYS AFTER
4 RECEIPT OF NOTICE OF THE ASSESSMENT, THE REGISTRATION OF THE REGISTRANT
5 IS IMMEDIATELY SUSPENDED UNTIL THE ASSESSMENT IS RECEIVED BY THE
6 DIRECTOR.

7 4.5-505.

8 (A) SUBJECT TO THIS SUBTITLE, AN OWNER MAY RECOVER AN AWARD FROM
9 THE GUARANTY FUND FOR AN ACTUAL LOSS AS EVIDENCED BY:

10 (1) THE FINAL JUDGMENT OF A COURT OF COMPETENT JURISDICTION;

11 (2) A FINAL ADMINISTRATIVE ORDER;

12 (3) A SETTLEMENT OR CONCILIATION AGREEMENT;

13 (4) AN ARBITRATION AWARD; OR

14 (5) A DECISION BY THE DIRECTOR, IF SERVICE ON THE REGISTRANT
15 CANNOT BE EFFECTED AFTER REASONABLE EFFORT.

16 (B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE
17 DIRECTOR MAY NOT AWARD FROM THE GUARANTY FUND:

18 (1) MORE THAN \$30,000 TO ONE CLAIMANT FOR ACTS OR OMISSIONS OF
19 ONE REGISTRANT;

20 (2) MORE THAN \$300,000 TO ALL CLAIMANTS FOR ACTS OR OMISSIONS OF
21 ONE REGISTRANT, UNLESS, AFTER THE DIRECTOR HAS PAID OUT \$300,000 ON
22 ACCOUNT OF ACTS OR OMISSIONS OF THE REGISTRANT, THE REGISTRANT
23 REIMBURSES \$300,000 TO THE GUARANTY FUND;

24 (3) AN AMOUNT FOR ATTORNEY FEES, CONSEQUENTIAL DAMAGES,
25 COURT COSTS, INTEREST, PERSONAL INJURY DAMAGES, OR PUNITIVE DAMAGES; OR

26 (4) AN AMOUNT AS A RESULT OF A DEFAULT JUDGMENT IN COURT.

27 (C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, A CLAIM
28 AGAINST THE GUARANTY FUND MAY NOT BE MADE BY:

29 (1) A SPOUSE OR OTHER IMMEDIATE RELATIVE OF THE REGISTRANT
30 THAT IS THE SUBJECT OF THE CLAIM;

31 (2) AN EMPLOYEE, OFFICER, OR PARTNER OF THE REGISTRANT THAT IS
32 THE SUBJECT OF THE CLAIM; OR

33 (3) AN IMMEDIATE RELATIVE OF AN EMPLOYEE, OFFICER, OR PARTNER
34 OF THE REGISTRANT THAT IS THE SUBJECT OF THE CLAIM.

1 (D) A CLAIMANT MAY PLACE A CLAIM AGAINST THE GUARANTY FUND WITHIN
2 1 YEAR ONLY AFTER:

3 (1) THE CLAIMANT:

4 (I) OBTAINED A FINAL JUDGMENT OF A COURT OF COMPETENT
5 JURISDICTION;

6 (II) RECEIVED AN ARBITRATION AWARD;

7 (III) ENTERED INTO A SETTLEMENT OR CONCILIATION
8 AGREEMENT; OR

9 (IV) FAILED TO ACHIEVE SERVICE OF PROCESS ON THE
10 REGISTRANT AFTER REASONABLE EFFORT; OR

11 (2) THE ISSUANCE OF A FINAL ADMINISTRATIVE ORDER.

12 4.5-506.

13 TO INITIATE A RECOVERY FROM THE GUARANTY FUND, A CLAIMANT SHALL
14 SUBMIT TO THE DIRECTOR, UNDER OATH, A CLAIM THAT INCLUDES:

15 (1) THE AMOUNT CLAIMED BASED ON ACTUAL LOSSES;

16 (2) EVIDENCE OF COMPLIANCE WITH § 4.5-505(D) OF THIS SUBTITLE;
17 AND

18 (3) ANY OTHER INFORMATION REQUIRED BY THE DIRECTOR THROUGH
19 REGULATION.

20 4.5-507.

21 (A) ON RECEIPT OF A CLAIM, THE DIRECTOR SHALL:

22 (1) SEND A NOTICE OF THE CLAIM TO THE REGISTRANT THAT IS THE
23 SUBJECT OF THE CLAIM AT THE LAST KNOWN BUSINESS ADDRESS OF THE
24 REGISTRANT; AND

25 (2) REQUIRE THE REGISTRANT TO RESPOND TO THE CLAIM IN WRITING
26 WITHIN 10 DAYS OF RECEIPT OF THE NOTICE REQUIRED UNDER ITEM (1) OF THIS
27 SUBSECTION.

28 (B) (1) IF A CLAIMANT SUBMITS A FINAL JUDGMENT, A FINAL
29 ADMINISTRATIVE ORDER, AN ARBITRATION AWARD, OR A SETTLEMENT OR
30 CONCILIATION AGREEMENT, THE DIRECTOR SHALL HOLD A HEARING IF:

31 (I) A HEARING IS REQUESTED BY EITHER PARTY; OR

32 (II) THE DIRECTOR DECIDES THAT A HEARING IS NECESSARY.

1 (2) IF A CLAIMANT SUBMITS A FINAL JUDGMENT, A FINAL
2 ADMINISTRATIVE ORDER, AN ARBITRATION AWARD, OR A SETTLEMENT OR
3 CONCILIATION AGREEMENT, THE DIRECTOR SHALL DETERMINE:

4 (I) THE AMOUNT OF THE ACTUAL LOSS; AND

5 (II) WHETHER THE CLAIM HAS BEEN PAID.

6 (C) (1) IF A CLAIM IS BASED ON THE CLAIMANT'S INABILITY TO ACHIEVE
7 SERVICE OF PROCESS ON THE REGISTRANT, THE DIRECTOR SHALL HOLD A HEARING.

8 (2) IF A CLAIM IS BASED ON THE CLAIMANT'S INABILITY TO ACHIEVE
9 SERVICE OF PROCESS ON THE REGISTRANT, THE DIRECTOR MUST DETERMINE:

10 (I) WHETHER THE CLAIMANT'S EFFORT TO SERVE PROCESS ON
11 THE REGISTRANT WAS REASONABLE;

12 (II) WHETHER THE CLAIMANT SUFFERED AN ACTUAL LOSS;

13 (III) THE AMOUNT OF THE ACTUAL LOSS; AND

14 (IV) WHETHER THE CLAIM HAS BEEN PAID.

15 (D) IN COLLECTING EVIDENCE REGARDING A CLAIM AGAINST THE GUARANTY
16 FUND, THE DIRECTOR SHALL PROVIDE NOTICE AND HOLD ALL HEARINGS
17 ACCORDING TO TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

18 (E) A CLAIMANT SHALL BEAR THE BURDEN OF PROOF AT A HEARING UNDER
19 THIS SECTION TO ESTABLISH THE REQUIRED ELEMENTS OF A SUCCESSFUL CLAIM.

20 (F) IN RESPONSE TO EACH CLAIM FILED, WHEN THE DECISION OF THE
21 DIRECTOR IS FINAL IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE
22 GOVERNMENT ARTICLE AND ALL RIGHTS OF APPEAL ARE EXHAUSTED, THE
23 DIRECTOR SHALL ISSUE A FINAL ORDER THAT:

24 (1) GRANTS AN AWARD ON THE CLAIM IN WHOLE OR IN PART; OR

25 (2) DENIES AN AWARD ON THE CLAIM.

26 4.5-508.

27 (A) IF AWARDS AGAINST A REGISTRANT EXCEED \$300,000 LESS THE AMOUNT
28 OF UNREIMBURSED CLAIM PAYMENTS PREVIOUSLY MADE FOR THE REGISTRANT,
29 THE DIRECTOR MAY PAY THE AWARDS PROPORTIONATELY.

30 (B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE DIRECTOR SHALL PAY
31 AWARDS FROM THE GUARANTY FUND IN THE ORDER THAT THE UNDERLYING
32 CLAIMS WERE FILED.

33 (C) IF THE ASSETS OF THE GUARANTY FUND ARE INSUFFICIENT TO PAY AN
34 AWARD WHOLLY OR PARTLY, THE DIRECTOR SHALL PAY THE UNPAID AWARD:

1 (1) WHEN SUFFICIENT FUNDS ARE DEPOSITED IN THE GUARANTY
2 FUND; AND

3 (2) IN THE ORDER THAT THE UNDERLYING CLAIMS WERE FILED.

4 4.5-509.

5 (A) (1) AFTER THE DIRECTOR PAYS A CLAIM FROM THE GUARANTY FUND:

6 (I) THE DIRECTOR IS SUBROGATED TO ALL RIGHTS OF THE
7 CLAIMANT;

8 (II) THE CLAIMANT SHALL ASSIGN TO THE DIRECTOR ALL RIGHTS
9 OF THE CLAIMANT IN THE CLAIM; AND

10 (III) THE DIRECTOR HAS A RIGHT TO REIMBURSEMENT OF THE
11 GUARANTY FUND AGAINST THE REGISTRANT THAT IS RESPONSIBLE FOR THE CLAIM
12 FOR:

13 1. THE AMOUNT PAID FROM THE GUARANTY FUND; AND

14 2. INTEREST ACCRUED ON THE AMOUNT PAID FROM THE
15 GUARANTY FUND, AS PROVIDED UNDER § 11-107(A) OF THE COURTS ARTICLE.

16 (2) ALL MONEY THAT THE DIRECTOR RECOVERS ON A CLAIM SHALL BE
17 DEPOSITED IN THE GUARANTY FUND.

18 (B) (1) THE DIRECTOR SHALL PROVIDE WRITTEN NOTICE TO A REGISTRANT
19 FROM WHICH REIMBURSEMENT OF THE GUARANTY FUND IS DUE.

20 (2) ANY TIME AFTER 30 DAYS AFTER RECEIPT OF THE NOTICE
21 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, IF THE REGISTRANT THAT
22 IS RESPONSIBLE FOR THE UNDERLYING CLAIM HAS NOT FULLY REIMBURSED THE
23 GUARANTY FUND, THE DIRECTOR MAY SUE THE REGISTRANT IN A COURT OF
24 COMPETENT JURISDICTION FOR THE BALANCE DUE.

25 (C) THE DIRECTOR IS ENTITLED TO A JUDGMENT FOR A BALANCE DUE IF THE
26 DIRECTOR PROVES THAT:

27 (1) AN AWARD WAS PAID FROM THE GUARANTY FUND ON A CLAIM
28 AGAINST THE REGISTRANT;

29 (2) THE REGISTRANT HAS NOT FULLY REIMBURSED THE GUARANTY
30 FUND;

31 (3) THE REGISTRANT RECEIVED THE NOTICE REQUIRED UNDER
32 SUBSECTION (B) OF THIS SECTION AND WAS PROVIDED AN OPPORTUNITY TO
33 PARTICIPATE IN A HEARING ON THE CLAIM;

1 (4) THE DIRECTOR PROPERLY GRANTED AN AWARD ON A CLAIM
2 AGAINST THE REGISTRANT THROUGH A FINAL ORDER, ACCORDING TO TITLE 10,
3 SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE; AND

4 (5) AN APPEAL IS NOT PENDING.

5 (D) THE DIRECTOR MAY REFER TO THE CENTRAL COLLECTION UNIT FOR
6 COLLECTION UNDER ARTICLE 19, §§ 43 THROUGH 46 OF THE CODE A DEBT OWED TO
7 THE DIRECTOR BY A REGISTRANT THAT IS AT LEAST 1 YEAR BEHIND IN
8 REIMBURSEMENT PAYMENTS TO THE GUARANTY FUND.

9 (E) FOR THE PURPOSE OF EXCEPTING TO A DISCHARGE OF A REGISTRANT
10 UNDER FEDERAL BANKRUPTCY LAW, THE DIRECTOR IS A CREDITOR OF THE
11 REGISTRANT FOR ALL AMOUNTS PAID FROM THE GUARANTY FUND BECAUSE OF
12 CLAIMS AGAINST THE REGISTRANT.

13 (F) (1) IF A REGISTRANT LIABLE FOR REIMBURSING THE GUARANTY FUND
14 UNDER THIS SECTION RECEIVES A DEMAND FOR REIMBURSEMENT AND FAILS TO
15 REIMBURSE THE GUARANTY FUND, THE REIMBURSEMENT AMOUNT AND ANY
16 ACCRUED INTEREST OR COSTS CONSTITUTE A LIEN IN FAVOR OF THE STATE ON ANY
17 REAL PROPERTY OF THE REGISTRANT IF THE LIEN IS RECORDED AND INDEXED AS
18 PROVIDED IN THIS SUBSECTION.

19 (2) THE LIEN IN FAVOR OF THE STATE CREATED UNDER THIS
20 SUBSECTION MAY NOT ATTACH TO SPECIFIC PROPERTY UNTIL THE STATE CENTRAL
21 COLLECTION UNIT RECORDS WRITTEN NOTICE OF THE LIEN IN THE OFFICE OF THE
22 CLERK OF THE COURT FOR THE COUNTY IN WHICH THE PROPERTY SUBJECT TO THE
23 LIEN OR ANY PART OF THE PROPERTY IS LOCATED.

24 (3) THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION
25 SHALL CONTAIN:

26 (I) THE NAME AND ADDRESS OF THE REGISTRANT AGAINST
27 WHOSE PROPERTY THE LIEN EXISTS;

28 (II) THE AMOUNT OF THE LIEN;

29 (III) A DESCRIPTION OF OR REFERENCE TO THE PROPERTY SUBJECT
30 TO THE LIEN; AND

31 (IV) THE DATE THE GUARANTY FUND PAID THE AWARD THAT GIVES
32 RISE TO THE LIEN.

33 (4) THE LIEN IN FAVOR OF THE STATE CREATED UNDER THIS
34 SUBSECTION DOES NOT HAVE PRIORITY AS TO ANY SPECIFIC PROPERTY OVER ANY
35 LIEN RECORDED AT THE TIME THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF
36 THIS SUBSECTION IS RECORDED.

37 (5) ON PRESENTATION OF A RELEASE OF ANY LIEN IN FAVOR OF THE
38 STATE CREATED BY THIS SUBSECTION, THE CLERK OF THE COURT IN WHICH THE

1 LIEN IS RECORDED AND INDEXED SHALL RECORD AND INDEX THE RELEASE AND
2 SHALL NOTE IN THE LIEN DOCKET THE DATE THE RELEASE IS FILED AND THE FACT
3 THAT THE LIEN IS RELEASED.

4 (6) THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION
5 AND ANY RELEASE FILED UNDER PARAGRAPH (5) OF THIS SUBSECTION SHALL BE
6 INDEXED WITH THE JUDGMENT LIEN RECORDS MAINTAINED BY THE OFFICE OF THE
7 CLERK OF THE COURT WHERE THE NOTICE IS RECORDED.

8 (7) THE CLERK OF THE COURT MAY COLLECT A REASONABLE FEE FOR
9 RECORDING AND INDEXING EACH NOTICE OF LIEN OR RELEASE OF ANY LIEN UNDER
10 THIS SUBSECTION.

11 (G) INTEREST SHALL CONTINUE TO ACCRUE ON ALL BALANCES DUE AS
12 PROVIDED UNDER § 11-107(A) OF THE COURTS ARTICLE UNTIL THE BALANCE DUE IS
13 PAID.

14 4.5-510.

15 (A) AFTER PAYING AN AWARD FROM THE GUARANTY FUND, THE DIRECTOR
16 MAY SUSPEND THE REGISTRATION OF THE REGISTRANT THAT IS RESPONSIBLE FOR
17 THE CLAIM UNTIL THE REGISTRANT FULLY REIMBURSES THE GUARANTY FUND FOR:

18 (1) THE AMOUNT PAID FROM THE GUARANTY FUND; AND

19 (2) INTEREST ACCRUED UNDER § 4.5-509(G) OF THIS SUBTITLE.

20 (B) A REGISTRANT'S FULL REIMBURSEMENT OF THE GUARANTY FUND, BY
21 ITSELF, DOES NOT NULLIFY OR MODIFY THE EFFECT OF A DISCIPLINARY
22 PROCEEDING AGAINST THE REGISTRANT.

23 SUBTITLE 6. PROHIBITED ACTS; PENALTIES.

24 4.5-601.

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

28 (B) A PERSON THAT VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
29 AND, ON FIRST CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 AND ON
30 SECOND OR SUBSEQUENT CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING
31 \$5,000.

32 4.5-602.

33 (A) SUBJECT TO THE NOTICE AND HEARING PROVISIONS OF TITLE 10,
34 SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, THE DIRECTOR MAY BRING A
35 CIVIL ADMINISTRATIVE ACTION AGAINST A PERSON THAT VIOLATES § 4.5-601(A) OF
36 THIS SUBTITLE.

1 (B) AFTER A HEARING, IF THE DIRECTOR FINDS THAT THE PERSON HAS
2 VIOLATED § 4.5-601(A) OF THIS SUBTITLE, THE DIRECTOR MAY:

3 (1) ORDER THE PERSON TO CEASE AND DESIST FROM THE UNLAWFUL
4 PRACTICE; AND

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

7 (C) ANY PARTY AGGRIEVED BY A DECISION AND ORDER OF THE DIRECTOR
8 UNDER THIS SECTION MAY MAKE AN APPEAL AS PROVIDED UNDER §§ 10-222 AND
9 10-223 OF THE STATE GOVERNMENT ARTICLE.

10 4.5-603.

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

14 "MARYLAND HOME BUILDER REGISTRATION NO. ____"; OR

15 "MHBR NO. ____".

16 4.5-604.

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

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

22 SUBTITLE 7. MISCELLANEOUS PROVISIONS.

23 4.5-701.

24 (A) A REGISTRANT MUST PROVIDE A PROSPECTIVE BUYER WITH THE
25 CONSUMER INFORMATION PAMPHLET PUBLISHED BY THE DIRECTOR UNDER §
26 4.5-205(A) OF THIS TITLE BEFORE ENTERING INTO A PURCHASE CONTRACT.

27 (B) A PROSPECTIVE BUYER SHALL ACKNOWLEDGE IN WRITING RECEIPT OF
28 THE CONSUMER INFORMATION PAMPHLET BEFORE ENTERING INTO A PURCHASE
29 CONTRACT.

30 4.5-702.

31 (A) EXCEPT FOR A BUILDING PERMIT FOR CONSTRUCTION TO BE PERFORMED
32 DIRECTLY BY A LANDOWNER SOLELY FOR THE LANDOWNER'S OWN USE, THE
33 BUILDING AND PERMITS DEPARTMENT OF A COUNTY MAY NOT ISSUE A PERMIT FOR

1 HOME BUILDING UNLESS THE PERMIT INCLUDES THE HOME BUILDER
2 REGISTRATION NUMBER OF A REGISTRANT.

3 (B) BEFORE ISSUING A PERMIT FOR HOME BUILDING TO A LANDOWNER, THE
4 BUILDING AND PERMITS DEPARTMENT OF A COUNTY SHALL OBTAIN THE
5 SIGNATURE OF THE LANDOWNER AFFIRMING THAT THE PERMIT IS BEING ISSUED
6 SOLELY FOR THE PURPOSE OF THE LANDOWNER PERFORMING WORK ON THE
7 LANDOWNER'S OWN PROPERTY.

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

11 4.5-703.

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

15 (B) A COUNTY OR MUNICIPAL CORPORATION SHALL NOTIFY THE DIRECTOR
16 OF EACH REGISTRANT WHO FAILS TO CORRECT A VIOLATION OF THE APPLICABLE
17 LOCAL OR STATE BUILDING CODE WITHIN A REASONABLE TIME AFTER THE
18 REGISTRANT RECEIVES NOTICE OF THE VIOLATION.

19 4.5-704.

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

23 4.5-705.

24 A HOME BUILDER WHO INSTALLS AN INDUSTRIALIZED BUILDING INTENDED
25 FOR RESIDENTIAL USE OR A MOBILE HOME IS RESPONSIBLE TO THE OWNER FOR
26 CORRECTING ANY DEFECTS IN ANY COMPONENT INCORPORATED INTO THE NEW
27 HOME.

28 4.5-706.

29 A CONTRACT FOR THE PERFORMANCE OF ANY ACT FOR WHICH A HOME
30 BUILDER REGISTRATION NUMBER IS REQUIRED IS NOT ENFORCEABLE UNLESS THE
31 HOME BUILDER WAS REGISTERED AT THE TIME THAT THE CONTRACT WAS SIGNED
32 BY THE OWNER.

33 4.5-707.

34 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IN ANY RESOLUTION OF A
35 COMPLAINT OR CLAIM AGAINST A REGISTRANT, THE PERFORMANCE STANDARDS
36 AND GUIDELINES APPLICABLE WILL BE THOSE REFERENCED IN THE UNDERLYING

1 PURCHASE CONTRACT, AS REQUIRED UNDER § 14-117(J) OF THE REAL PROPERTY
2 ARTICLE.

3 (B) A REGISTRANT SHALL COMPLY WITH:

4 (1) ANY EFFECTIVE PERFORMANCE CODES, STANDARDS, GUIDELINES,
5 OR REGULATIONS ADOPTED BY A GOVERNMENTAL UNIT WITH JURISDICTION OVER
6 THE REGISTRANT OR THE NEW HOME; AND

7 (2) (I) THE CURRENT PERFORMANCE STANDARDS OR GUIDELINES
8 PUBLISHED BY THE NATIONAL ASSOCIATION OF HOME BUILDERS; OR

9 (II) PERFORMANCE STANDARDS OR GUIDELINES ADOPTED BY THE
10 REGISTRANT THAT ARE EQUIVALENT TO OR MORE STRINGENT THAN THE
11 PERFORMANCE STANDARDS OR GUIDELINES PUBLISHED BY THE NATIONAL
12 ASSOCIATION OF HOME BUILDERS.

13 4.5-708.

14 BASED ON A DETERMINATION THAT A COUNTY HAS A LICENSING OR
15 REGISTRATION SCHEME FOR HOME BUILDERS THAT IS FULLY OPERATIONAL AND
16 SUBSTANTIALLY EQUIVALENT TO THIS TITLE, THE DIRECTOR MAY EXEMPT HOME
17 BUILDERS ENGAGED IN BUILDING NEW HOMES IN THAT COUNTY ONLY FROM THE
18 REQUIREMENTS OF THIS TITLE.

19 SUBTITLE 8. SHORT TITLE.

20 4.5-801.

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

23 **Article - Real Property**

24 14-117.

25 (J) A CONTRACT FOR THE INITIAL SALE OF IMPROVED NEW RESIDENTIAL
26 REAL PROPERTY TO A MEMBER OF THE PUBLIC WHO INTENDS TO OCCUPY OR RENT
27 THE PROPERTY FOR RESIDENTIAL PURPOSES SHALL CLEARLY AND CONSPICUOUSLY
28 INCLUDE:

29 (1) THE HOME BUILDER REGISTRATION NUMBER OF THE HOME
30 BUILDER;

31 (2) A STATEMENT THAT THE NEW HOME WILL BE OR HAS BEEN
32 CONSTRUCTED ACCORDING TO ALL APPLICABLE BUILDING CODES AND
33 PERFORMANCE STANDARDS AND GUIDELINES IN EFFECT AT THE TIME OF THE
34 CONSTRUCTION OF THE NEW HOME;

1 (3) REFERENCES TO ALL APPLICABLE PERFORMANCE STANDARDS AND
2 GUIDELINES WITH WHICH THE REGISTRANT WILL COMPLY; AND

3 (4) A STATEMENT OF THE PURCHASER'S RIGHT TO RECEIVE A
4 CONSUMER INFORMATION PAMPHLET.

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; that it shall apply only to contracts entered into on or after January
9 1, 2001; and that home builders shall be registered beginning on or after January 1,
10 2001.

11 SECTION 3. AND BE IT FURTHER ENACTED, That Title 4.5 of the Business
12 Regulation Article as enacted by this Act shall supersede any existing laws of any
13 county or municipal corporation in the State related to the registration or licensure of
14 home builders with the exception of a county's laws which exempts home builders
15 from the requirements of that title under § 4.5-708 of the Business Regulation
16 Article.

17 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2000. It shall remain effective for a period of 10 years and, at the end of
19 September 30, 2010, with no further action required by the General Assembly, this
20 Act shall be abrogated and of no further force and effect.