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

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Assigned to: Finance

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 21, 2000

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Home Builder Registration Act**

3 FOR the purpose of establishing the ~~Office of~~ Home Builder Registration Unit 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~~ Consumer  
6 Protection Division of the Office of the Attorney General; providing that certain  
7 lenders are exempt for registration provided they hire a registered builder;  
8 providing for the powers, rights, and duties of the Director of the Unit; requiring  
9 ~~the Director to adopt certain regulations; requiring the Director~~ Division,  
10 together with certain persons to create a certain consumer information  
11 pamphlet; establishing a Home Builder Registration Fund and describing its  
12 qualities; specifying the means and manner of acquisition and disbursement of  
13 the assets of the Registration Fund; requiring certain audits of the Registration  
14 Fund; prohibiting a person from acting as, offering to act as, holding oneself out  
15 to be, or impersonating a home builder in the State without certain registration  
16 under certain circumstances; requiring a person to meet certain requirements to  
17 be registered under this Act; establishing application and renewal processes and  
18 requirements to become or remain registered under this Act; requiring the  
19 ~~Director~~ Unit to register or renew the registration of an applicant or registrant  
20 under certain circumstances; providing for certain qualities, powers, and  
21 restrictions of a registration under this Act; providing for the expiration, denial,  
22 suspension, or revocation of a registration under certain circumstances;  
23 requiring the ~~Director~~ Division to provide a registrant with certain notice and  
24 opportunities for hearings under certain circumstances; requiring a registrant  
25 to provide certain information to the ~~Director~~ Unit under certain circumstances;  
26 requiring a registrant to display its home builder registration number under

1 certain circumstances; ~~authorizing an owner to file a complaint with the~~  
 2 ~~Director under certain circumstances; requiring the Director to handle~~  
 3 ~~complaints in a specified manner; establishing a Home Builder Guaranty Fund;~~  
 4 ~~requiring the Director to administer the Guaranty Fund in a certain manner;~~  
 5 ~~specifying the means and manner of acquisition and disbursement of the assets~~  
 6 ~~of the Guaranty Fund; authorizing certain persons to submit a claim against the~~  
 7 ~~Guaranty Fund under certain circumstances; establishing the process and~~  
 8 ~~requirements of obtaining an award from the Guaranty Fund; requiring the~~  
 9 ~~Director to handle and adjudicate claims against the Guaranty Fund in a~~  
 10 ~~specified manner; establishing who bears the burden of proof in certain~~  
 11 ~~hearings; providing that the Director is subrogated to the rights of a claimant~~  
 12 ~~and is entitled to a judgment against a registrant under certain circumstances;~~  
 13 ~~providing for the reimbursement of the Guaranty Fund by a registrant under~~  
 14 ~~certain circumstances; authorizing the Director to refer certain debts to the~~  
 15 ~~Central Collection Unit under certain circumstances; establishing that the~~  
 16 ~~Director may be a creditor of a registrant in certain circumstances; providing~~  
 17 ~~that a lien in favor of the State may be created against a registrant under~~  
 18 ~~certain circumstances; prohibiting certain county offices from issuing certain~~  
 19 ~~permits under certain circumstances; providing that any remedies are in~~  
 20 ~~addition to any remedies available under the Consumer Protection Act or any~~  
 21 ~~other laws requiring a county to notify the Director Unit of certain acts or~~  
 22 ~~omissions of a registrant under certain circumstances; requiring certain~~  
 23 ~~information to be included in a purchase contract for a new home; providing that~~  
 24 ~~certain installers are responsible for certain defects; requiring a registrant to~~  
 25 ~~comply with certain construction standards under certain circumstances;~~  
 26 ~~providing that a contract for the purchase of a new home is not enforceable~~  
 27 ~~under certain circumstances; establishing certain criminal and civil penalties~~  
 28 ~~for violations of certain provisions of this Act; requiring all contracts for the~~  
 29 ~~initial sale of improved, new residential real property to include certain~~  
 30 ~~information; providing for the construction and application of certain provisions~~  
 31 ~~of this Act; defining certain terms; providing for the application of this Act;~~  
 32 ~~requiring that the Division study the feasibility of a new home builder guaranty~~  
 33 ~~fund and a certain report of its findings; requiring the Division to submit a~~  
 34 ~~certain annual report to the Governor and General Assembly; providing for the~~  
 35 ~~termination of this Act a delayed effective date; and generally relating to the~~  
 36 ~~registration of home builders in the State.~~

37 BY adding to

38 Article - Business Regulation

39 Section 4.5-101 through ~~4.5-804~~ 4.5-701, inclusive, to be under the new title

40 "Title 4.5. Home Builder Registration"

41 Annotated Code of Maryland

42 (1998 Replacement Volume and 1999 Supplement)

43 BY adding to

44 Article - Real Property

45 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 - Business Regulation**

6 TITLE 4.5. HOME BUILDER REGISTRATION.

7 SUBTITLE 1. DEFINITIONS.

8 4.5-101.

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

10 (B) ~~"DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE OF HOME BUILDER~~  
11 ~~REGISTRATION.~~

12 ~~(C) "GUARANTY FUND" MEANS THE HOME BUILDER GUARANTY FUND.~~  
13 "CONSUMER" MEANS AN OWNER OR A CONTRACT PURCHASER.

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

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

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

21 ~~(D)~~ (F) (1) "HOME BUILDER" MEANS A PERSON THAT UNDERTAKES TO  
22 ERECT OR OTHERWISE CONSTRUCT A NEW HOME.

23 (2) "HOME BUILDER" INCLUDES:

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

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

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

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

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

4 (II) SUBCONTRACTORS OR OTHER VENDORS HIRED BY THE  
 5 REGISTRANT TO PERFORM SERVICES OR SUPPLY MATERIALS FOR THE  
 6 CONSTRUCTION OF A NEW HOME WHO DO NOT OTHERWISE MEET THE  
 7 REQUIREMENTS OF THIS TITLE;

8 (III) THE MANUFACTURER OF ~~MANUFACTURED HOMES~~  
 9 INDUSTRIALIZED BUILDINGS INTENDED FOR RESIDENTIAL USE OR OF MOBILE  
 10 HOMES, UNLESS THE MANUFACTURER ALSO INSTALLS THE ~~MANUFACTURED HOMES~~  
 11 INDUSTRIALIZED BUILDINGS OR MOBILE HOMES;

12 (IV) A REAL ESTATE DEVELOPER WHO DOES NOT CONSTRUCT  
 13 HOMES; ~~OR~~

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

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

18 ~~(E)~~ (G) "HOME BUILDER REGISTRATION NUMBER" MEANS A REGISTRATION  
 19 NUMBER ISSUED BY THE DIRECTOR TO A REGISTRANT UNDER THIS TITLE.

20 ~~(F)~~ (H) "INDUSTRIALIZED BUILDING" HAS THE MEANING STATED IN  
 21 ARTICLE 83B, § 6-202 OF THE CODE.

22 ~~(G)~~ (I) "INSTALL" HAS THE MEANING STATED IN ARTICLE 83B, § 6-202 OF  
 23 THE CODE.

24 ~~(H)~~ "~~MANUFACTURED HOME~~" MEANS ~~A BUILDING MANUFACTURED AT A SITE~~  
 25 ~~OTHER THAN THE SITE AT WHICH IT IS INTENDED FOR USE AS A RESIDENTIAL~~  
 26 ~~DWELLING.~~

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

29 ~~(J)~~ (K) (1) "NEW HOME" MEANS EACH NEWLY CONSTRUCTED  
 30 RESIDENTIAL DWELLING UNIT IN THE STATE AND THE FIXTURES AND STRUCTURE  
 31 THAT ARE MADE A PART OF A NEWLY CONSTRUCTED PRIVATE DWELLING UNIT AT  
 32 THE TIME OF CONSTRUCTION.

33 (2) "NEW HOME" INCLUDES:

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

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

3 (III) AN INDUSTRIALIZED BUILDING INTENDED FOR RESIDENTIAL  
4 USE; AND

5 (IV) A MOBILE HOME.

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

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

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

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

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

14 (3) "OWNER" DOES NOT INCLUDE:

15 (I) A DEVELOPMENT COMPANY, ASSOCIATION, OR SUBSIDIARY  
16 COMPANY OF A REGISTRANT; OR

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

20 (M) "PRINCIPAL" MEANS:

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

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

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

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

27 ~~SUBTITLE 2. OFFICE OF HOME BUILDER REGISTRATION~~ HOME BUILDER  
28 REGISTRATION UNIT; HOME BUILDER REGISTRATION FUND.

29 4.5-201.

30 ~~(A) THERE IS AN OFFICE OF HOME BUILDER REGISTRATION IN THE~~  
31 ~~DEPARTMENT.~~

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

1 ~~(B) THE OFFICE EXERCISES ITS RIGHTS, POWERS, AND DUTIES SUBJECT TO~~  
2 ~~THE AUTHORITY OF THE SECRETARY.~~

3 ~~4.5-202.~~

4 ~~(A) (1) THE SECRETARY SHALL APPOINT A FULL TIME DIRECTOR OF THE~~  
5 ~~OFFICE.~~

6 ~~(2) THE DIRECTOR SERVES AT THE PLEASURE OF THE SECRETARY.~~

7 ~~(B) THE DIRECTOR IS ENTITLED TO:~~

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

9 ~~(2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE~~  
10 ~~TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.~~

11 ~~(C) THE DIRECTOR SHALL:~~

12 ~~(1) ADMINISTER AND OPERATE THE OFFICE; AND~~

13 ~~(2) BE RESPONSIBLE TO THE SECRETARY.~~

14 ~~(D) IN ADDITION TO THE REQUIREMENTS OF THE STATE ETHICS LAW, THE~~  
15 ~~DIRECTOR MAY NOT:~~

16 ~~(1) HOLD ANY POSITION OR ENGAGE IN ANY BUSINESS THAT~~  
17 ~~INTERFERES OR CONFLICTS WITH THE POSITION OF DIRECTOR;~~

18 ~~(2) BE A REGISTRANT;~~

19 ~~(3) ENGAGE IN ANY ACT FOR WHICH A REGISTRATION IS REQUIRED~~  
20 ~~UNDER THIS TITLE; OR~~

21 ~~(4) IN CONNECTION WITH ANY REGISTRANT, DIRECTLY OR INDIRECTLY~~  
22 ~~RECEIVE OR BECOME ENTITLED TO RECEIVE ANY FEE, PERQUISITE, OR~~  
23 ~~COMPENSATION.~~

24 ~~4.5-203.~~

25 ~~THE DIRECTOR MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE~~  
26 ~~BUDGET.~~

27 ~~4.5-204.~~

28 ~~THE DIRECTOR SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS~~  
29 ~~OF THIS TITLE.~~

30 ~~4.5-205. 4.5-202.~~

31 (A) THE ~~DIRECTOR~~ DIRECTOR UNIT SHALL MAINTAIN A LIST OF ALL REGISTRANTS.

1 (B) (1) ~~THE DIRECTOR UNIT SHALL MAKE AVAILABLE TO EACH APPLICANT~~  
2 ~~FOR REGISTRATION A COPY OF THIS TITLE AND OTHER APPLICABLE LAWS AND~~  
3 ~~REGULATIONS.~~

4 (2) ~~THE DIRECTOR UNIT SHALL MAKE AVAILABLE TO EACH REGISTRANT~~  
5 ~~ANY AMENDMENTS TO THIS TITLE OR OTHER APPLICABLE LAWS OR REGULATIONS~~  
6 ~~AT LEAST 30 DAYS BEFORE THE EFFECTIVE DATE OF THE AMENDMENTS.~~

7 (C) (1) ~~IN CONSULTATION WITH THE HOME BUILDING INDUSTRY AND THE~~  
8 ~~CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL,~~  
9 ~~THE DIRECTOR SHALL DEVELOP A CONSUMER INFORMATION PAMPHLET WRITTEN~~  
10 ~~IN PLAIN LANGUAGE THAT DESCRIBES:~~

11 ~~(I) THE RIGHTS AND REMEDIES OF CONSUMERS IN THE PURCHASE~~  
12 ~~OF A NEW HOME; AND~~

13 ~~(II) ANY OTHER INFORMATION THAT THE DIRECTOR CONSIDERS~~  
14 ~~REASONABLY NECESSARY TO ASSIST CONSUMERS.~~

15 ~~(2) THE DIRECTOR SHALL MAKE COPIES OF THE CONSUMER~~  
16 ~~INFORMATION PAMPHLET AVAILABLE TO A REGISTRANT ON REQUEST AND ON~~  
17 ~~RECEIPT OF A REASONABLE FEE. IN CONSULTATION WITH THE HOME BUILDING~~  
18 ~~INDUSTRY, THE UNIT SHALL DEVELOP A CONSUMER INFORMATION PAMPHLET~~  
19 ~~WRITTEN IN PLAIN ENGLISH THAT DESCRIBES:~~

20 ~~(I) THE RIGHTS AND REMEDIES OF CONSUMERS IN THE PURCHASE~~  
21 ~~OF A NEW HOME; AND~~

22 ~~(II) ANY OTHER INFORMATION THAT THE DIVISION CONSIDERS~~  
23 ~~REASONABLY NECESSARY TO ASSIST CONSUMERS.~~

24 ~~(2) THE DIVISION SHALL PROVIDE EACH REGISTERED HOME BUILDER~~  
25 ~~WITH A SUFFICIENT NUMBER OF COPIES OF THE CONSUMER INFORMATION~~  
26 ~~PAMPHLETS AS NEEDED BY THE HOME BUILDER.~~

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

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

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

36 (D) ~~THE DIRECTOR UNIT SHALL COLLECT AND MAINTAIN INFORMATION ON~~  
37 ~~THE RESOLUTION OF CONSUMER COMPLAINTS INVOLVING NEW HOME BUILDERS.~~

1 ~~4.5-206.~~ 4.5-203.

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

3 (2) THE ~~DIRECTOR~~ DIVISION SHALL ADMINISTER THE REGISTRATION  
4 FUND.

5 (3) THE REGISTRATION FUND SHALL BE USED TO COVER THE ACTUAL  
6 DOCUMENTED DIRECT AND INDIRECT COSTS ~~OF FULFILLING THE DUTIES OF THE~~  
7 ~~OFFICE INCURRED FOR THE ADMINISTRATION AND ENFORCEMENT OF THE~~  
8 MARYLAND HOME BUILDERS REGISTRATION ACT.

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

11 (5) UNSPENT ASSETS OF THE REGISTRATION FUND SHALL REMAIN IN  
12 THE REGISTRATION FUND AND MAY NOT REVERT OR BE TRANSFERRED TO THE  
13 GENERAL FUND OF THE STATE.

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

16 (B) (1) BY REGULATION, THE ~~DIRECTOR~~ DIVISION SHALL ESTABLISH  
17 REASONABLE FEES AND A FEE SCHEDULE FOR THE ISSUANCE AND RENEWAL OF  
18 REGISTRATIONS.

19 (2) IN ESTABLISHING THE FEES, THE ~~DIRECTOR~~ DIVISION SHALL  
20 CONSIDER:

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

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

25 (3) THE FEES CHARGED SHALL APPROXIMATE THE DIRECT AND  
26 INDIRECT COSTS OF ~~MAINTAINING THE OFFICE AND FULFILLING THE DUTIES OF~~  
27 ~~THE OFFICE~~ ADMINISTERING AND ENFORCING THE MARYLAND HOME BUILDERS  
28 REGISTRATION ACT.

29 (C) THE ~~DIRECTOR~~ DIVISION SHALL PAY ALL FUNDS COLLECTED UNDER §  
30 4.5-303 OF THIS TITLE TO THE COMPTROLLER, WHO SHALL DISTRIBUTE THE FEES TO  
31 THE REGISTRATION FUND.

32 (D) THE OFFICE OF LEGISLATIVE AUDITS SHALL AUDIT THE ACCOUNTS AND  
33 TRANSACTIONS OF THE REGISTRATION FUND UNDER § 2-1220 OF THE STATE  
34 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 EACH PERSON THAT CONSTRUCTS NEW HOMES FOR SALE TO THE PUBLIC  
8 SHALL MAINTAIN:

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

10 (2) ~~A BOND FOR THE USE AND BENEFIT OF SUBCONTRACTORS AND~~  
11 ~~SUPPLIERS FOR AT LEAST \$250,000 IF A HOME BUILDER'S REGISTRATION HAS BEEN~~  
12 ~~REVOKED AND THE HOME BUILDER APPLIES FOR A NEW REGISTRATION, THE UNIT~~  
13 ~~SHALL, IN ITS DISCRETION, APPROVE THE APPLICATION ON THE APPLICANT'S~~  
14 ~~FULFILLMENT OF SPECIFIED TERMS AND CONDITIONS, INCLUDING THE POSTING OF~~  
15 ~~A BOND FOR THE BENEFIT OF SUBCONTRACTORS AND SUPPLIERS, AND THE~~  
16 ~~PAYMENT OF ANY JUDGMENTS OR AWARDS DUE TO ANY SUBCONTRACTORS OR~~  
17 ~~SUPPLIERS.~~

18 4.5-303.

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

20 (1) SUBMIT TO THE ~~DIRECTOR UNIT~~ UNDER OATH AN APPLICATION ON  
21 THE FORM PROVIDED BY THE ~~DIRECTOR 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 (C) THE APPLICANT SHALL ALSO FURNISH THE INFORMATION REQUIRED IN  
24 SUBSECTION (B) OF THIS SECTION RELATED TO THE PARENTS, SPOUSES, AND  
25 CHILDREN OF AN APPLICANT OR PRINCIPAL.

26 4.5-304.

27 (A) THE ~~DIRECTOR~~ UNIT SHALL REGISTER AND ISSUE A HOME BUILDER  
28 REGISTRATION NUMBER TO AN APPLICANT THAT MEETS THE REQUIREMENTS OF  
29 THIS TITLE.

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

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

34 (D) A HOME BUILDER THAT HOLDS A LICENSE OR REGISTRATION ~~IN A~~  
35 ~~COUNTY APPROVED BY THE DIRECTOR UNDER § 4.5-708 OF THIS TITLE IN~~ IN

1 MONTGOMERY COUNTY MAY ACT AS A HOME BUILDER IN THAT COUNTY ONLY,  
2 UNLESS THE HOME BUILDER IS ALSO REGISTERED UNDER THIS TITLE.

3 4.5-305.

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

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

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

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

12 (1) A RENEWAL APPLICATION FORM; AND

13 (2) A NOTICE THAT STATES:

14 (I) THE DATE ON WHICH THE CURRENT REGISTRATION EXPIRES;  
15 AND

16 (II) THE DATE BY WHICH THE DIRECTOR MUST RECEIVE THE  
17 RENEWAL APPLICATION FOR A RENEWAL TO BE ISSUED AND MAILED BEFORE THE  
18 REGISTRATION EXPIRES.

19 (C) THE ~~DIRECTOR~~ UNIT SHALL RENEW THE REGISTRATION OF EACH  
20 REGISTRANT THAT:

21 (1) SUBMITS TO THE ~~DIRECTOR~~ UNIT A RENEWAL APPLICATION ON THE  
22 FORM PROVIDED BY THE ~~DIRECTOR~~ UNIT;

23 (2) WOULD QUALIFY FOR AN INITIAL REGISTRATION;

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

25 (4) IS OTHERWISE ENTITLED TO BE REGISTERED.

26 4.5-306.

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

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

1 4.5-307.

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

5 (B) IF A REGISTRANT IS BUILDING MULTIPLE HOMES IN ONE PROJECT AREA  
6 OR SUBDIVISION, THE REGISTRANT MAY POST ITS HOME BUILDER REGISTRATION  
7 NUMBER IN ONE CENTRAL CONSPICUOUS LOCATION IN THE PROJECT AREA OR  
8 SUBDIVISION.

9 4.5-308.

10 (A) THE ~~DIRECTOR~~ UNIT MAY DENY REGISTRATION TO AN APPLICANT,  
11 REPRIMAND A REGISTRANT, SUSPEND OR REVOKE A REGISTRATION, OR IMPOSE A  
12 CIVIL PENALTY ON A REGISTRANT IF THE ~~DIRECTOR~~ UNIT DETERMINES THAT THE  
13 APPLICANT OR REGISTRANT:

14 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINED OR ATTEMPTED TO  
15 OBTAIN A REGISTRATION;

16 (2) FRAUDULENTLY OR DECEPTIVELY USED A REGISTRATION;

17 (3) PRESENTED OR ATTEMPTED TO PRESENT THE HOME BUILDER  
18 REGISTRATION NUMBER OF ANOTHER REGISTRANT AS THE APPLICANT'S OR  
19 REGISTRANT'S HOME BUILDER REGISTRATION NUMBER;

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

22 (5) IMPERSONATED OR FALSELY REPRESENTED ONESELF AS A  
23 REGISTERED HOME BUILDER;

24 (6) REPEATEDLY VIOLATED THIS TITLE;

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

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

31 (9) ENGAGED IN A PATTERN OF POOR WORKMANSHIP EVIDENCED BY:

32 (I) REPEATED BUILDING CODE VIOLATIONS; OR

33 (II) REPEATED JUDGMENTS OR ARBITRATION AWARDS AGAINST  
34 THE APPLICANT OR REGISTRANT DUE TO UNCOMPLETED OR SUBSTANDARD WORK;

1 (10) REPEATEDLY ENGAGED IN FRAUD, DECEPTION,  
2 MISREPRESENTATION, OR KNOWING OMISSIONS OF MATERIAL FACTS RELATED TO  
3 HOME BUILDING CONTRACTS;

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

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

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

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

22 (C) THE ~~DIRECTOR~~ UNIT SHALL PROVIDE AN APPLICANT OR REGISTRANT  
23 NOTICE AND AN OPPORTUNITY TO REQUEST A HEARING UNDER TITLE 10, SUBTITLE  
24 2 OF THE STATE GOVERNMENT ARTICLE TO CONTEST A PROPOSED DISCIPLINARY  
25 ACTION.

26 SUBTITLE 4. ~~COMPLAINTS~~ REMEDIES.

27 4.5-401.

28 THE OWNER OR BUYER'S REMEDIES UNDER THIS SUBTITLE ARE IN ADDITION  
29 TO ANY REMEDIES THE OWNER OR BUYER MAY HAVE UNDER THE CONSUMER  
30 PROTECTION ACT OR ANY OTHER LAW.

31 ~~AN OWNER MAY FILE A WRITTEN COMPLAINT UNDER OATH WITH THE~~  
32 ~~DIRECTOR ALLEGING THAT:~~

33 ~~(I) THE REGISTRANT HAS FAILED TO COMPLETE WORK THAT COMPLIES~~  
34 ~~WITH:~~

35 ~~(I) THE PURCHASE CONTRACT;~~

36 ~~(II) A WRITTEN ADDENDUM OR CHANGE ORDER TO THE PURCHASE~~  
37 ~~CONTRACT;~~

1 (III) A MANUFACTURER'S INSTALLATION INSTRUCTIONS;

2 (IV) AN APPLICABLE PERFORMANCE STANDARD OR BUILDING  
3 CODE; OR

4 (V) AN IMPLIED OR EXPRESS WARRANTY; AND

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

9 4.5-402.

10 THE DIRECTOR SHALL:

11 (1) FORWARD A COPY OF THE COMPLAINT TO THE REGISTRANT;

12 (2) OFFER MEDIATION SERVICES TO RESOLVE THE COMPLAINT; AND

13 (3) PROVIDE ADVICE AND REFERRALS TO OTHER AVAILABLE AVENUES  
14 OF DISPUTE RESOLUTION.

15 SUBTITLE 5. HOME BUILDER GUARANTY FUND.

16 4.5-501.

17 (A) IN THIS SUBTITLE, "ACTUAL LOSS" MEANS THE COSTS OF REPAIR,  
18 REPLACEMENT, CORRECTION, OR COMPLETION THAT ARISE FROM NEW HOME  
19 CONSTRUCTION THAT IS INCOMPLETE OR THAT FAILS TO MEET THE CONSTRUCTION  
20 STANDARDS PROVIDED IN THE PURCHASE CONTRACT, LAW, OR REGULATION.

21 (B) IN THIS SUBTITLE, "ACTUAL LOSS" INCLUDES DEPOSIT MONEYS NOT  
22 RETURNED UNDER THE PURCHASE CONTRACT, LAW, OR REGULATION.

23 4.5-502.

24 THIS SUBTITLE DOES NOT:

25 (1) LIMIT THE AUTHORITY OF THE DIRECTOR TO TAKE DISCIPLINARY  
26 ACTION AGAINST A REGISTRANT UNDER SUBTITLE 3 OF THIS TITLE; OR

27 (2) LIMIT THE AVAILABILITY OF OTHER REMEDIES TO A CLAIMANT.

28 4.5-503.

29 (A) THE DIRECTOR SHALL:

30 (1) ESTABLISH THE HOME BUILDER GUARANTY FUND;

- 1           (2)     MAINTAIN THE GUARANTY FUND AT A LEVEL OF AT LEAST \$500,000;  
2 AND
- 3           (3)     ADMINISTER THE GUARANTY FUND ACCORDING TO THIS SUBTITLE.
- 4     (B)     (1)     THE DIRECTOR SHALL DEPOSIT ALL MONEY COLLECTED TO THE  
5 CREDIT OF THE GUARANTY FUND WITH THE STATE TREASURER FOR PLACEMENT IN  
6 A SEGREGATED ACCOUNT.
- 7           (2)     (1)     THE STATE TREASURER SHALL INVEST THE ASSETS OF THE  
8 GUARANTY FUND IN THE SAME MANNER AS THE STATE RETIREMENT AND PENSION  
9 FUNDS ARE INVESTED.
- 10           (H)     ALL INVESTMENT PROCEEDS SHALL BE CREDITED TO THE  
11 GUARANTY FUND.
- 12 4.5-504.
- 13     (A)     THE DIRECTOR MAY NOT ISSUE AN INITIAL HOME BUILDER  
14 REGISTRATION UNTIL THE APPLICANT PAYS THE DIRECTOR A FEE OF \$200 TO BE  
15 CREDITED TO THE GUARANTY FUND.
- 16     (B)     IF THE DIRECTOR FINDS THAT, BECAUSE OF PENDING CLAIMS, THE  
17 AMOUNT OF THE GUARANTY FUND MAY FALL BELOW \$500,000, THE DIRECTOR SHALL  
18 ASSESS EACH REGISTRANT A FEE OF \$100 AS NECESSARY TO REPLENISH THE  
19 GUARANTY FUND TO A MINIMUM OF \$500,000.
- 20     (C)     IF A REGISTRANT FAILS TO PAY AN ASSESSMENT WITHIN 60 DAYS AFTER  
21 RECEIPT OF NOTICE OF THE ASSESSMENT, THE REGISTRATION OF THE REGISTRANT  
22 IS IMMEDIATELY SUSPENDED UNTIL THE ASSESSMENT IS RECEIVED BY THE  
23 DIRECTOR.
- 24 4.5-505.
- 25     (A)     SUBJECT TO THIS SUBTITLE, AN OWNER MAY RECOVER AN AWARD FROM  
26 THE GUARANTY FUND FOR AN ACTUAL LOSS AS EVIDENCED BY:
- 27           (1)     THE FINAL JUDGMENT OF A COURT OF COMPETENT JURISDICTION;
- 28           (2)     A FINAL ADMINISTRATIVE ORDER;
- 29           (3)     A SETTLEMENT OR CONCILIATION AGREEMENT;
- 30           (4)     AN ARBITRATION AWARD; OR
- 31           (5)     A DECISION BY THE DIRECTOR, IF SERVICE ON THE REGISTRANT  
32 CANNOT BE EFFECTED AFTER REASONABLE EFFORT.
- 33     (B)     NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE  
34 DIRECTOR MAY NOT AWARD FROM THE GUARANTY FUND:

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

3           (2)     ~~MORE THAN \$300,000 TO ALL CLAIMANTS FOR ACTS OR OMISSIONS OF~~  
4 ~~ONE REGISTRANT, UNLESS, AFTER THE DIRECTOR HAS PAID OUT \$300,000 ON~~  
5 ~~ACCOUNT OF ACTS OR OMISSIONS OF THE REGISTRANT, THE REGISTRANT~~  
6 ~~REIMBURSES \$300,000 TO THE GUARANTY FUND;~~

7           (3)     ~~AN AMOUNT FOR ATTORNEY FEES, CONSEQUENTIAL DAMAGES,~~  
8 ~~COURT COSTS, INTEREST, PERSONAL INJURY DAMAGES, OR PUNITIVE DAMAGES; OR~~

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

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

12           (1)     ~~A SPOUSE OR OTHER IMMEDIATE RELATIVE OF THE REGISTRANT~~  
13 ~~THAT IS THE SUBJECT OF THE CLAIM;~~

14           (2)     ~~AN EMPLOYEE, OFFICER, OR PARTNER OF THE REGISTRANT THAT IS~~  
15 ~~THE SUBJECT OF THE CLAIM; OR~~

16           (3)     ~~AN IMMEDIATE RELATIVE OF AN EMPLOYEE, OFFICER, OR PARTNER~~  
17 ~~OF THE REGISTRANT THAT IS THE SUBJECT OF THE CLAIM.~~

18        (D)     ~~A CLAIMANT MAY PLACE A CLAIM AGAINST THE GUARANTY FUND WITHIN~~  
19 ~~1 YEAR ONLY AFTER:~~

20           (1)     ~~THE CLAIMANT:~~

21                (I)     ~~OBTAINED A FINAL JUDGMENT OF A COURT OF COMPETENT~~  
22 ~~JURISDICTION;~~

23                (II)    ~~RECEIVED AN ARBITRATION AWARD;~~

24                (III)   ~~ENTERED INTO A SETTLEMENT OR CONCILIATION~~  
25 ~~AGREEMENT; OR~~

26                (IV)    ~~FAILED TO ACHIEVE SERVICE OF PROCESS ON THE~~  
27 ~~REGISTRANT AFTER REASONABLE EFFORT; OR~~

28           (2)     ~~THE ISSUANCE OF A FINAL ADMINISTRATIVE ORDER.~~

29 ~~4.5-506.~~

30        ~~TO INITIATE A RECOVERY FROM THE GUARANTY FUND, A CLAIMANT SHALL~~  
31 ~~SUBMIT TO THE DIRECTOR, UNDER OATH, A CLAIM THAT INCLUDES:~~

32           (1)     ~~THE AMOUNT CLAIMED BASED ON ACTUAL LOSSES;~~



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

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

5 4.5-507.

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

7           (1)     SEND A NOTICE OF THE CLAIM TO THE REGISTRANT THAT IS THE  
8 SUBJECT OF THE CLAIM AT THE LAST KNOWN BUSINESS ADDRESS OF THE  
9 REGISTRANT; AND

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

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

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

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

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

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

22           (II)    WHETHER THE CLAIM HAS BEEN PAID.

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

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

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

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

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

31           (IV)    WHETHER THE CLAIM HAS BEEN PAID.

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

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

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

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

11 ~~(2) DENIES AN AWARD ON THE CLAIM.~~

12 ~~4.5-508.~~

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

16 ~~(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE DIRECTOR SHALL PAY~~  
 17 ~~AWARDS FROM THE GUARANTY FUND IN THE ORDER THAT THE UNDERLYING~~  
 18 ~~CLAIMS WERE FILED.~~

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

21 ~~(1) WHEN SUFFICIENT FUNDS ARE DEPOSITED IN THE GUARANTY~~  
 22 ~~FUND; AND~~

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

24 ~~4.5-509.~~

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

26 ~~(I) THE DIRECTOR IS SUBROGATED TO ALL RIGHTS OF THE~~  
 27 ~~CLAIMANT;~~

28 ~~(II) THE CLAIMANT SHALL ASSIGN TO THE DIRECTOR ALL RIGHTS~~  
 29 ~~OF THE CLAIMANT IN THE CLAIM; AND~~

30 ~~(III) THE DIRECTOR HAS A RIGHT TO REIMBURSEMENT OF THE~~  
 31 ~~GUARANTY FUND AGAINST THE REGISTRANT THAT IS RESPONSIBLE FOR THE CLAIM~~  
 32 ~~FOR:~~

33 ~~1. THE AMOUNT PAID FROM THE GUARANTY FUND; AND~~

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

3                                 (2)    ~~ALL MONEY THAT THE DIRECTOR RECOVERS ON A CLAIM SHALL BE~~  
4 ~~DEPOSITED IN THE GUARANTY FUND.~~

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

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

12     ~~(C)     THE DIRECTOR IS ENTITLED TO A JUDGMENT FOR A BALANCE DUE IF THE~~  
13 ~~DIRECTOR PROVES THAT:~~

14                                 (1)    ~~AN AWARD WAS PAID FROM THE GUARANTY FUND ON A CLAIM~~  
15 ~~AGAINST THE REGISTRANT;~~

16                                 (2)    ~~THE REGISTRANT HAS NOT FULLY REIMBURSED THE GUARANTY~~  
17 ~~FUND;~~

18                                 (3)    ~~THE REGISTRANT RECEIVED THE NOTICE REQUIRED UNDER~~  
19 ~~SUBSECTION (B) OF THIS SECTION AND WAS PROVIDED AN OPPORTUNITY TO~~  
20 ~~PARTICIPATE IN A HEARING ON THE CLAIM;~~

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

24                                 (5)    ~~AN APPEAL IS NOT PENDING.~~

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

29     ~~(E)     FOR THE PURPOSE OF EXCEPTING TO A DISCHARGE OF A REGISTRANT~~  
30 ~~UNDER FEDERAL BANKRUPTCY LAW, THE DIRECTOR IS A CREDITOR OF THE~~  
31 ~~REGISTRANT FOR ALL AMOUNTS PAID FROM THE GUARANTY FUND BECAUSE OF~~  
32 ~~CLAIMS AGAINST THE REGISTRANT.~~

33     ~~(F)     (1)     IF A REGISTRANT LIABLE FOR REIMBURSING THE GUARANTY FUND~~  
34 ~~UNDER THIS SECTION RECEIVES A DEMAND FOR REIMBURSEMENT AND FAILS TO~~  
35 ~~REIMBURSE THE GUARANTY FUND, THE REIMBURSEMENT AMOUNT AND ANY~~  
36 ~~ACCRUED INTEREST OR COSTS CONSTITUTE A LIEN IN FAVOR OF THE STATE ON ANY~~  
37 ~~REAL PROPERTY OF THE REGISTRANT IF THE LIEN IS RECORDED AND INDEXED AS~~  
38 ~~PROVIDED IN THIS SUBSECTION.~~

1           (2)     ~~THE LIEN IN FAVOR OF THE STATE CREATED UNDER THIS~~  
2 ~~SUBSECTION MAY NOT ATTACH TO SPECIFIC PROPERTY UNTIL THE STATE CENTRAL~~  
3 ~~COLLECTION UNIT RECORDS WRITTEN NOTICE OF THE LIEN IN THE OFFICE OF THE~~  
4 ~~CLERK OF THE COURT FOR THE COUNTY IN WHICH THE PROPERTY SUBJECT TO THE~~  
5 ~~LIEN OR ANY PART OF THE PROPERTY IS LOCATED.~~

6           (3)     ~~THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION~~  
7 ~~SHALL CONTAIN:~~

8                   (I)     ~~THE NAME AND ADDRESS OF THE REGISTRANT AGAINST~~  
9 ~~WHOSE PROPERTY THE LIEN EXISTS;~~

10                   (II)    ~~THE AMOUNT OF THE LIEN;~~

11                   (III)   ~~A DESCRIPTION OF OR REFERENCE TO THE PROPERTY SUBJECT~~  
12 ~~TO THE LIEN; AND~~

13                   (IV)   ~~THE DATE THE GUARANTY FUND PAID THE AWARD THAT GIVES~~  
14 ~~RISE TO THE LIEN.~~

15           (4)     ~~THE LIEN IN FAVOR OF THE STATE CREATED UNDER THIS~~  
16 ~~SUBSECTION DOES NOT HAVE PRIORITY AS TO ANY SPECIFIC PROPERTY OVER ANY~~  
17 ~~LIEN RECORDED AT THE TIME THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF~~  
18 ~~THIS SUBSECTION IS RECORDED.~~

19           (5)     ~~ON PRESENTATION OF A RELEASE OF ANY LIEN IN FAVOR OF THE~~  
20 ~~STATE CREATED BY THIS SUBSECTION, THE CLERK OF THE COURT IN WHICH THE~~  
21 ~~LIEN IS RECORDED AND INDEXED SHALL RECORD AND INDEX THE RELEASE AND~~  
22 ~~SHALL NOTE IN THE LIEN DOCKET THE DATE THE RELEASE IS FILED AND THE FACT~~  
23 ~~THAT THE LIEN IS RELEASED.~~

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

28           (7)     ~~THE CLERK OF THE COURT MAY COLLECT A REASONABLE FEE FOR~~  
29 ~~RECORDING AND INDEXING EACH NOTICE OF LIEN OR RELEASE OF ANY LIEN UNDER~~  
30 ~~THIS SUBSECTION.~~

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

34 4.5-510.

35           (A)     ~~AFTER PAYING AN AWARD FROM THE GUARANTY FUND, THE DIRECTOR~~  
36 ~~MAY SUSPEND THE REGISTRATION OF THE REGISTRANT THAT IS RESPONSIBLE FOR~~  
37 ~~THE CLAIM UNTIL THE REGISTRANT FULLY REIMBURSES THE GUARANTY FUND FOR:~~

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

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

3     ~~(B)     A REGISTRANT'S FULL REIMBURSEMENT OF THE GUARANTY FUND, BY~~  
4 ~~ITSELF, DOES NOT NULLIFY OR MODIFY THE EFFECT OF A DISCIPLINARY~~  
5 ~~PROCEEDING AGAINST THE REGISTRANT.~~

6                                 SUBTITLE ~~6~~ 5. PROHIBITED ACTS; PENALTIES.

7 ~~4.5-601. 4.5-501.~~

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

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

15    (C)     THE FOLLOWING LENDERS ARE EXEMPT FROM THE REQUIREMENTS  
16 RELATING TO REGISTRATION UNDER THIS TITLE WHEN THE LENDER HIRES A  
17 SECOND REGISTERED HOME BUILDER WHO WOULD UNDERTAKE TO COMPLETE A  
18 FIRST HOME BUILDER'S UNFINISHED PROJECT PURSUANT TO A DEFAULT IN  
19 OBLIGATIONS OF THE FIRST HOME BUILDER TO THE LENDER:

20           (1)     A MORTGAGE LENDER AS DEFINED IN § 11-501(J)(1)(II) OF THE  
21 FINANCIAL INSTITUTIONS ARTICLE THAT IS A LICENSEE UNDER TITLE 11, SUBTITLE  
22 5 OF THE FINANCIAL INSTITUTIONS ARTICLE;

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

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

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

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

1 (D) AN EXEMPT LENDER IS SUBJECT ONLY TO §§ 4.5-202(C), 4.5-401, 4.5-503,  
 2 4.5-601, 4.5-602, AND 4.5-603 OF THIS TITLE.

3 ~~4.5-602.~~ 4.5-502.

4 (A) SUBJECT TO THE NOTICE AND HEARING PROVISIONS OF TITLE 10,  
 5 SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, THE ~~DIRECTOR~~ DIVISION MAY  
 6 BRING A CIVIL ADMINISTRATIVE ACTION AGAINST A PERSON THAT VIOLATES §  
 7 ~~4.5-601(A)~~ § 4.5-501(A) OF THIS SUBTITLE.

8 (B) AFTER A HEARING, IF THE DIRECTOR FINDS THAT THE PERSON HAS  
 9 VIOLATED ~~§ 4.5-601(A)~~ § 4.5-501(A) OF THIS SUBTITLE, THE DIRECTOR MAY:

10 (1) ORDER THE PERSON TO CEASE AND DESIST FROM THE UNLAWFUL  
 11 PRACTICE; AND

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

14 (C) ANY PARTY AGGRIEVED BY A DECISION AND ORDER OF THE DIRECTOR  
 15 UNDER THIS SECTION MAY MAKE AN APPEAL AS PROVIDED UNDER §§ 10-222 AND  
 16 10-223 OF THE STATE GOVERNMENT ARTICLE.

17 ~~4.5-603.~~ 4.5-503.

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

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

22 "MHBR NO. \_\_\_\_".

23 ~~4.5-604.~~ 4.5-504.

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

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

29 SUBTITLE ~~7~~ 6. MISCELLANEOUS PROVISIONS.

30 ~~4.5-701.~~ 4.5-601.

31 ~~(A) A REGISTRANT MUST PROVIDE A PROSPECTIVE BUYER WITH THE~~  
 32 ~~CONSUMER INFORMATION PAMPHLET PUBLISHED BY THE DIRECTOR UNDER §~~  
 33 ~~4.5-205(A) OF THIS TITLE BEFORE ENTERING INTO A PURCHASE CONTRACT.~~

1 ~~(B) A PROSPECTIVE BUYER SHALL ACKNOWLEDGE IN WRITING RECEIPT OF~~  
2 ~~THE CONSUMER INFORMATION PAMPHLET BEFORE ENTERING INTO A PURCHASE~~  
3 ~~CONTRACT.~~

4 ~~4.5-702.~~

5 (A) EXCEPT FOR A BUILDING PERMIT FOR CONSTRUCTION TO BE PERFORMED  
6 DIRECTLY BY A LANDOWNER SOLELY FOR THE LANDOWNER'S OWN USE, THE  
7 BUILDING AND PERMITS DEPARTMENT OF A COUNTY MAY NOT ISSUE A PERMIT FOR  
8 HOME BUILDING UNLESS THE PERMIT INCLUDES THE HOME BUILDER  
9 REGISTRATION NUMBER OF A REGISTRANT.

10 (B) BEFORE ISSUING A PERMIT FOR HOME BUILDING TO A LANDOWNER, THE  
11 BUILDING AND PERMITS DEPARTMENT OF A COUNTY SHALL OBTAIN THE  
12 SIGNATURE OF THE LANDOWNER AFFIRMING THAT THE PERMIT IS BEING ISSUED  
13 SOLELY FOR THE PURPOSE OF THE LANDOWNER PERFORMING WORK ON THE  
14 LANDOWNER'S OWN PROPERTY.

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

18 ~~4.5-703.~~ 4.5-602.

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

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

26 ~~4.5-704.~~ 4.5-603.

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

30 ~~4.5-705.~~ 4.5-604.

31 A HOME BUILDER WHO INSTALLS AN INDUSTRIALIZED BUILDING INTENDED  
32 FOR RESIDENTIAL USE OR A MOBILE HOME IS RESPONSIBLE TO THE OWNER FOR  
33 CORRECTING ANY DEFECTS IN ANY COMPONENT INCORPORATED INTO THE NEW  
34 HOME EXCEPT FOR THOSE INDUSTRIALIZED BUILDINGS OR MOBILE HOMES THAT  
35 ARE THE RESPONSIBILITY OF THE MANUFACTURER OF THE INDUSTRIALIZED  
36 BUILDING AND MOBILE HOME PURSUANT TO ARTICLE 83B, TITLE 6, SUBTITLE 2 OF  
37 THE CODE.

1 ~~4.5-706. 4.5-605.~~

2 A CONTRACT FOR THE PERFORMANCE OF ANY ACT FOR WHICH A HOME  
3 BUILDER REGISTRATION NUMBER IS REQUIRED IS NOT ENFORCEABLE UNLESS THE  
4 HOME BUILDER WAS REGISTERED AT THE TIME THAT THE CONTRACT WAS SIGNED  
5 BY THE OWNER.

6 ~~4.5-707.~~

7 (A) ~~SUBJECT TO SUBSECTION (B) OF THIS SECTION, IN ANY RESOLUTION OF A  
8 COMPLAINT OR CLAIM AGAINST A REGISTRANT, THE PERFORMANCE STANDARDS  
9 AND GUIDELINES APPLICABLE WILL BE THOSE REFERENCED IN THE UNDERLYING  
10 PURCHASE CONTRACT, AS REQUIRED UNDER § 14-117(J) OF THE REAL PROPERTY  
11 ARTICLE.~~

12 (B) ~~A REGISTRANT SHALL COMPLY WITH:~~

13 (1) ~~ANY EFFECTIVE PERFORMANCE CODES, STANDARDS, GUIDELINES,  
14 OR REGULATIONS ADOPTED BY A GOVERNMENTAL UNIT WITH JURISDICTION OVER  
15 THE REGISTRANT OR THE NEW HOME; AND~~

16 (2) (i) ~~THE CURRENT PERFORMANCE STANDARDS OR GUIDELINES  
17 PUBLISHED BY THE NATIONAL ASSOCIATION OF HOME BUILDERS; OR~~

18 (ii) ~~PERFORMANCE STANDARDS OR GUIDELINES ADOPTED BY THE  
19 REGISTRANT THAT ARE EQUIVALENT TO OR MORE STRINGENT THAN THE  
20 PERFORMANCE STANDARDS OR GUIDELINES PUBLISHED BY THE NATIONAL  
21 ASSOCIATION OF HOME BUILDERS.~~

22 ~~4.5-708.~~

23 ~~BASED ON A DETERMINATION THAT A COUNTY HAS A LICENSING OR  
24 REGISTRATION SCHEME FOR HOME BUILDERS THAT IS FULLY OPERATIONAL AND  
25 SUBSTANTIALLY EQUIVALENT TO THIS TITLE, THE DIRECTOR MAY EXEMPT HOME  
26 BUILDERS ENGAGED IN BUILDING NEW HOMES IN THAT COUNTY ONLY FROM THE  
27 REQUIREMENTS OF THIS TITLE.~~

28 SUBTITLE 8 7. SHORT TITLE.

29 ~~4.5-801. 4.5-701.~~

30 THIS TITLE MAY BE CITED AS THE MARYLAND HOME BUILDER REGISTRATION  
31 ACT.

32 **Article - Real Property**

33 14-117.

34 (J) ~~A CONTRACT FOR THE INITIAL SALE OF IMPROVED NEW RESIDENTIAL  
35 REAL PROPERTY TO A MEMBER OF THE PUBLIC WHO INTENDS TO OCCUPY OR RENT~~



1 ~~THE PROPERTY FOR RESIDENTIAL PURPOSES SHALL CLEARLY AND CONSPICUOUSLY~~  
2 ~~INCLUDE:~~

3           (1)     ~~THE HOME BUILDER REGISTRATION NUMBER OF THE HOME~~  
4 ~~BUILDER;~~

5           (2)     ~~A STATEMENT THAT THE NEW HOME WILL BE OR HAS BEEN~~  
6 ~~CONSTRUCTED ACCORDING TO ALL APPLICABLE BUILDING CODES AND~~  
7 ~~PERFORMANCE STANDARDS AND GUIDELINES IN EFFECT AT THE TIME OF THE~~  
8 ~~CONSTRUCTION OF THE NEW HOME;~~

9           (3)     ~~REFERENCES TO ALL APPLICABLE PERFORMANCE STANDARDS AND~~  
10 ~~GUIDELINES WITH WHICH THE REGISTRANT WILL COMPLY; AND~~

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

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

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

17                   (I)     THE BUILDER REGISTRATION NUMBER OF THE SELLER OF THE  
18 NEW HOME;

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

22                   (III)   A PROVISION REFERENCING ALL PERFORMANCE STANDARDS  
23 OR GUIDELINES;

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

26                            2.     THAT SHALL PREVAIL IN THE PERFORMANCE OF THE  
27 CONTRACT AND ANY ARBITRATION OR ADJUDICATION OF A CLAIM ARISING FROM  
28 THE CONTRACT; AND

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

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

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

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

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

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

12     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
 13 construed only prospectively and may not be applied or interpreted to have any effect  
 14 on or application to any act or omission of a home builder arising before the effective  
 15 date of this Act; that it shall apply only to contracts entered into on or after January  
 16 1, 2001; and that home builders shall be registered beginning on or after January 1,  
 17 2001.

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

24     SECTION 4. AND BE IT FURTHER ENACTED, That the Consumer Protection  
 25 Division of the Office of the Attorney General shall study the feasibility of a new home  
 26 builder guaranty fund. The Consumer Protection Division shall report its findings  
 27 and recommendations to the Senate Finance Committee and the House Economic  
 28 Matters Committee, in accordance with § 2-1246 of the State Government Article, on  
 29 or before October 1, 2002.

30     SECTION 5. AND BE IF FURTHER ENACTED, That on or before November 1,  
 31 2001 and annually thereafter, the Consumer Protection Division of the Office of the  
 32 Attorney General shall submit an annual report of its activities regarding home  
 33 builders and provide copies of the report to the Governor, and, subject to § 2-1246 of  
 34 the State Government Article, the General Assembly.

35     SECTION 4.6. AND BE IT FURTHER ENACTED, That this Act shall take  
 36 effect ~~October 1, 2000~~ January 1, 2001. ~~It shall remain effective for a period of 10~~  
 37 ~~years and, at the end of September 30, 2010, with no further action required by the~~  
 38 ~~General Assembly, this Act shall be abrogated and of no further force and effect.~~

