

SENATE BILL 759

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C2

2000 Regular Session
0lr1136
CF 0lr1755

By: **Senator Astle**

Introduced and read first time: February 4, 2000

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Home Builders Act**

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

1 exempting certain counties from the application of this Act; defining certain
2 terms; providing for the application of this Act; providing for the termination of
3 certain provisions of this Act; providing for the delayed effective date of this Act;
4 and generally relating to the registration of home builders.

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

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

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

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

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

28 **Article - Commercial Law**

29 13-301.

30 Unfair or deceptive trade practices include any:

31 (14) Violation of a provision of:

32 (i) This title;

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

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

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

1 (b) A person may not be imprisoned for violation of any provision of an order of
2 the Attorney General or an agreement of a party relating to unit pricing under Title
3 14, Subtitle 1 of this article.

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

6 SUBTITLE 29. MARYLAND HOME BUILDERS ACT.

7 14-2901.

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

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

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

13 (D) "DIVISION" MEANS THE DIVISION OF CONSUMER PROTECTION OF THE
14 OFFICE OF THE ATTORNEY GENERAL.

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

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

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

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

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

25 (III) INSTALLS MANUFACTURED HOMES OR MOBILE HOMES
26 INTENDED FOR RESIDENTIAL USE.

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

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

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

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

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

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

8 (H) "INDIVIDUAL APPLICANT" MEANS AN INDIVIDUAL WHO IS A HOME
9 BUILDER AND APPLIES FOR A BUILDER REGISTRATION NUMBER UNDER THIS
10 SUBTITLE.

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

13 (J) "MANUFACTURED HOME" MEANS A BUILDING MANUFACTURED AT A SITE
14 OTHER THAN THE SITE WHERE THE BUILDING IS INTENDED FOR USE AS A
15 RESIDENTIAL DWELLING.

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

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

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

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

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

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

33 (3) "OWNER" DOES NOT INCLUDE:

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

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

3 (N) "PRINCIPAL" MEANS:

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

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

10 4-2902.

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

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

18 14-2903.

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

22 (B) THE APPLICATION SHALL INCLUDE:

23 (1) THE APPLICANT'S NAME;

24 (2) THE PRINCIPAL BUSINESS ADDRESS AND TELEPHONE NUMBER OF
25 THE APPLICANT;

26 (3) IF THE APPLICANT IS AN INDIVIDUAL APPLICANT, THE SOCIAL
27 SECURITY NUMBER OF THE APPLICANT;

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

29 (I) THE APPLICANT'S FEDERAL EMPLOYER IDENTIFICATION
30 NUMBER; AND

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

33 (5) A STATEMENT INDICATING WHETHER OR NOT THE APPLICANT HAS
34 PREVIOUSLY APPLIED FOR REGISTRATION IN THIS STATE AND THE DISPOSITION OF
35 ALL PRIOR APPLICATIONS;

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

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

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

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

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

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

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

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

19 14-2904.

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

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

27 (1) A RENEWAL APPLICATION FORM; AND

28 (2) A NOTICE THAT STATES:

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

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

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

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

3 14-2905.

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

6 14-2906.

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

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

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

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

15 (C) THE CHIEF SHALL ADMINISTER THE FUND.

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

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

22 14-2907.

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

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

32 14-2908.

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

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

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

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

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

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

16 14-2909.

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

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

22 "MHBR NO. _____"

23 14-2910.

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

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

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

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

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

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

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

7 14-2911.

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

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

15 14-2912.

16 A PERSON MAY NOT KNOWINGLY AND INTENTIONALLY:

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

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

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

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

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

27 14-2913.

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

1 14-2914.

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

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

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

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

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

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

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

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

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

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

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

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

36 (II) A PRINCIPAL OF THE INDIVIDUAL APPLICANT OR REGISTERED
37 HOME BUILDER.

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

4 14-2915.

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

8 14-2916.

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

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

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

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

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

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

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

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

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

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

34 (3) A CONSUMER MAY FILE A COMPLAINT WITH THE DIVISION UNDER
35 TITLE 13 OF THIS ARTICLE IF THE CONSUMER HAS OBTAINED A FINAL JUDGMENT

1 AGAINST A HOME BUILDER AND THE HOME BUILDER HAS FAILED TO SATISFY THAT
2 JUDGMENT.

3 (D) WHEN A CONSUMER SUBMITS A CLAIM TO ARBITRATION UNDER
4 SUBSECTION (B) OF THIS SECTION, ANY PERFORMANCE STANDARDS OR GUIDELINES
5 REFERENCED IN THE CONTRACT OF SALE FOR THE NEW HOME PURSUANT TO §
6 14-117(J)(2)(III) OF THE REAL PROPERTY ARTICLE SHALL PREVAIL IN THE
7 ARBITRATION.

8 14-2917.

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

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

14 14-2918.

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

17 14-2919.

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

19

Article - Real Property

20 10-302.

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

24 (b) The corporate surety bond obtained pursuant to the provisions of §
25 10-301(a) shall be in a form approved by the Department of Labor, Licensing, and
26 Regulation. The bond may be either in the form of an individual bond for each deposit
27 accepted by a vendor or builder or if the total amount of money and deposits accepted
28 by the builder or vendor exceeds \$10,000, it may be in the form of a blanket bond
29 assuring the return of the deposits received by the vendor or builder.

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

32 Total Amount of Deposits Held	Penalty of Bond
33 (1) \$10,000 to [\$75,000] \$100,000	Full amount of deposit held
34 (2) [\$75,000] \$100,000 to \$200,000	[\$75,000] \$100,000

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1	(3) \$200,000 to \$500,000	\$200,000
2	(4) Over \$500,000	\$500,000

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

8 10-303.

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

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

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

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

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

21	Total Amount of Deposits Held	Amount of Letter of Credit
22	(1) \$10,000 to [\$75,000]	\$100,000
23	(2) [\$75,000] \$100,000 to \$200,000	Full amount of deposit held [\$75,000] \$100,000
24	(3) \$200,000 to \$500,000	\$200,000
25	(4) Over \$500,000	\$500,000

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

31 14-117.

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

34 (2) A CONTRACT FOR THE INITIAL SALE OF A NEW HOME, AS DEFINED IN
 35 § 14-2901 OF THE COMMERCIAL LAW ARTICLE, SHALL INCLUDE THE FOLLOWING:

1 (I) THE BUILDER REGISTRATION NUMBER OF THE SELLER OF THE
2 NEW HOME;

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

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

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

10 2. THAT SHALL PREVAIL IN THE PERFORMANCE OF THE
11 CONTRACT AND ANY ARBITRATION OR ADJUDICATION OF A CLAIM ARISING FROM
12 THE CONTRACT;

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

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

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

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

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

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

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

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

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

1 on or application to any act or omission of a home builder arising before the effective
2 date of this Act.

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

8 SECTION 4. AND BE IT FURTHER ENACTED, That the Consumer Protection
9 Division of the Office of the Attorney General shall convene a study panel during the
10 2004 Interim, to be staffed by the Office of Attorney General, which includes members
11 of the Senate of Maryland, appointed by the President of the Senate, members of the
12 House of Delegates, appointed by the Speaker of the House, representatives of the
13 Department of Labor, Licensing, and Regulation, appointed by the Governor, and
14 representatives of the home builder industry appointed by the Governor. The study
15 panel shall review the feasibility of a new home builder guaranty fund. The Office of
16 the Attorney General shall report to the Senate Finance Committee and the House
17 Economic Matters Committee, in accordance with § 2-1246 of the State Government
18 Article, on the study panel's recommendations on or before December 1, 2004.

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