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(PRE-FILED)

By: Chairman, Economic Matters Committee (Departmental - Labor, Licensing and Regulation)

Requested: October 26, 2000

Introduced and read first time: January 10, 2001

Assigned to: Economic Matters

#### A BILL ENTITLED

1 AN ACT concerning	шш

### 2 Home Builders - Surety Bonds, Letters of Credit, and Warranty Plans

- 3 FOR the purpose of transferring certain responsibilities concerning surety bonds,
- 4 letters of credit, and third party warranty plans from the Department of Labor,
- 5 Licensing, and Regulation to the Consumer Protection Division of the Office of
- 6 the Attorney General; correcting an oversight in the State Home Builder
- Registration Act; and generally relating to home builders.
- 8 BY repealing and reenacting, with amendments,
- 9 Article Business Regulation
- 10 Section 4.5-203
- 11 Annotated Code of Maryland
- 12 (1998 Replacement Volume and 2000 Supplement)
- 13 BY repealing and reenacting, with amendments,
- 14 Article Real Property
- 15 Section 10-302, 10-303, 10-303.1, 10-601, 10-602, 10-604, 10-606, and 10-607
- 16 Annotated Code of Maryland
- 17 (1996 Replacement Volume and 2000 Supplement)
- 18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 19 MARYLAND, That the Laws of Maryland read as follows:

### 20 Article - Business Regulation

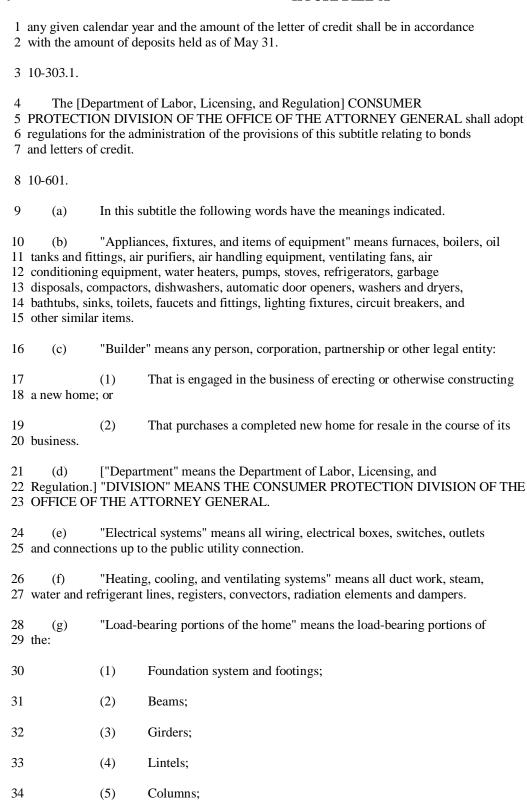
- 21 4.5-203.
- 22 (a) (1) There is a Home Builder Registration Fund.
- 23 (2) The Division shall administer the Registration Fund.

1 (3)The Registration Fund shall be used to cover the actual documented 2 direct and indirect costs incurred for the administration and enforcement of the 3 Maryland Home Builders Registration Act. 4 The Registration Fund is a continuing, nonlapsing fund, and is 5 subject to § 7-302 of the State Finance and Procurement Article. Unspent assets of the Registration Fund shall remain in the 6 (5) 7 Registration Fund and may not revert or be transferred to the General Fund of the 9 The Registration Fund may not be supported by appropriations of (6)10 State funds. 11 (b) By regulation, the Division shall establish reasonable fees that may 12 not exceed \$600 over a 2-year period, and a fee schedule for the issuance and renewal 13 of registrations. 14 The fees charged shall approximate the direct and indirect costs of (2) 15 administering and enforcing the Maryland Home Builders Registration Act AND 16 TITLE 10, SUBTITLE 3 AND SUBTITLE 6 OF THE REAL PROPERTY ARTICLE. The Division shall pay all funds collected under § 4.5-303 of this title to 17 (c) the Comptroller, who shall distribute the fees to the Registration Fund. 19 (d) The Office of Legislative Audits shall audit the accounts and transactions 20 of the Registration Fund under § 2-1220 of the State Government Article. 21 **Article - Real Property** 22 10-302. 23 The bond shall be payable to the State for the use and benefit of every 24 person protected by the provisions of this subtitle. The vendor or purchaser shall 25 deposit the bond with the [Department of Labor, Licensing, and Regulation] 26 CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL. The corporate surety bond obtained pursuant to the provisions of § 27 28 10-301(a) shall be in a form approved by the [Department of Labor, Licensing, and 29 Regulation CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY 30 GENERAL. The bond may be either in the form of an individual bond for each deposit 31 accepted by a vendor or builder or if the total amount of money and deposits accepted 32 by the builder or vendor exceeds \$10,000, it may be in the form of a blanket bond 33 assuring the return of the deposits received by the vendor or builder. 34 If the bond is a blanket bond, the penalty of the bond shall be in accordance 35 with the following schedule: Total Amount of Deposits Held Penalty of Bond 36

- 1 (1) \$10,000 to \$75,000 Full amount of deposit held 2 \$75,000 3 (2) \$75,000 to \$200,000 (3) \$200,000 to \$500,000 \$200,000 4 5 (4) Over \$500,000 \$500,000
- 6 For the purpose of determining the penalty of any blanket bond which the
- 7 vendor or builder maintains in any calendar year, the total amount of deposits
- 8 considered held by a vendor or builder shall be determined as of May 31 of any given
- 9 calendar year and the penalty of the bond shall be in accordance with the amount of
- 10 deposits held as of May 31.
- 11 10-303.
- 12 (a) An irrevocable letter of credit obtained under § 10-301 of this subtitle shall 13 be:
- 14 Payable to the [Department of Labor, Licensing, and Regulation]
- 15 OFFICE OF THE ATTORNEY GENERAL for the use and benefit of every person
- 16 protected by the provisions of this subtitle; and
- In a form approved by the [Department] CONSUMER PROTECTION 17 18 DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL.
- 19 An irrevocable letter of credit may be either in the form of an individual (b)
- 20 letter of credit for each deposit accepted by a vendor or builder or if the total amount
- 21 of money and deposits accepted by the builder exceeds \$10,000, the letter of credit
- 22 may be in the form of a blanket letter of credit assuring the return of the deposits
- 23 received by the vendor or builder.
- 24 If the letter of credit is a blanket letter of credit, the amount of the letter of 25 credit shall be in accordance with the following schedule:

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

- 32 For the purpose of determining the amount of any blanket letter of credit
- 33 which the vendor or builder maintains in any calendar year, the total amount of
- 34 deposits considered held by a vendor or builder shall be determined as of May 31 of



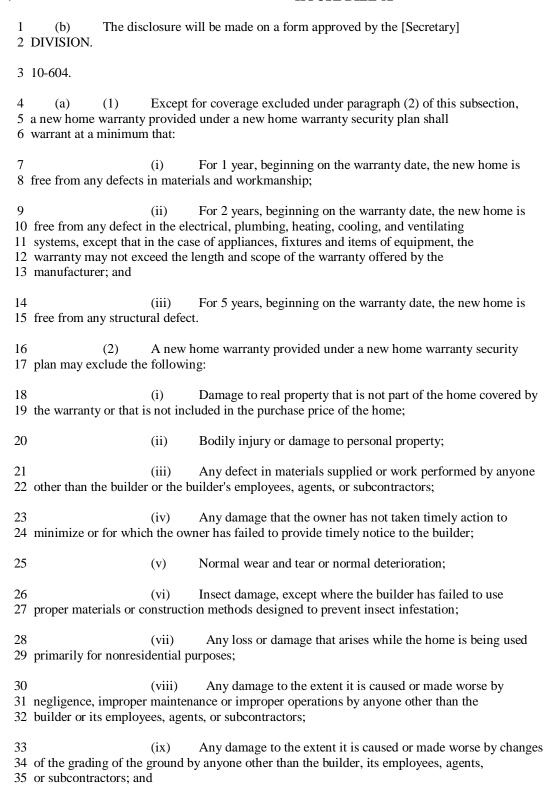
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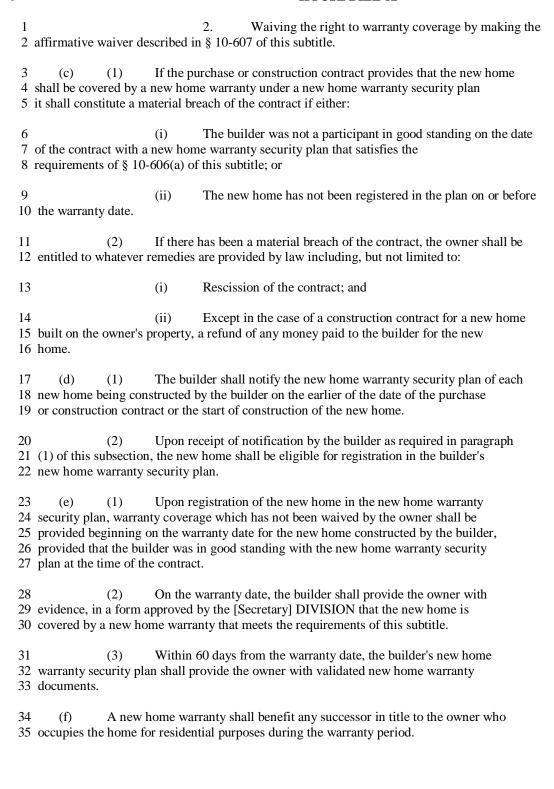
"Plumbing systems" means:

1		(6)	Walls ar	nd partitions;		
2		(7)	Floor sy	stems; and		
3		(8)	Roof fra	ming system.		
4 5	(h) Maryland su		urisdiction" means any county and any municipal corporation in ne provisions of Article XI-E of the Constitution.			
			res and s	ome" means every newly constructed private dwelling unit in tructure that are made a part of a newly constructed e of construction.		
9		(2)	"New ho	ome" does not include:		
	0 (i) Outbuildings, including detached garages and detached 1 carports, except outbuildings that contain plumbing, electrical, heating, cooling, or 2 ventilation systems serving the new home;					
13			(ii)	Driveways;		
14			(iii)	Walkways;		
15			(iv)	Patios and decks;		
16			(v)	Boundary walls;		
17 18	new home;		(vi)	Retaining walls not necessary for the structural stability of the		
19			(vii)	Landscaping;		
20			(viii)	Fences;		
21			(ix)	Off-site improvements;		
22			(x)	Appurtenant recreational facilities; and		
23			(xi)	Other similar items as determined by the Secretary.		
24 25	(j) builder that			anty" means a series of written promises made by a nents of this subtitle.		
26 27	(k) "New home warranty security plan" means a plan that meets the requirements of § 10-606 of this title.					
28 29	(l) "Owner" means the purchaser of a new home who uses the home primarily for residential purposes during the warranty period.					

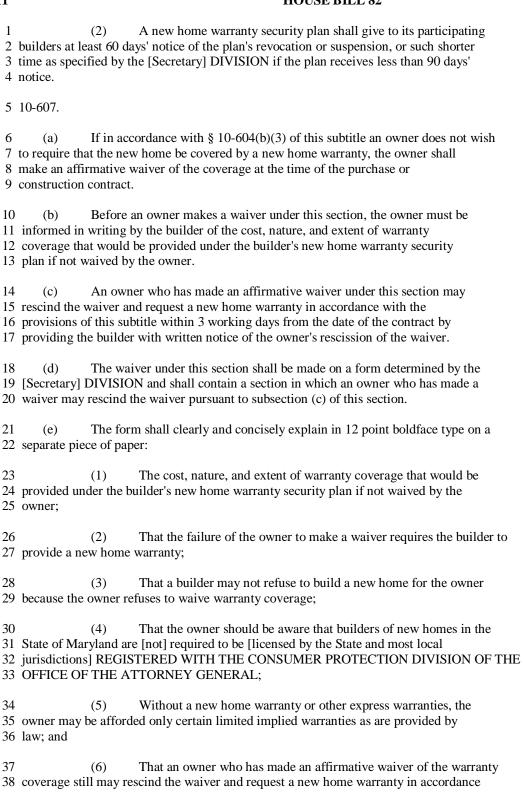
1		(1)	Gas sup	ply lines and fittings;
2		(2)	Water su	upply, waste, and vent pipes and their fittings;
3		(3)	Septic ta	anks and their drain fields; and
4 5	tie-in of a pu	(4) blic utilit	(i) ty connec	Water, gas, and sewer service piping and their extensions to the tion; or
6			(ii)	On-site wells and sewage disposal systems.
7 8	(n) the Secretary			ns the Secretary of Labor, Licensing, and Regulation or
11		is in serio	sely affec	ral defect" means any defect in the load-bearing portions of a ets its load-bearing function to the extent that the home er of becoming unsafe, unsanitary, or otherwise
13 14	lateral move	(2) ement of		ral defect" includes damage due to subsidence, expansion, or has been located or relocated by the builder.
15 16	the soil:	(3)	"Structu	ral defect" does not include damage caused by movement of
17			(i)	Resulting from a flood or earthquake; or
18			(ii)	For which compensation has been provided.
21	home, settle	n occupai	new home	aty date" means the first day that the owner occupies the new e, makes the final contract payment on the new home, it for the new home if the home is built on the owner's
23	10-602.			
24 25	(a) builder shall			into a contract for sale or construction of a new home, the g to the owner whether:
26 27	through whi	(1) ch:	The buil	lder participates in a new home warranty security plan
28 29	or		(i)	The builder must provide the owner with a new home warranty
30 31	the owner's	option; o	(ii) r	The builder may provide a new home warranty to the owner at
32 33	plan.	(2)	The buil	der does not participate in a new home warranty security



1		(x)	Any loss or damage caused by acts of God.
2 3	(b) A built		as disclosed that the builder participates in a new home
4 5	(1) contract:	Furnish	to the owner at the time of the purchase or construction
6 7	warranty security pl	(i) an;	The name and phone number of the builder's new home
8		(ii)	Details of the warranty coverage provided under the plan; and
9 10	evidence that:	(iii)	In a form to be determined by the [Secretary] DIVISION,
11 12	with a plan that sati	sfies the re	1. The builder currently is a participant in good standing equirements of § 10-606(a) of this subtitle; and
13 14	registered in the but	ilder's new	2. The new home is eligible for registration or has been home warranty security plan;
17 18	of any hazardous or methane, undergrou	ınd storage sed rubble	Disclose to the owner any actual knowledge that the builder has materials, including asbestos, lead-based paint, radon, e tanks, licensed landfills, unlicensed landfills, licensed fills, or other environmental hazards, present on the
			Disclose to the owner that the builder is making no as to whether there is any hazardous or regulated home; and
23	(3)	Either:	
24 25		(i) ome warran	Provide the new home with a new home warranty if the builder nty security plan that:
26 27	builder builds; or		1. Requires the builder to register every new home that the
28 29	but the builder has	decided to	2. Does not require the builder to register every new home sell the new home with a new home warranty; or
32		not to sell	If the builder belongs to a new home warranty security plan er to register every new home and the builder has not the new home with a new home warranty, give the
34 35		lder's new	1. Purchasing the new home with the new home warranty home warranty security plan; or



1	10-606.	
2	(a)	A new home warranty security plan shall:
3 4	warranted un	(1) Provide for the payment of claims against a builder for defects ler this subtitle;
5 6	authorized to	Be operated by a corporation, partnership, or other legal entity do business in Maryland;
		Demonstrate to the [Secretary] DIVISION that the plan will maintain rity to cover the total number of claims that the plan reasonably ll be filed against participating builders;
12 13	letter of cred [Secretary] l	File with the [Secretary] DIVISION a surety bond or an irrevocable t from a federally insured financial institution in an amount set by the IVISION, but not less than \$100,000, for the benefit of owners injured by the new home warranty security plan to pay claims as required under
		Provide within the new home warranty documents the performance t describe the builder's obligations for defects warranted under this
18 19		Provide for the mediation of disputes between an owner and a builder n will be paid by the builder's new home warranty security plan; and
20 21		(7) Meet any other requirements determined by the [Secretary] and be approved by the [Secretary] DIVISION.
22 23	` '	The [Secretary] DIVISION may revoke or suspend approval for a new ty security plan if the [Secretary] DIVISION determines that the plan:
24		(i) Is unable to meet its obligations under a new home warranty; or
25 26		(ii) Is administered in a manner that denies owners the warranty uired under this subtitle.
29 30 31	security plar construction new home w DIVISION,	Except for new homes that were registered in the new home warranty prior to the revocation or suspension and for which a purchase or contract has been executed, during the time period that approval for a arranty security plan is revoked or suspended by the [Secretary] he new home warranty security plan may not provide warranty coverage nomes built in Maryland.
35	period is need DIVISION S	Unless the [Secretary] DIVISION determines that a shorter notice ded to protect the interests of the builders and owners, the [Secretary] nall give a new home warranty security plan at least 90 days notice that y's] DIVISION'S approval of the plan is being revoked or suspended; and



- with the provisions of Title 10, Subtitle 6 of the Real Property Article, within 3
  working days from the date of the contract by providing the builder with written
  notice of the owner's rescission of the waiver.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
- 5 effect July 1, 2001.