

SENATE BILL 608

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2001 Regular Session  
1r2290  
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By: **Senator Kelley**  
Introduced and read first time: February 2, 2001  
Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Business Regulation - Maryland Home Builder Registration Act - Repeal of**  
3 **Lender Exemption**

4 FOR the purpose of repealing provisions of the Maryland Home Builder Registration  
5 Act that exempt certain lenders from complying with certain requirements of  
6 this Act.

7 BY repealing and reenacting, with amendments,  
8 Article - Business Regulation  
9 Section 4.5-101 and 4.5-501  
10 Annotated Code of Maryland  
11 (1998 Replacement Volume and 2000 Supplement)

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

14 **Article - Business Regulation**

15 4.5-101.

16 (a) In this title the following words have the meanings indicated.

17 (b) "Consumer" means an owner or a contract purchaser.

18 (c) "Contract purchaser" means a person who has entered into a contract with  
19 a home builder to purchase a new home, but who has not yet settled on the purchase  
20 of the new home.

21 (d) "Division" means the Consumer Protection Division of the Office of the  
22 Attorney General.

23 (e) ["Exempt lender" means a lender exempt from the requirements of  
24 registration as provided in § 4.5-501(c).

25 (f)] (1) "Home builder" means a person that undertakes to erect or otherwise  
26 construct a new home.

- 1                   (2)     "Home builder" includes:
- 2                   (i)       a custom home builder as defined in § 10-501 of the Real  
3 Property Article;
- 4                   (ii)       a new home builder subject to § 10-301 of the Real Property  
5 Article; and
- 6                   (iii)       the installer or retailer of a mobile home or an industrialized  
7 building intended for residential use.
- 8                   (3)     "Home builder" does not include:
- 9                   (i)       an employee of a registrant who does not hold himself or herself  
10 out for hire in home building except as an employee of a registrant;
- 11                   (ii)       subcontractors or other vendors hired by the registrant to  
12 perform services or supply materials for the construction of a new home who do not  
13 otherwise meet the requirements of this title;
- 14                   (iii)       the manufacturer of industrialized buildings intended for  
15 residential use or of mobile homes, unless the manufacturer also installs the  
16 industrialized buildings or mobile homes;
- 17                   (iv)       a real estate developer who does not construct homes;
- 18                   (v)       a financial institution that lends funds for the construction or  
19 purchase of residential dwellings in the State; or
- 20                   (vi)       a person who erects or constructs new homes solely in  
21 Montgomery County.
- 22     [(g)]     (F)     "Home builder registration number" means a registration number  
23 issued by the Director to a registrant under this title.
- 24     [(h)]     (G)     "Industrialized building" has the meaning stated in Article 83B, §  
25 6-202 of the Code.
- 26     [(i)]     (H)     "Install" has the meaning stated in Article 83B, § 6-202 of the Code.
- 27     [(j)]     (I)     "Mobile home" has the meaning stated in Article 83B, § 6-202 of the  
28 Code.
- 29     [(k)]     (J)     (1)     "New home" means each newly constructed residential dwelling  
30 unit in the State and the fixtures and structure that are made a part of a newly  
31 constructed private dwelling unit at the time of construction.
- 32                   (2)     "New home" includes:
- 33                   (i)       a custom home as defined in § 10-501(c) of the Real Property  
34 Article;

1 (ii) a new home to which § 10-301 of the Real Property Article  
2 applies;

3 (iii) an industrialized building intended for residential use; and

4 (iv) a mobile home.

5 [(l)] (K) (1) "Owner" means a person for whom a new home is built or to  
6 whom a new home is sold for occupation by:

7 (i) that person or the family of that person as a home; or

8 (ii) the successors of that person in title to the home or a mortgagor  
9 in possession.

10 (2) "Owner" includes a contract purchaser who contracts with a  
11 registrant for the construction and purchase of a new home.

12 (3) "Owner" does not include:

13 (i) a development company, association, or subsidiary company of a  
14 registrant; or

15 (ii) a person or organization to whom the home may be conveyed by  
16 the registrant for a purpose other than residential occupation by that person or  
17 organization.

18 [(m)] (L) "Principal" means:

19 (1) a sole proprietor, officer, director, general partner, or limited liability  
20 company manager of an applicant or registrant;

21 (2) a person with at least 10 percent ownership in an applicant or  
22 registrant or a subsidiary of an applicant or registrant; and

23 (3) parents, spouses, and children with a combined 10 percent ownership  
24 in an applicant or registrant or a subsidiary of an applicant or registrant.

25 [(n)] (M) "Registrant" means a person registered to build new homes.

26 [(o)] (N) "Registration Fund" means the Home Builder Registration Fund.

27 4.5-501.

28 (a) Except as otherwise provided in this title, a person may not act as, offer to  
29 act as, hold oneself out as, or impersonate a registrant in the State unless the person  
30 is a registrant.

31 (b) A person that violates this section is guilty of a misdemeanor and, on first  
32 conviction, is subject to a fine not exceeding \$1,000 and on second or subsequent  
33 conviction, is subject to a fine not exceeding \$5,000.

1 [(c) The following lenders are exempt from the requirements relating to  
2 registration under this title when the lender hires a second registered home builder  
3 who would undertake to complete a first home builder's unfinished project pursuant  
4 to a default in obligations of the first home builder to the lender:

5 (1) a mortgage lender as defined in § 11-501(j)(1)(ii) of the Financial  
6 Institutions Article that is a licensee under Title 11, Subtitle 5 of the Financial  
7 Institutions Article;

8 (2) a bank, trust company, savings bank, savings and loan association, or  
9 credit union incorporated or chartered under the laws of this State or the United  
10 States that maintains its principal office in this State;

11 (3) an out-of-state bank as defined in § 5-1001 of the Financial  
12 Institutions Article that has a branch in this State that accepts deposits;

13 (4) an institution incorporated under federal law as a savings association  
14 or savings bank that does not maintain its principal office in this State but has a  
15 branch that accepts deposits in this State; and

16 (5) a subsidiary or affiliate of an institution described in paragraph (2),  
17 (3), or (4) of this subsection that is subject to audit or examination by a regulatory  
18 body or agency of this State, the United States, or the state where the subsidiary or  
19 affiliate maintains its principal office.

20 (d) An exempt lender is subject only to §§ 4.5-202(c), 4.5-401, 4.5-503,  
21 4.5-601, 4.5-602, and 4.5-603 of this title.]

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2001.