

# SENATE BILL 334

N1

11r1364  
CF 11r2131

---

By: **Senators Kelley and Frosh**

Introduced and read first time: February 2, 2011

Assigned to: Judicial Proceedings

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Deposits on New Homes – Escrow Accounts**

3 FOR the purpose of clarifying the circumstances under which a vendor or builder of a  
4 new single-family residential unit is required to deposit certain money in a  
5 certain escrow account or obtain and maintain a certain surety bond or  
6 irrevocable letter of credit; clarifying the circumstances under which the  
7 vendor's or builder's obligation to maintain an escrow account, surety bond, or  
8 letter of credit terminates; authorizing the vendor or builder to make  
9 withdrawals from an escrow account under certain circumstances; establishing  
10 that any sum of money received by a vendor or builder in connection with the  
11 sale and purchase of a new single-family residential unit shall be held in trust  
12 for the benefit of the purchaser; establishing that certain payments shall be  
13 consistent with the trust; and generally relating to deposits on new homes.

14 BY repealing and reenacting, with amendments,  
15 Article – Real Property  
16 Section 10–301 and 10–301.1  
17 Annotated Code of Maryland  
18 (2010 Replacement Volume and 2010 Supplement)

19 BY adding to  
20 Article – Real Property  
21 Section 10–301.1  
22 Annotated Code of Maryland  
23 (2010 Replacement Volume and 2010 Supplement)

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

26 **Article – Real Property**

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 10-301.

2 (a) If, in connection with the sale and purchase of a new single-family  
3 residential unit [which], **THE CONSTRUCTION OF WHICH HAS NOT BEGUN OR, IF**  
4 **BEGUN**, is not completed at the time of contracting the sale, the vendor or builder  
5 obligates the purchaser to pay and the vendor or builder receives any sum of money  
6 before completion of the unit and grant of the realty to the purchaser, the builder or  
7 vendor shall:

8 (1) Deposit or hold the sum in an escrow account segregated from all  
9 other funds of the vendor or builder to assure the return of the sum to the purchaser in  
10 the event the purchaser becomes entitled to a return of the sum;

11 (2) Obtain and maintain a corporate surety bond in the form and in  
12 the amounts set forth in § 10-302 of this subtitle, conditioned on the return of the sum  
13 to the purchaser in the event the purchaser becomes entitled to the return of the  
14 money; or

15 (3) Obtain and maintain an irrevocable letter of credit issued by a  
16 Maryland bank in the form and in the amounts set forth in § 10-303 of this subtitle.

17 (b) (1) **[The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
18 **SUBSECTION, THE** vendor or builder shall maintain the escrow account, surety bond,  
19 or irrevocable letter of credit until the happening of the earlier of:

20 [(1)] (I) The granting of a deed to the property on which [the] A  
21 **COMPLETED** residential unit is located to the purchaser;

22 [(2)] (II) The return of the sum of money to the purchaser; or

23 [(3)] (III) The forfeiture of the sum by the purchaser, under the terms  
24 of the contract of sale relating to the purchase of the residential unit.

25 (2) **THE VENDOR OR BUILDER MAY MAKE WITHDRAWALS FROM**  
26 **AN ESCROW ACCOUNT ESTABLISHED UNDER SUBSECTION (A)(1) OF THIS**  
27 **SECTION TO PAY, IN ACCORDANCE WITH A DRAW SCHEDULE AGREED TO BY THE**  
28 **PURCHASER, DOCUMENTED CLAIMS OF PERSONS WHO HAVE FURNISHED LABOR**  
29 **OR MATERIAL FOR THE CONSTRUCTION OF THE RESIDENTIAL UNIT.**

30 **10-301.1.**

31 (A) **ANY SUM OF MONEY RECEIVED BY A VENDOR OR BUILDER IN**  
32 **CONNECTION WITH THE SALE AND PURCHASE OF A NEW SINGLE-FAMILY**  
33 **RESIDENTIAL UNIT SHALL BE HELD IN TRUST FOR THE BENEFIT OF THE**  
34 **PURCHASER.**

1           **(B) ANY PAYMENTS MADE FOR LABOR OR MATERIAL IN CONNECTION**  
2 **WITH THE CONSTRUCTION OF THE RESIDENTIAL UNIT SHALL BE CONSISTENT**  
3 **WITH THE TRUST.**

4 **[10-301.1.] 10-301.2.**

5           (a) A vendor or builder may deposit trust moneys in:

6                   (1) A noninterest bearing checking account;

7                   (2) One or more savings accounts; or

8                   (3) Any combination of accounts in any bank or savings and loan  
9 association authorized by federal or State law to do business in the State.

10           (b) Trust moneys in the hands of the vendor or builder may be invested in  
11 any other investment vehicle specified by the client or beneficial owner or as they and  
12 the licensee may agree.

13           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2011.