

# HOUSE BILL 1038

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CF SB 655

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By: **Delegates Niemann and Barnes**

Introduced and read first time: February 6, 2014

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Requirements for New Home Sales Contracts – Clarification**  
3 **of Terms**

4 FOR the purpose of altering certain terms in certain provisions of law concerning a  
5 contract for the initial sale of a new home in order to conform to certain  
6 provisions of the Maryland Home Builder Registration Act; making stylistic  
7 changes; defining certain terms; and generally relating to clarifying terms used  
8 in requirements for new home sales contracts.

9 BY repealing and reenacting, without amendments,  
10 Article – Business Regulation  
11 Section 4.5–101(a), (c), (g), (h), and (m), 4.5–202(c), and 4.5–801  
12 Annotated Code of Maryland  
13 (2010 Replacement Volume and 2013 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article – Real Property  
16 Section 14–117(j)  
17 Annotated Code of Maryland  
18 (2010 Replacement Volume and 2013 Supplement)

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

21 **Article – Business Regulation**

22 4.5–101.

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

4 (g) (1) "Home builder" means a person that undertakes to erect or  
5 otherwise construct a new home.

6 (2) "Home builder" includes:

7 (i) a custom home builder as defined in § 10-501 of the Real  
8 Property Article;

9 (ii) a new home builder subject to § 10-301 of the Real Property  
10 Article;

11 (iii) the installer or retailer of a mobile home or an industrialized  
12 building intended for residential use; and

13 (iv) a person that enters into a contract with a consumer under  
14 which the person agrees to provide the consumer with a new home.

15 (3) "Home builder" does not include:

16 (i) an employee of a registrant who does not hold himself or  
17 herself out for hire in home building except as an employee of a registrant;

18 (ii) subcontractors or other vendors hired by the registrant to  
19 perform services or supply materials for the construction of a new home who do not  
20 otherwise meet the requirements of this title;

21 (iii) the manufacturer of industrialized buildings intended for  
22 residential use or of mobile homes, unless the manufacturer also installs the  
23 industrialized buildings or mobile homes;

24 (iv) a real estate developer who does not construct, or enter into  
25 contracts with consumers to provide or construct, homes;

26 (v) a financial institution that lends funds for the construction  
27 or purchase of residential dwellings in the State;

28 (vi) except as otherwise provided in this title, a person who  
29 erects or constructs new homes solely in Montgomery County; or

30 (vii) a buyer's agent, as defined in § 17-530 of the Business  
31 Occupations and Professions Article, when representing a prospective buyer in the  
32 purchase of a new home.

1 (h) "Home builder registration number" means a registration number issued  
2 by the Unit to a registrant under this title.

3 (m) (1) "New home" means each newly constructed residential dwelling  
4 unit in the State and the fixtures and structure that are made a part of a newly  
5 constructed private dwelling unit at the time of construction.

6 (2) "New home" includes:

7 (i) a custom home as defined in § 10-501(c) of the Real Property  
8 Article;

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

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

12 (iv) a mobile home.

13 4.5-202.

14 (c) (1) In consultation with the home building industry, the Unit shall  
15 develop a consumer information pamphlet written in plain English that describes:

16 (i) the rights and remedies of consumers in the purchase of a  
17 new home; and

18 (ii) any other information that the Division considers reasonably  
19 necessary to assist consumers.

20 (2) The Division shall provide each registered home builder with a  
21 sufficient number of copies of the consumer information pamphlets as needed by the  
22 home builder.

23 (3) A home builder shall provide each contract purchaser with the  
24 consumer information pamphlet before entering into a contract for the initial sale of a  
25 new home.

26 (4) The contract purchaser shall acknowledge in writing the receipt of  
27 the consumer information pamphlet.

28 (5) The failure of a home builder to provide a copy of the consumer  
29 information pamphlet to a contract purchaser may not be used as a basis for  
30 invalidation of the contract for the initial sale of a new home.

31 4.5-801.

1 This title may be cited as the Maryland Home Builder Registration Act.

2 **Article – Real Property**

3 14–117.

4 (j) **(1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE**  
5 **THE MEANINGS INDICATED.**

6 **(II) “CONTRACT PURCHASER” HAS THE MEANING STATED IN**  
7 **§ 4.5–101 OF THE BUSINESS REGULATION ARTICLE.**

8 **(III) “HOME BUILDER” HAS THE MEANING STATED IN §**  
9 **4.5–101 OF THE BUSINESS REGULATION ARTICLE.**

10 **(IV) “HOME BUILDER REGISTRATION NUMBER” HAS THE**  
11 **MEANING STATED IN § 4.5–101 OF THE BUSINESS REGULATION ARTICLE.**

12 **(V) “NEW HOME” HAS THE MEANING STATED IN § 4.5–101**  
13 **OF THE BUSINESS REGULATION ARTICLE.**

14 **[(1)] (2)** This subsection applies to Baltimore City and all other  
15 counties except Montgomery County.

16 **[(2)] (3)** A contract for the initial sale of a new home[, as defined in  
17 the Maryland Home Builder Registration Act,] shall include the following:

18 (i) The **HOME** builder registration number of the [seller] **HOME**  
19 **BUILDER** of the new home;

20 (ii) A provision stating that the new home shall be constructed  
21 in accordance with all applicable building codes in effect at the time of the  
22 construction of the new home;

23 (iii) A provision referencing all performance standards or  
24 guidelines:

25 1. That the [seller] **HOME BUILDER** shall comply with  
26 in the construction of the new home; and

27 2. That shall prevail in the performance of the contract  
28 and any arbitration or adjudication of a claim arising from the contract; and

1 (iv) A provision detailing the **CONTRACT** purchaser's right to  
2 receive a consumer information pamphlet as provided under the **MARYLAND** Home  
3 Builder Registration Act.

4 ~~[(3)]~~ **(4)** The performance standards or guidelines described in  
5 paragraph ~~[(2)]~~ **(3)** of this subsection shall be:

6 (i) The performance standards or guidelines adopted at the  
7 time of the contract:

8 1. By the National Association of Home Builders; or

9 2. Under the federal National Manufactured Housing  
10 Construction and Safety Standards Act, to the extent applicable;

11 (ii) Any performance standards or guidelines adopted by the  
12 home builder and incorporated into the contract that are equal to or more stringent  
13 than the performance standards or guidelines adopted at the time of the contract:

14 1. By the National Association of Home Builders; or

15 2. Under the federal National Manufactured Housing  
16 Construction and Safety Standards Act, to the extent applicable; or

17 (iii) Any performance standards or guidelines adopted at the  
18 time of the contract by a county or municipal corporation that are equal to or more  
19 stringent than the performance standards or guidelines adopted at the time of the  
20 contract:

21 1. By the National Association of Home Builders; or

22 2. Under the federal National Manufactured Housing  
23 Construction and Safety Standards Act, to the extent applicable.

24 ~~[(4)]~~ **(5)** The information required by paragraph ~~[(2)]~~ **(3)** of this  
25 subsection shall be printed in conspicuous type.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 2014.