

HOUSE BILL 1102

C2

9lr2671

By: **Delegates Reilly, Hornberger, and McComas**

Introduced and read first time: February 8, 2019

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Home Improvement Commission – Contractors and Subcontractors –**
3 **License Suspension and Permits**

4 FOR the purpose of requiring the Maryland Home Improvement Commission to suspend
5 the license of a certain licensee if the licensee is found liable for failing to pay a
6 subcontractor, subject to certain hearing provisions; requiring the license of a certain
7 licensee to remain suspended until the licensee pays a certain amount of a judgment;
8 prohibiting a licensed contractor from surrendering a certain license or allowing a
9 certain license to lapse while the licensee is under a certain suspension except under
10 certain circumstances; prohibiting the building and permits department of a county
11 or a municipal corporation from transferring or releasing a certain permit on receipt
12 of a certain statement; providing for the contents of a certain statement; authorizing
13 the building and permits department of a county or a municipal corporation to
14 transfer or release a certain permit on receipt of a certain authorization or after the
15 withdrawal of a certain statement by a certain individual; requiring a certain
16 department to develop and make available to the public a certain form; making
17 conforming changes; and generally relating to licenses and permits for contractors
18 and subcontractors.

19 BY repealing and reenacting, without amendments,
20 Article – Business Regulation
21 Section 8–301(a)
22 Annotated Code of Maryland
23 (2015 Replacement Volume and 2018 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – Business Regulation
26 Section 8–311 and 8–504
27 Annotated Code of Maryland
28 (2015 Replacement Volume and 2018 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Business Regulation
3 Section 8–311.1
4 Annotated Code of Maryland
5 (2015 Replacement Volume and 2018 Supplement)

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

8 **Article – Business Regulation**

9 8–301.

10 (a) Except as otherwise provided in this title, a person must have a contractor
11 license whenever the person acts as a contractor in the State.

12 8–311.

13 (a) Subject to the hearing provisions of § 8–312 of this subtitle, the Commission
14 may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if
15 the applicant or licensee or the management personnel of the applicant or licensee:

16 (1) fraudulently or deceptively obtains or attempts to obtain a license for
17 the applicant or licensee or for another person;

18 (2) fraudulently or deceptively uses a license;

19 (3) fails to give the Commission information required by this subtitle about
20 an application for a license;

21 (4) fails to pass an examination required by this subtitle;

22 (5) under the laws of the United States or of any state, is convicted of a:

23 (i) felony; or

24 (ii) misdemeanor that is directly related to the fitness and
25 qualification of the applicant or licensee to engage in home improvement services;

26 (6) often fails to perform home improvement contracts;

27 (7) falsifies an account;

28 (8) engages in fraud;

29 (9) as a contractor fails to show financial solvency, based on the intended
30 scope and size of the business in relation to total assets, liabilities, credit rating, and net

1 worth;

2 (10) as a contractor lacks competence, as shown by the performance of an
3 unworkmanlike, inadequate, or incomplete home improvement;

4 (11) violates this title;

5 (12) attempts to violate this title;

6 (13) violates a regulation adopted under this title; or

7 (14) in the Chesapeake and Atlantic Coastal Bays Critical Area, as defined
8 under § 8–1802 of the Natural Resources Article, fails to comply with:

9 (i) the terms of a State or local permit, license, or approval issued
10 for home improvement; or

11 (ii) any State or local law, an approved plan, or other legal
12 requirement.

13 (b) Subject to the hearing provisions of § 8–312 of this subtitle, the Commission
14 may reprimand a contractor or suspend or revoke the license of a contractor for a violation
15 of this title by an agent, director, employee, manager, officer, partner, or salesperson of the
16 contractor, unless the Commission finds that the contractor or management personnel of
17 the contractor:

18 (1) had no knowledge of the wrongful conduct; or

19 (2) could not prevent the violation.

20 **(C) (1) SUBJECT TO THE HEARING PROVISIONS OF § 8–312 OF THIS**
21 **SUBTITLE, THE COMMISSION SHALL SUSPEND THE LICENSE OF A LICENSEE WHO IS**
22 **FOUND LIABLE IN A CIVIL ACTION FOR FAILING TO PAY A SUBCONTRACTOR.**

23 **(2) A LICENSE SUSPENDED UNDER THIS SUBSECTION SHALL REMAIN**
24 **SUSPENDED UNTIL THE LICENSEE PAYS THE TOTAL AMOUNT OF THE JUDGMENT.**

25 **[(c)] (D)** Instead of or in addition to reprimanding a licensee or suspending or
26 revoking a license, the Commission may impose a civil penalty under § 8–620 of this title.

27 **[(d)] (E)** The Commission shall consider the following facts in the granting,
28 denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when
29 an applicant or licensee is convicted of a felony or misdemeanor described in subsection
30 (a)(5) of this section:

31 (1) the nature of the crime;

- 1 (2) the relationship of the crime to the activities authorized by the license;
- 2 (3) with respect to a felony, the relevance of the conviction to the fitness
3 and qualification of the applicant or licensee to provide home improvement services;
- 4 (4) the length of time since the conviction; and
- 5 (5) the behavior and activities of the applicant or licensee before and after
6 the conviction.

7 **8-311.1.**

8 **UNLESS THE COMMISSION AGREES TO ACCEPT THE SURRENDER OF A**
9 **LICENSE, A LICENSED CONTRACTOR MAY NOT SURRENDER THE LICENSE NOR MAY**
10 **THE LICENSE LAPSE BY OPERATION OF LAW WHILE THE LICENSEE IS UNDER**
11 **SUSPENSION UNDER § 8-311(C) OF THIS SUBTITLE.**

12 **8-504.**

13 **(A)** Except for a permit for a home improvement to be performed by a property
14 owner, the building and permits department of a county or a municipal corporation may
15 not issue a permit for a home improvement unless the permit includes the license number
16 of a licensed contractor.

17 **(B) (1) THE BUILDING AND PERMITS DEPARTMENT OF A COUNTY OR A**
18 **MUNICIPAL CORPORATION MAY NOT TRANSFER OR RELEASE A PERMIT ISSUED TO A**
19 **SUBCONTRACTOR ON RECEIPT OF A STATEMENT OF CONTRACTOR BREACH FROM**
20 **THE SUBCONTRACTOR.**

21 **(2) A STATEMENT OF CONTRACTOR BREACH UNDER PARAGRAPH (1)**
22 **OF THIS SUBSECTION SHALL:**

23 **(I) BE ON A FORM PRESCRIBED BY THE DEPARTMENT;**

24 **(II) INCLUDE A SIGNED AFFIDAVIT BY THE SUBCONTRACTOR**
25 **ALLEGING A BREACH OF CONTRACT BY A LICENSED CONTRACTOR FOR FAILURE TO**
26 **PAY THE SUBCONTRACTOR WITNESSED AND ACKNOWLEDGED BY A NOTARY PUBLIC**
27 **APPOINTED AND COMMISSIONED BY THE STATE; AND**

28 **(III) INCLUDE THE FOLLOWING INFORMATION:**

29 **1. NAME, LICENSE NUMBER, AND CONTACT**
30 **INFORMATION OF THE CONTRACTOR;**

1 **2. NAME, LICENSE NUMBER, AND CONTACT**
2 **INFORMATION OF THE SUBCONTRACTOR;**

3 **3. BUILDING NUMBER ASSIGNED BY THE DEPARTMENT**
4 **FOR THE PROJECT FOR WHICH THE SUBCONTRACTOR'S PERMIT WAS ISSUED;**

5 **4. AMOUNT OF PAYMENT OWED AND DATE OF LAST**
6 **PAYMENT BY THE CONTRACTOR;**

7 **5. AN ATTESTATION THAT THE SUBCONTRACTOR HAS**
8 **COMPLIED WITH THE TERMS OF THE CONTRACT;**

9 **6. AN ATTESTATION THAT THE SUBCONTRACTOR HAS**
10 **PROVIDED THE CONTRACTOR WITH A COPY OF THE STATEMENT OF CONTRACTOR**
11 **BREACH; AND**

12 **7. ANY OTHER RELEVANT INFORMATION AS**
13 **DETERMINED BY THE DEPARTMENT.**

14 **(C) (1) THE BUILDING AND PERMITS DEPARTMENT OF A COUNTY OR A**
15 **MUNICIPAL CORPORATION MAY TRANSFER OR RELEASE A PERMIT SUSPENDED**
16 **UNDER SUBSECTION (B) OF THIS SECTION:**

17 **(I) ON RECEIPT OF AN AUTHORIZATION TO RELEASE A**
18 **SUSPENDED PERMIT SIGNED BY THE SUBCONTRACTOR AND THE CONTRACTOR**
19 **NAMED IN THE STATEMENT OF CONTRACTOR BREACH, WITNESSED AND**
20 **ACKNOWLEDGED BY A NOTARY PUBLIC APPOINTED AND COMMISSIONED BY THE**
21 **STATE; OR**

22 **(II) ON THE VOLUNTARY WITHDRAWAL OF A STATEMENT OF**
23 **CONTRACTOR BREACH BY THE SUBCONTRACTOR WHO FILED THE STATEMENT.**

24 **(2) EACH BUILDING AND PERMITS DEPARTMENT OF A COUNTY OR A**
25 **MUNICIPAL CORPORATION SHALL DEVELOP AND MAKE AVAILABLE TO THE PUBLIC**
26 **AN AUTHORIZATION TO RELEASE A SUSPENDED PERMIT FORM.**

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2019.