

SENATE BILL 1016

C2, I3

0lr3505
CF HB 1290

By: **Senator Feldman**

Introduced and read first time: February 12, 2020

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Home Improvement Contractors – Home Improvement**
3 **Contracts**

4 FOR the purpose of authorizing, under certain circumstances, certain home improvement
5 contractors to obtain the full contract price of a home improvement contract by
6 posting an irrevocable letter of credit in a certain amount; authorizing certain
7 owners to file a complaint with the Division of Consumer Protection in the Office of
8 the Attorney General under certain circumstances; requiring the Division to notify
9 the contractor, investigate a certain complaint, and make certain determinations
10 under certain circumstances; authorizing the Division to draw on a certain letter of
11 credit under certain circumstances; prohibiting a certain contractor from posting a
12 certain letter of credit for a certain period of time under certain circumstances;
13 providing the Division with the power to investigate a certain contractor and draw
14 on a certain letter of credit in accordance with a certain provision of law; defining
15 certain terms; and generally relating to home improvement contractors and home
16 improvement contracts.

17 BY adding to
18 Article – Business Regulation
19 Section 8–501.1
20 Annotated Code of Maryland
21 (2015 Replacement Volume and 2019 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Business Regulation
24 Section 8–617
25 Annotated Code of Maryland
26 (2015 Replacement Volume and 2019 Supplement)

27 BY repealing and reenacting, without amendments,
28 Article – Commercial Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 13–201
2 Annotated Code of Maryland
3 (2013 Replacement Volume and 2019 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article – Commercial Law
6 Section 13–204(a)(14) and (15)
7 Annotated Code of Maryland
8 (2013 Replacement Volume and 2019 Supplement)

9 BY adding to
10 Article – Commercial Law
11 Section 13–204(a)(16)
12 Annotated Code of Maryland
13 (2013 Replacement Volume and 2019 Supplement)

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

16 **Article – Business Regulation**

17 **8–501.1.**

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

20 (2) “CONTRACTOR” INCLUDES A HOME IMPROVEMENT RETAILER
21 THAT EMPLOYS OR CONTRACTS WITH A CONTRACTOR.

22 (3) “DIVISION” MEANS THE DIVISION OF CONSUMER PROTECTION IN
23 THE OFFICE OF THE ATTORNEY GENERAL.

24 (B) (1) A CONTRACTOR MAY OBTAIN THE FULL CONTRACT PRICE BEFORE
25 OR AT THE TIME OF EXECUTION OF A HOME IMPROVEMENT CONTRACT IF THE
26 CONTRACTOR POSTS AN IRREVOCABLE LETTER OF CREDIT, PAYABLE TO THE
27 DIVISION, IN AN AMOUNT EQUAL TO \$100,000 PER HOME IMPROVEMENT CONTRACT
28 BUT NOT EXCEEDING \$2,000,000.

29 (2) IN THE EVENT OF A DISPUTE WITH A CONTRACTOR, AN OWNER
30 MAY FILE A COMPLAINT WITH THE DIVISION AGAINST THE CONTRACTOR AND
31 REQUEST THAT THE DIVISION DRAW ON THE CONTRACTOR’S LETTER OF CREDIT.

32 (3) ON RECEIPT OF A COMPLAINT, THE DIVISION SHALL:

33 (I) NOTIFY THE CONTRACTOR;

1 (II) INVESTIGATE THE COMPLAINT; AND

2 (III) DETERMINE IF THE CONTRACTOR IS IN DEFAULT OF THE
3 CONTRACT.

4 (4) (I) IF THE DIVISION DETERMINES THAT THE CONTRACTOR IS
5 IN DEFAULT OF THE CONTRACT, THE DIVISION MAY, AFTER PROVIDING NOTICE TO
6 THE CONTRACTOR, DRAW ON THE LETTER OF CREDIT TO SATISFY A CONSUMER'S
7 COMPLAINT.

8 (II) IF THE DIVISION DRAWS ON A LETTER OF CREDIT AT LEAST
9 TWO TIMES WITHIN A 2-YEAR PERIOD, THE CONTRACTOR SHALL BE PROHIBITED
10 FROM POSTING AN IRREVOCABLE LETTER OF CREDIT UNDER THIS SECTION FOR 5
11 YEARS.

12 8-617.

13 (a) A person may not demand or receive any payment for a home improvement
14 before the home improvement contract is signed.

15 (b) [A] EXCEPT AS PROVIDED IN § 8-501.1 OF THIS TITLE, A person may not
16 receive a deposit of more than one-third of the home improvement contract price before or
17 at the time of execution of the home improvement contract.

18 **Article – Commercial Law**

19 13-201.

20 There is a Division of Consumer Protection in the Office of the Attorney General.
21 The Division shall administer this subtitle.

22 13-204.

23 (a) In addition to any other of its powers and duties, the Division has the powers
24 and duties to:

25 (14) Maintain a list of nonprofit organizations that:

26 (i) Solely offer counseling or advice to homeowners in foreclosure or
27 loan default; and

28 (ii) Are not directly or indirectly related to and do not contract for
29 services with for-profit lenders or foreclosure purchasers, as defined in § 7-301 of the Real
30 Property Article; [and]

1 (15) (i) Bring a civil action for damages against a person who violates §
2 8–801 of the Criminal Law Article on behalf of a victim of the offense or, if the victim is
3 deceased, the victim’s estate;

4 (ii) Recover damages under this item for property loss or damage;
5 and

6 (iii) If the Division prevails in an action brought under this item,
7 recover the costs of the action for the use of the Office of the Attorney General; AND

8 **(16) INVESTIGATE, IN ACCORDANCE WITH § 8–501.1 OF THE BUSINESS**
9 **REGULATION ARTICLE, A CONTRACTOR WHO DRAWS ON A LETTER OF CREDIT**
10 **POSTED BY THE CONTRACTOR.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2020.