

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL NO. 811

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 6, after "General;" insert "providing that certain lenders are exempt from registration;"; and in line 16, strike "the home building industry" and substitute "certain industries".

On page 2, in line 4, strike "certain counties" and substitute "Montgomery County".

AMENDMENT NO. 2

On page 4, after line 15, insert:

"(D) "CONSUMER" MEANS AN OWNER OR A CONTRACT PURCHASER.

"(E) "CONTRACT PURCHASER" MEANS A PERSON WHO HAS ENTERED INTO A CONTRACT WITH A HOME BUILDER TO PURCHASE A NEW HOME, BUT WHO HAS NOT YET SETTLED ON THE PURCHASE OF THE NEW HOME.";

in lines 16, 18, 21, and 22, strike "(D)", "(E)", "(F)", and "(G)", respectively, and substitute "(F)", "(H)", "(I)", and "(J)", respectively; after line 17, insert:

"(G) "EXEMPT LENDER" MEANS A LENDER EXEMPT FROM THE REQUIREMENTS OF REGISTRATION AS PROVIDED IN § 14-2902(C) OF THIS SUBTITLE.";

in line 28, strike "MANUFACTURED HOMES" and substitute ", RETAILS, OR BROKERS NEW INDUSTRIALIZED BUILDINGS INTENDED FOR RESIDENTIAL USE"; in the same line, after "OR" insert "NEW"; in line 32, after "SUBTITLE" insert "OR IS AN EXEMPT LENDER"; and in line 33, strike "HOMEBUILDER" and substitute "HOME BUILDER OR EXEMPT LENDER".

On page 5, in lines 5 and 7, in each instance, strike "MANUFACTURED HOMES" and

(Over)

substitute "INDUSTRIALIZED BUILDINGS"; in lines 12, 15, 20, 25, and 31, strike "(H)", "(I)", "(K)", "(L)", and "(M)", respectively, and substitute "(K)", "(M)", "(N)", "(O)", and "(P)", respectively; after line 14, insert:

"(L) "INDUSTRIALIZED BUILDING" HAS THE MEANING STATED IN ARTICLE 83B, § 6-202 OF THE CODE.";

and strike in their entirety lines 17 through 19, inclusive.

AMENDMENT NO. 3

On page 6, in line 3, strike "MAY BE" and substitute "IS"; in line 5, strike "(N)" and substitute "(Q)"; strike beginning with "ALL" in line 6 down through "MANAGERS" in line 7 and substitute "EACH OFFICER, DIRECTOR, GENERAL PARTNER, AND LIMITED LIABILITY COMPANY MANAGER"; in line 13, after "(A)" insert "EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,"; in line 16, after "(B)" insert "EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,"; and after line 19, insert:

"(C) THE FOLLOWING LENDERS ARE EXEMPT FROM THE REQUIREMENTS RELATING TO REGISTRATION UNDER THIS SUBTITLE WHEN THE LENDER UNDERTAKES TO COMPLETE A HOME BUILDER'S UNFINISHED PROJECT PURSUANT TO A DEFAULT IN OBLIGATIONS OF THE HOME BUILDER TO THE LENDER:

(1) A MORTGAGE LENDER AS DEFINED IN § 11-501(J)(1)(II) OF THE FINANCIAL INSTITUTIONS ARTICLE THAT IS A LICENSEE UNDER TITLE 11, SUBTITLE 5 OF THE FINANCIAL INSTITUTIONS ARTICLE;

(2) A BANK, TRUST COMPANY, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, OR CREDIT UNION INCORPORATED OR CHARTERED UNDER THE LAWS OF THIS STATE OR THE UNITED STATES THAT MAINTAINS ITS PRINCIPAL OFFICE IN THIS STATE;

(3) AN OUT-OF-STATE BANK AS DEFINED IN § 5-1001 OF THE FINANCIAL INSTITUTIONS ARTICLE THAT HAS A BRANCH IN THIS STATE THAT ACCEPTS DEPOSITS;

(4) AN INSTITUTION INCORPORATED UNDER FEDERAL LAW AS A SAVINGS ASSOCIATION OR SAVINGS BANK THAT DOES NOT MAINTAIN ITS PRINCIPAL OFFICE IN THIS STATE BUT HAS A BRANCH THAT ACCEPTS DEPOSITS IN THIS STATE; AND

(5) A SUBSIDIARY OR AFFILIATE OF AN INSTITUTION DESCRIBED IN PARAGRAPH (2), (3), OR (4) OF THIS SUBSECTION THAT IS SUBJECT TO AUDIT OR EXAMINATION BY A REGULATORY BODY OR AGENCY OF THIS STATE, THE UNITED STATES, OR THE STATE WHERE THE SUBSIDIARY OR AFFILIATE MAINTAINS ITS PRINCIPAL OFFICE.

(D) AN EXEMPT LENDER IS SUBJECT ONLY TO §§ 14-2908, 14-2909, 14-2910, 14-2911, 14-2912, 14-2913, 14-2915, AND 14-2916 OF THIS SUBTITLE.”.

On page 7, in line 17, strike “ANY” and substitute “ALL SUCH”.

On page 9, in line 5, strike “SUBSECTION (C)” and substitute “SUBSECTIONS (C) AND (D)”; after line 19, insert:

“(D) A COUNTY OR MUNICIPAL CORPORATION MAY ISSUE A BUILDING PERMIT REQUESTED BY AN EXEMPT LENDER WITHOUT A BUILDER REGISTRATION NUMBER.”;

in line 28, after “INDUSTRY” insert “, THE INDUSTRIALIZED BUILDING INDUSTRY, AND THE MOBILE HOME INDUSTRY”; and in line 34, after “CONSUMERS” insert “IN CONNECTION WITH THE PURCHASE OF A NEW HOME”.

AMENDMENT NO. 4

On page 10, in line 22, strike “KNOWINGLY AND INTENTIONALLY”; in line 23, after “(1)” insert “KNOWINGLY AND INTENTIONALLY”; in line 29, after “(4)” insert “KNOWINGLY AND INTENTIONALLY”; in line 31, after “(5)” insert “KNOWINGLY AND INTENTIONALLY”; in line 32, after “NUMBER” insert “UNLESS THE SELLER IS AN EXEMPT LENDER”; and in

(Over)

line 36, strike "LOCAL" and substitute "MUNICIPAL, COUNTY,".

AMENDMENT NO. 5

On page 11, in line 2, strike "HOMEBUILDER" and substitute "HOME BUILDER".

On page 12, in line 4, after "BUILDER" insert "WHOSE APPLICATION OR RENEWAL IS THEN UNDER CONSIDERATION BY THE CHIEF"; and in line 20, after the second "HOME" insert "AS SET FORTH IN THE CONTRACT".

On page 13, in line 10, strike "PREVAIL" and substitute "APPLY"; strike in their entirety lines 12 through 14, inclusive, and substitute:

"(E) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRARY, AT ANY TIME BEFORE FILING A COMPLAINT UNDER SUBSECTION (A) OF THIS SECTION, A CONSUMER MAY REQUEST THAT AN ALLEGED DISPUTE BETWEEN THE CONSUMER AND A HOME BUILDER THAT MEETS THE REQUIREMENTS OF SUBSECTION (A)(1) THROUGH (3) OF THIS SECTION OR § 13-301 OF THIS ARTICLE, BE SUBMITTED TO THE CONCILIATION PROCESS AVAILABLE THROUGH THE DIVISION SET FORTH IN § 13-402 OF THIS ARTICLE.

(2) THE FILING OF A COMPLAINT BY THE CONSUMER UNDER § 13-401 OF THIS ARTICLE IS NOT A PREREQUISITE TO A CONSUMER INVOKING THE CONCILIATION PROCESS UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) THE RESULT OF A CONCILIATION PROCESS:

(I) MAY NOT BE DEEMED AS A COMPLAINT FILED WITH THE DIVISION AGAINST THE HOME BUILDER; AND

(II) DOES NOT WAIVE THE REQUIREMENTS OF THIS SECTION REGARDING FILING A COMPLAINT WITH THE DIVISION.";

and in line 20, strike "THROUGH CHANGES TO" and substitute "ONLY BY AMENDMENT OF".

On page 15, in line 7, after "HOME" insert "UNLESS THE SELLER IS AN EXEMPT

LENDER AS DEFINED IN § 14-901 OF THE COMMERCIAL LAW ARTICLE"; and in line 15, strike "PREVAIL" and substitute "APPLY".

AMENDMENT NO. 6

On page 15, in line 3, strike "AND WASHINGTON COUNTY".

On page 16, in line 12, strike "and Washington County".