

HOUSE BILL 1327

C2

0lr0677

By: **Delegates Ramirez, Heller, and Montgomery**

Introduced and read first time: February 18, 2010

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Business Regulation – Home Improvement – Providing Services Without a**
3 **License**

4 FOR the purpose of altering the penalty for acting or offering to act as a contractor or
5 subcontractor or for selling or offering to sell a home improvement in the State
6 without a license; requiring an owner to determine whether or not a person
7 holds a contractor license before the owner enters into a home improvement
8 contract; prohibiting an owner from entering into a home improvement contract
9 with a contractor who is required to be licensed but is not licensed; prohibiting a
10 certain owner from arguing a certain defense under certain circumstances;
11 providing certain exemptions from certain civil and criminal penalties; and
12 generally relating to providing home improvement services without a license.

13 BY repealing and reenacting, with amendments,
14 Article – Business Regulation
15 Section 8–601, 8–620, and 8–623
16 Annotated Code of Maryland
17 (2004 Replacement Volume and 2009 Supplement)

18 BY adding to
19 Article – Business Regulation
20 Section 8–618
21 Annotated Code of Maryland
22 (2004 Replacement Volume and 2009 Supplement)

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

25 **Article – Business Regulation**

26 8–601.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) Except as otherwise provided in this title, a person may not act or offer to
2 act as a contractor in the State unless the person has a contractor license.

3 (b) Except as otherwise provided in this title, a person may not act or offer to
4 act as a subcontractor in the State unless the person has a contractor license or
5 subcontractor license.

6 (c) Except as otherwise provided in this title, a person may not sell or offer to
7 sell a home improvement in the State unless the person has a contractor license or
8 salesperson license.

9 (d) A person who violates this section is guilty of a misdemeanor and, on first
10 conviction, is subject to a fine not exceeding \$1,000 [or imprisonment not exceeding 30
11 days or both] and, on a second or subsequent conviction, is subject to a fine not
12 exceeding \$5,000 or imprisonment not exceeding [2 years] **60 DAYS** or both.

13 **8-618.**

14 (A) AN OWNER SHALL DETERMINE WHETHER OR NOT A PERSON HOLDS
15 A CONTRACTOR LICENSE BEFORE THE OWNER ENTERS INTO A HOME
16 IMPROVEMENT CONTRACT WITH THE PERSON.

17 (B) AN OWNER MAY NOT ENTER INTO A HOME IMPROVEMENT
18 CONTRACT WITH A CONTRACTOR WHO IS REQUIRED TO BE LICENSED UNDER
19 THIS TITLE BUT IS NOT LICENSED.

20 (C) AN OWNER WHO VIOLATES SUBSECTION (B) OF THIS SECTION MAY
21 NOT ARGUE THE FACT THAT A PERSON DOES NOT HOLD A CONTRACTOR
22 LICENSE AS A DEFENSE TO A CLAIM THAT THE OWNER HAS FAILED TO MEET THE
23 OWNER'S OBLIGATIONS UNDER A CONTRACT WITH THE PERSON.

24 8-620.

25 (a) **THIS SECTION DOES NOT APPLY TO § 8-618 OF THIS SUBTITLE.**

26 (B) The Commission may impose on a person who violates this title,
27 including § 8-607(4) of this subtitle, a civil penalty not exceeding \$5,000 for each
28 violation, whether or not the person is licensed under this title.

29 [(b)] (C) In setting the amount of a civil penalty, the Commission shall
30 consider:

31 (1) the seriousness of the violation;

32 (2) the good faith of the violator;

1 (3) any previous violations;

2 (4) the harmful effect of the violation on the complainant, the public,
3 and the business of home improvement;

4 (5) the assets of the violator; and

5 (6) any other relevant factors.

6 8-623.

7 (a) This section only applies if there is no greater criminal penalty provided
8 under this title or other applicable law.

9 (b) **THIS SECTION DOES NOT APPLY TO § 8-601 OF THIS SUBTITLE.**

10 (c) A person who violates this title is guilty of a misdemeanor and, on
11 conviction, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 6
12 months or both.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2010.