

SENATE BILL 164

C2

0lr1816
CF 0lr1687

By: **Senator Kelley**

Introduced and read first time: January 13, 2020

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Home Builder Guaranty Fund – Award Limitations – Revisions**

3 FOR the purpose of altering the total amount of awards the Consumer Protection Division
4 of the Office of the Attorney General is authorized to pay to all claimants for acts or
5 omissions of a certain registered home builder from the Home Builder Guaranty
6 Fund; making conforming changes; and generally relating to the Home Builder
7 Guaranty Fund.

8 BY repealing and reenacting, without amendments,
9 Article – Business Regulation
10 Section 4.5–703(a) and 4.5–705(a)
11 Annotated Code of Maryland
12 (2015 Replacement Volume and 2019 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Business Regulation
15 Section 4.5–705(e) and 4.5–710
16 Annotated Code of Maryland
17 (2015 Replacement Volume and 2019 Supplement)

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

20 **Article – Business Regulation**

21 4.5–703.

22 (a) The Division shall:

23 (1) establish a Home Builder Guaranty Fund; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) maintain the Guaranty Fund at a level of at least \$1,000,000.

2 4.5-705.

3 (a) Subject to this subtitle a claimant may recover compensation from the
4 Guaranty Fund for an actual loss that results from an act or omission by a registrant as
5 found by the Division or a court of competent jurisdiction.

6 (e) The Division may not award from the Guaranty Fund:

7 (1) more than \$50,000 to one claimant for acts or omissions of one
8 registrant;

9 (2) more than ~~[\$300,000]~~ **\$500,000** to all claimants for acts or omissions
10 of one registrant unless, after the Division has paid out ~~[\$300,000]~~ **\$500,000** on account
11 of acts or omissions of the registrant, the registrant reimburses ~~[\$300,000]~~ **\$500,000** to
12 the Guaranty Fund; or

13 (3) an amount for attorney's fees, consequential damages, court costs,
14 interest, personal injury damages, or punitive damages.

15 4.5-710.

16 (a) The Division may order payment of a claim against the Guaranty Fund only
17 if:

18 (1) the decision or order of the Division is final in accordance with Title 10,
19 Subtitle 2 of the State Government Article and all rights of appeal are exhausted; or

20 (2) the claimant provides the Division with a certified copy of a final
21 judgment of a court of competent jurisdiction or a final award in arbitration, with all rights
22 of appeal exhausted, in which the court or arbitrator:

23 (i) expressly made findings of fact that support the claimant's right
24 to recover under § 4.5-705(a) of this subtitle; and

25 (ii) has found the value of the actual loss.

26 (b) (1) Except as otherwise provided in this subsection, the Division shall pay
27 approved claims in the order submitted.

28 (2) If approved claims submitted to the Division against a registrant exceed
29 ~~[\$300,000]~~ **\$500,000**, less the amount of unreimbursed claim payments previously made
30 for the registrant, the Division may pay the approved claims proportionately so that each
31 claimant receives the same percentage payment of the claims.

32 (3) After the Guaranty Fund is reimbursed, the Division shall pay

1 unsatisfied approved claims.

2 (c) If there is not enough money in the Guaranty Fund to pay an approved claim
3 wholly or partially, the Division shall pay the unpaid claim:

4 (1) when enough money is deposited in the Guaranty Fund; and

5 (2) in the order that each claim originally was filed with a court of
6 competent jurisdiction or submitted to the Division.

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