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March 2, 2020

To: The Honorable Dereck E. Davis
Chair, Economic Matters Committee

From: Karen S. Straughn
Consumer Protection Division

Re: House Bill 1290 – Consumer Protection – Home Improvement Contractors – Home
Improvement Contracts (OPPOSE)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in opposition to House Bill 1290 submitted by Delegate C. T. Wilson. This bill proposes to permit a contractor employed or contracted by a home improvement retailer to collect the full contract price upon execution of the contract by posting an irrevocable letter of credit payable to the Consumer Protection Division. The Division would then have the responsibility of investigating complaints and drawing on the letter of credit if it is determined that the contractor defaulted.

Under current law, home improvement contractors are limited to a deposit of one-third upon execution of the contract. This enables a contractor to purchase materials to begin the project without coming out of pocket. The general practice is to collect the deposit, then to charge the next one-third upon beginning work and to charge the final one-third when the work is completed. If the job is not completed, the work performed poorly, or the job is not even started, consumers have the ability to delay additional payments as a negotiating tool to work with the contractor. Unfortunately, contractors who work with a home improvement retailer are not guaranteed to be any more reliable than any other contractor and therefore should not be subject to laws which require a consumer to pay more up front; it not only reduces a consumer's negotiation strength, but requires the consumer to be out of pocket throughout the course of the contract as well as any investigation by the Division, both of which may be lengthy. The Division believes that prevention of problems is more effective than an after the fact remedy for consumers who have been harmed by the actions of a contractor.

The Consumer Protection Division has received over 1,600 complaints involving home improvement contractors since 2017. Of these, just under 200 have been from two of the largest home improvement retailers, Home Depot and Lowe's. Complaints against these retailers as a result of work done by a home improvement contractor may also be reported to the Home Improvement Commission, resulting in even

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greater numbers. Home improvement contractors are required to be licensed by the Home Improvement Commission, which also administers the Home Improvement Guaranty Fund to compensate consumers who have suffered damages as the result of improper or incomplete work by a home improvement contractor. House Bill 1290 would only serve to add confusion for consumers as to which agency should handle their complaint -- the Commission or the Division or both.

For these reasons, we ask that the Economic Matters Committee return an unfavorable report on this bill.

cc: The Honorable C.T. Wilson
Members, Economic Matters Committee