

Title 02 OFFICE OF THE ATTORNEY GENERAL

Subtitle 01 CONSUMER PROTECTION DIVISION

Chapter 09 Deposits on New Homes—Escrow Account, Surety Bond, and Letter of Credit Requirements

**Authority: Real Property Article, §§10-302, 10-303.1, and 10-504, Annotated Code of
Maryland**

.01 Purpose.

The purpose of this chapter is to ensure compliance with State laws requiring that home builders secure deposits and other advance payments through the use of escrow accounts, surety bonds, and letters of credit, under Real Property Article, Title 10, Subtitle 3, Annotated Code of Maryland, and Real Property Article, Title 10, Subtitle 5, Annotated Code of Maryland (the Custom Home Protection Act).

.02 Scope.

This chapter applies to all home builders and sellers of new homes, unless exempted by the terms of Real Property Article, §10-304, Annotated Code of Maryland.

.03 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Home builder" has the meaning stated in Business Regulation Article, §4.5-101(f), Annotated Code of Maryland.

(2) "New home" has the meaning stated in Business Regulation Article, §4.5-101(k), Annotated Code of Maryland.

(3) "Seller" means a vendor subject to Real Property Article, Title 10, Subtitle 3, Annotated Code of Maryland.

(4) "Unit" means the Home Builder Registration Unit of the Consumer Protection Division of the Office of the Attorney General.

.04 Procedures and Requirements.

A. Form of Bond or Letter of Credit. Home builders and sellers of new homes shall:

- (1) Use the corporate surety bond or irrevocable letter of credit form provided by the Unit; or
- (2) Submit other corporate surety bond or letter of credit forms to the Unit for its consideration and prior approval for use as required under Real Property Article, §§10-302 and 10-303, Annotated Code of Maryland.

B. Filing of Bonds and Letters of Credit. A home builder or seller shall file with the Unit at 200 St. Paul Place, 16th Floor, Baltimore, Maryland 21202, the corporate surety bonds and irrevocable letters of credit required by Real Property Article, §§10-302, 10-303, and 10-504, Annotated Code of Maryland.

C. Certification of Compliance.

- (1) A home builder or seller shall file with the Unit a statement in a form provided by the Unit, signed by its president or vice president if a corporation, or by a general partner of the home builder or seller or by the home builder or seller individually if not a corporation, that the bond, letter of credit, or escrow account is in the amount required by Real Property Article, §§10-302, 10-303, and 10-504, Annotated Code of Maryland.
- (2) If the home builder or seller maintains escrow accounts instead of bonds or letters of credit, it shall file with the Unit a statement in a form provided by the Unit which shall be deemed to be a continuing representation until the Unit is notified in writing by the home builder or seller that the statement is to the contrary.
- (3) The statements required by §C of this regulation shall be filed with the Unit:
 - (a) With the home builder's registration with the Unit;
 - (b) With each renewal of the home builder's registration with the Unit;
 - (c) For a seller that is not a home builder, that:
 - (i) Files a bond or letter of credit, upon filing the bond or letter of credit with the Unit;
 - (ii) Establishes an escrow account on, before, or within 20 days after the effective date of this chapter, within 30 days after the effective date of this chapter; or
 - (iii) Establishes an escrow account 21 or more days after the effective date of this chapter, within 10 days after establishing the escrow account; and
 - (d) Within 10 days of any change to the:
 - (i) Method by which the home builder or seller complies with Real Property Article, Title 10, Subtitles 3 and 5, Annotated Code of Maryland; or

(ii) Amount of the bond or letter of credit.

D. The home builder or seller of new homes shall provide the Unit, upon request, any documents or information the Unit considers necessary to ensure compliance with Real Property Article, Title 10, Subtitles 3 and 5, Annotated Code of Maryland.

Administrative History

Effective date: May 12, 2003 (30:9 Md. R. 614)