



**STATE OF MARYLAND  
OFFICE OF THE ATTORNEY GENERAL**

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# **2021 ANNUAL REPORT**

**OF THE  
HOME BUILDER REGISTRATION UNIT  
CONSUMER PROTECTION DIVISION  
OFFICE OF THE ATTORNEY GENERAL**

**SUBMITTED TO THE  
GOVERNOR AND GENERAL ASSEMBLY  
OF MARYLAND**

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## I. **EXECUTIVE SUMMARY**

The Maryland Home Builder Registration Act (“the Act” or “HBRA”) was enacted by the General Assembly in the 2000 Session and became effective January 1, 2001. The HBRA protects new home buyers by requiring builders to register with the State, and by providing an enforcement mechanism that allows the State to prevent builders with a bad track record from continuing to build in Maryland.<sup>1</sup> During the 2008 Session, the General Assembly enacted legislation to provide additional protections for home buyers, establishing a registration requirement for sales representatives for Maryland home builders and a Home Builder Guaranty Fund.

The Home Builder Registration Unit (“Unit” or “HBRU”) of the Consumer Protection Division of the Office of the Attorney General was created by the HBRA to administer and enforce the Act.<sup>2</sup> The Act requires that the Consumer Protection Division make an annual report of its activities to the Governor and General Assembly. This is the report for Fiscal Year 2021.

The report focuses on the following areas:

- **Registration of Builders:** 2039 builders were registered as of June 30, 2021. 250 of those builders registered for the first time between July 1, 2020 and June 30, 2021, which is almost twice as many new builders as registered the previous fiscal year. The overall number of registered builders, however, decreased by about 4.6%.
- **Registration Renewal:** From July 1, 2020 to June 30, 2021, the Unit mailed renewal notices to 1,618 builders whose registrations were due to expire by June 1, 2021. 1,324 of those builders renewed their registrations as of June 30, 2021.
- **Law Enforcement:** The Unit opened 22 investigations between July 1, 2020 and June 30, 2021, after receiving reports of unregistered building or potential violations of the Home Builder Registration Act, the Consumer Protection Act, the New Home Warranties Act, or violations of the laws governing deposits on new homes. Seven of the investigations resulted in settlements, 5 resulted in charges being filed, and 10 remained

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<sup>1</sup> Earlier laws provided partial protections for home buyers by focusing on protection of the buyer’s deposit, required contract provisions and disclosures, and prescribed terms of non-mandatory home warranty security plans. See New Home Deposits Act, Md. Code Ann., Real Property §10-301 through § 10-306, Custom Home Protection Act, Md. Code Ann., Real Property §10-501 through § 10-509, and New Home Warranties Act, Md. Code Ann., Real Property §10-601 through § 10-610.

<sup>2</sup> Additionally, Montgomery County and Prince George’s County have varying forms of builder licensing or registration.

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under continuing investigation as of June 30, 2021. Of the five investigations in which charges were filed, one settled, two resulted in denial of the home builder registration, one resulted in the registration being revoked, and one awaited hearing. The Unit receives information from many sources, including consumers, other builders, subcontractors, and permit offices.

● **Education of Builders and Consumers:** As of June 30, 2021, the Unit had distributed over 277,000 copies of *BUYING A NEW HOME - Consumer Rights and Remedies Under Maryland Law*, and maintained and updated its website – <http://www.marylandattorneygeneral.gov/Pages/CPD/Homebuilder/default.aspx> – to provide information to the public, consumers, builders, and permit offices about registered builders, building laws, and home building. Between July 1, 2020 and June 30, 2021, the Unit distributed 2,312 pamphlets to builders by mail; and the pamphlet was downloaded 660 times by 565 unique online users of our website.

● **Coordination with Local Building Permit Offices:** The Unit continues to coordinate with local building permit offices to ensure that unregistered builders cannot obtain building permits and that builders with unresolved building code violations are reported to the Unit. Lists of registered builders are routinely updated and published on the Unit's website. The Unit also coordinates with local permit offices concerning the payment of fees by builders to fund the Home Builder Guaranty Fund.

● **Evaluation of Consumer and Builder Dispute Resolution:** The Division's Mediation Unit handled 99 consumer complaints involving 61 home builders between July 1, 2020 and June 30, 2021. The overwhelming majority of the complaints concerned claims about construction defects or incomplete construction.

● **Warranty Programs:** The Unit monitors information from New Home Warranty Security Plans concerning their operation and claims experience to ensure the plans are continuing to meet the requirements of the new home warranty law.

● **Home Builder Sales Representatives:** Sales representatives for home builders are required to register with the Unit. A home builder sales representative is an individual employed by a home builder as the home builder's representative to consumers regarding the purchase of a new home from the home builder. Sales representatives are required to complete a registration form and pay a \$300 registration fee for a 2-year registration. As of July 1, 2021, there were 712 registered sales representatives who worked for 175 builders.

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● **Home Builder Guaranty Fund:** The General Assembly created a Home Builder Guaranty Fund to protect buyers of new homes who purchase a new home from a registered home builder and suffer an actual loss as the result of:

- Incomplete construction of a new home;
- Breach of an express or implied warranty;
- Failure to meet construction standards or guidelines; or
- Failure to return a deposit or other payment to which the home buyer is entitled.

The Guaranty Fund applies only to contracts entered into after January 1, 2009. The Division is required to maintain the Guaranty Fund at a level of at least \$1,000,000. The Guaranty Fund is funded through a \$50 fee to be paid by home builders to the permit office together with an application for a permit for a new home. The permit offices remit the fees to the Division monthly and may retain an administrative fee of not more than 2 percent. From July 1, 2020 until June 30, 2021, there were 68 claims filed with the Guaranty Fund by consumers who alleged an actual loss as the result of a new home purchase agreement.

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## II. **REGISTRATION OF BUILDERS**

### A. **THE HOME BUILDER REGISTRATION UNIT**

A central requirement of the HBRA is that all new home builders in Maryland, except for those home builders that build exclusively in Montgomery County, register with the Unit. The Home Builder Registration Unit was created by the HBRA to administer and enforce the Act. A special fund was created to fund the Unit's activities, which is paid for through the collection of registration fees. The HBRA sets the initial registration fee paid by builders at \$800 for a two-year registration. The Act further provides for renewal fees for an additional two-year period of \$400 for builders who were issued 10 or fewer building permits during the preceding year; \$800 for builders who were issued 11 to 74 permits during the preceding year; and \$1,200 for builders who were issued 75 or more permits during the preceding year. HBRA §4.5-203, §4.5-303, §4.5-305. The Division's costs for the Unit include salary, benefits, and administrative costs for an eight-person unit; production and distribution of the consumer education pamphlet; continued maintenance of the website and data systems; and perhaps most importantly, enforcement costs. The Unit's eight positions include: a Director/Assistant Attorney General, an Assistant Attorney General who handles cases involving enforcement actions against home builders, a Staff Attorney who is responsible for cases involving the Home Builder Guaranty Fund, an Administrator who oversees registration of builders and sales representatives, an Administrator who oversees the administration of the Home Builder Guaranty Fund, one Investigator, and two Secretaries.

### B. **BUILDER REGISTRATION AND RENEWAL UNDER THE HBRA**

The Act establishes a registration procedure that requires builders to complete a registration form and pay the required registration fee. The Act does not provide for competency testing. The Unit has implemented the registration requirements with the objective of making registration an easy and quick process.

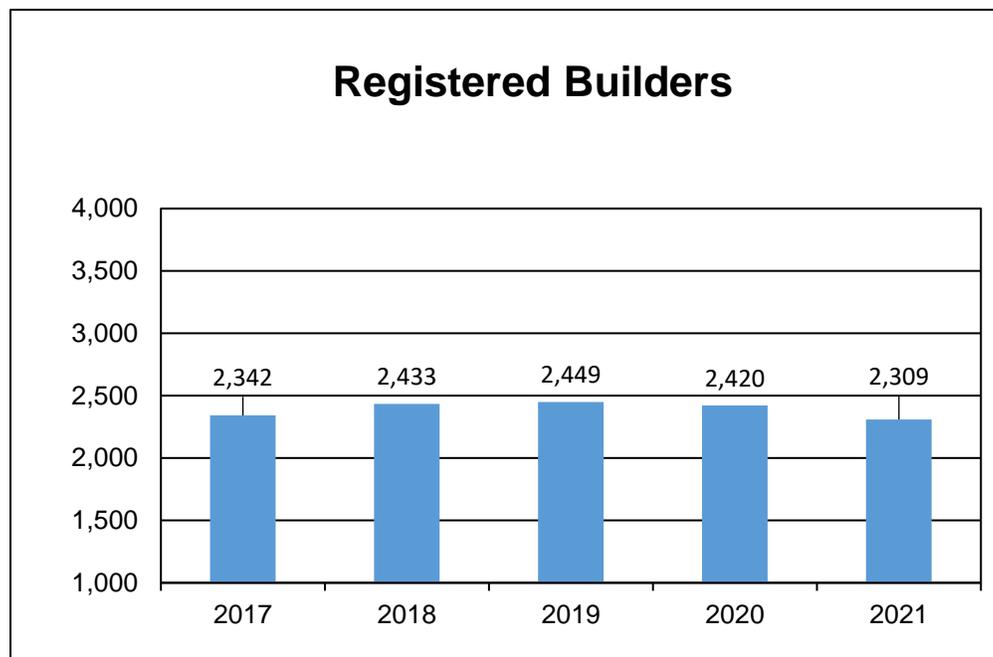
To register, builders are required to complete an application form, provide information about the principals of the company and legal proceedings involving the builder, and pay the registration fee. Each builder's registration lasts two years and expires on one of four quarterly dates based upon the date the builder initially registered: March 1, June 1, September 1, or December 1. Having registrations expire quarterly makes it easier for builders, permit offices, consumers and the Unit to keep track of whether builders are currently registered and when registrations expire. The Unit mails a renewal notice to the builder's last known address at least 60 days before the registration expires.

The application provides the Unit with general information about the company or entity that is registering. It also provides the Unit with information about each "principal" of the company, which the HBRA defines to be persons with at least a 10% ownership

interest, and directors, partners, officers and managers of the company. One of the purposes of the Home Builder Registration Act is to track builders who dissolve entities without meeting their financial obligations and then begin building again under a new company name. Such builders may be subject to denial or revocation of their registration under HBRA §4.5-308. To achieve this goal, the Unit must gather information from the applicants about the principals who own and operate building companies.

As of June 30, 2021, 2,309 home builders were registered with the Unit. 250 new builders registered with the Unit between July 1, 2020 and June 30, 2021.

The following chart shows the number of registered builders reported in the Annual Report since 2017:



Source: HBRU

In the past year, the Unit mailed renewal notices to the 1,618 builders that were registered under the HBRA whose initial 2-year registrations were due to expire between September 1, 2020 and June 1, 2021. As of June 30, 2021, 1,324 of these builders have been approved for renewal. 272 builders did not renew their registrations, either notifying the Unit that they were not renewing, failing to send a renewal request, or otherwise notifying the Unit of their intentions; 1 builder's registration was revoked; and, 22 builders' applications are under review. Builders are able to register and renew their registrations over the Internet. Of the 1,324 builders that have been renewed, 1,300 (98.2%) renewed their registrations over the Internet.

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### C. WHO ARE MARYLAND'S BUILDERS?

The HBRA defines "home builder" and "new home" broadly to ensure that all new home builders in Maryland must be registered. HBRA §4.5-101(g) and (m). The exceptions to the HBRA are narrowly drawn.<sup>3</sup> Information provided by builders in the registration process, combined with other available data, provides the following profile of Maryland Builders:

- **Number of Builders:** There were 2,309 registered builders in Maryland as of June 30, 2021. 250 of those builders registered for the first time between July 1, 2020 and June 30, 2021. The Unit continues to receive new applications monthly.
- **Type of Construction:** The vast majority of Maryland's builders report building either custom homes (54%) or other new homes (32%). Another 6% report building condominiums, 5% report building industrialized buildings, and 3% report selling or installing mobile homes.
- **Form of Business:** 49% of Maryland's builders use limited liability companies (LLCs) as their form of business organization. Another 41% are corporations, 9% are sole proprietorships, and 1% are partnerships.
- **Location of Builders and Housing Construction:** 35.8% of building permits for single family construction were issued in the Baltimore Region, where 38.5% of Maryland's builders are headquartered, and 41.7% of building permits for single family construction were issued in the Suburban Washington Region, where 16.9% of Maryland's builders are headquartered. 9.2% of building permits were issued in the Eastern Shore Regions, where 18.6% of Maryland's builders are headquartered. The Southern Region had 11.2% of the building permits issued and provided headquarters for 9.1% of Maryland's builders. The Western Region had 2.1% of building permits and provided headquarters for 5.9% of Maryland's builders. 11.6% of builders had headquarters that were out of state.

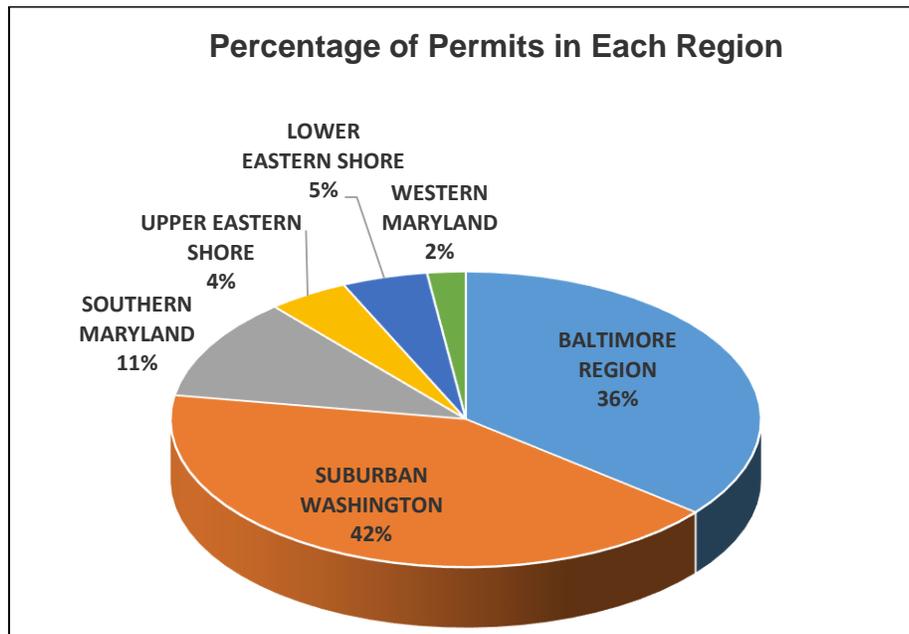
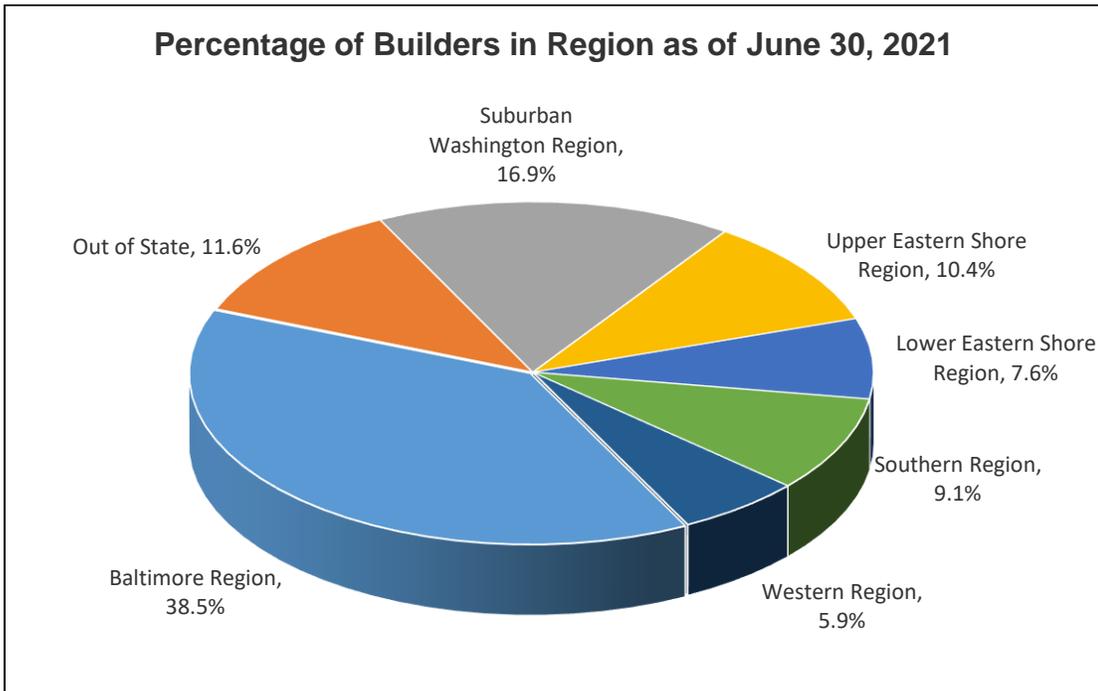
The following charts show the headquarters of builders in each region, the number of single family home permits issued in each region from July 1, 2020 through June 30, 2021, and the percentage of the total number of single family home permits issued in Maryland in each region during that period.

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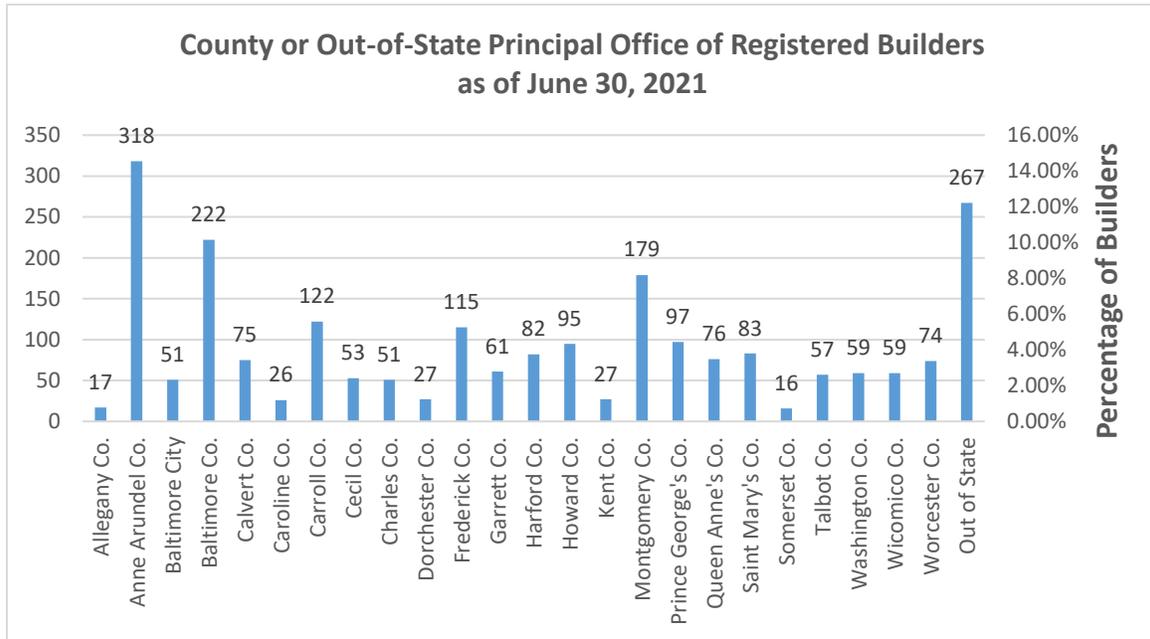
<sup>3</sup> The HBRA excludes from registration employees, subcontractors and vendors of a registered home builder; the manufacturer of industrialized buildings unless it also installs the building; real estate developers who do not also contract for or construct homes; construction financiers; and builders who build solely in Montgomery County. HBRA §4.5-101(g)(3). Landowners who obtain building permits in their own name and who directly perform the construction on their own land for their own use are also exempted. HBRA §4.5-601.

Region	Percentage of Builders With Headquarters in Region	Number of Permits Issued in Region (7/1/20- 6/30/21)	Percentage of State-wide Permits Issued in Region
<b>Baltimore Region</b> (Anne Arundel, Baltimore City, Baltimore County, Carroll, Harford, Howard)	38.5%	7,065	35.8%
<b>Suburban Washington Region</b> (Frederick, Montgomery, Prince George's)	16.9%	8,229	41.7%
<b>Upper Eastern Shore Region</b> (Caroline, Cecil, Kent, Queen Anne's, Talbot)	10.4%	876	4.5%
<b>Southern Region</b> (Calvert, Charles, St. Mary's)	9.1%	2,204	11.2%
<b>Lower Eastern Shore Region</b> (Dorchester, Somerset, Wicomico, Worcester)	7.6%	924	4.7%
<b>Western Region</b> (Allegany, Garrett, Washington)	5.9%	416	2.1%
<b>Out of State</b> (California, Connecticut, Delaware, Florida, Georgia, Illinois, Missouri, New Hampshire, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, Washington, D.C., West Virginia)	11.6%		
Totals	100%	19,714	100%

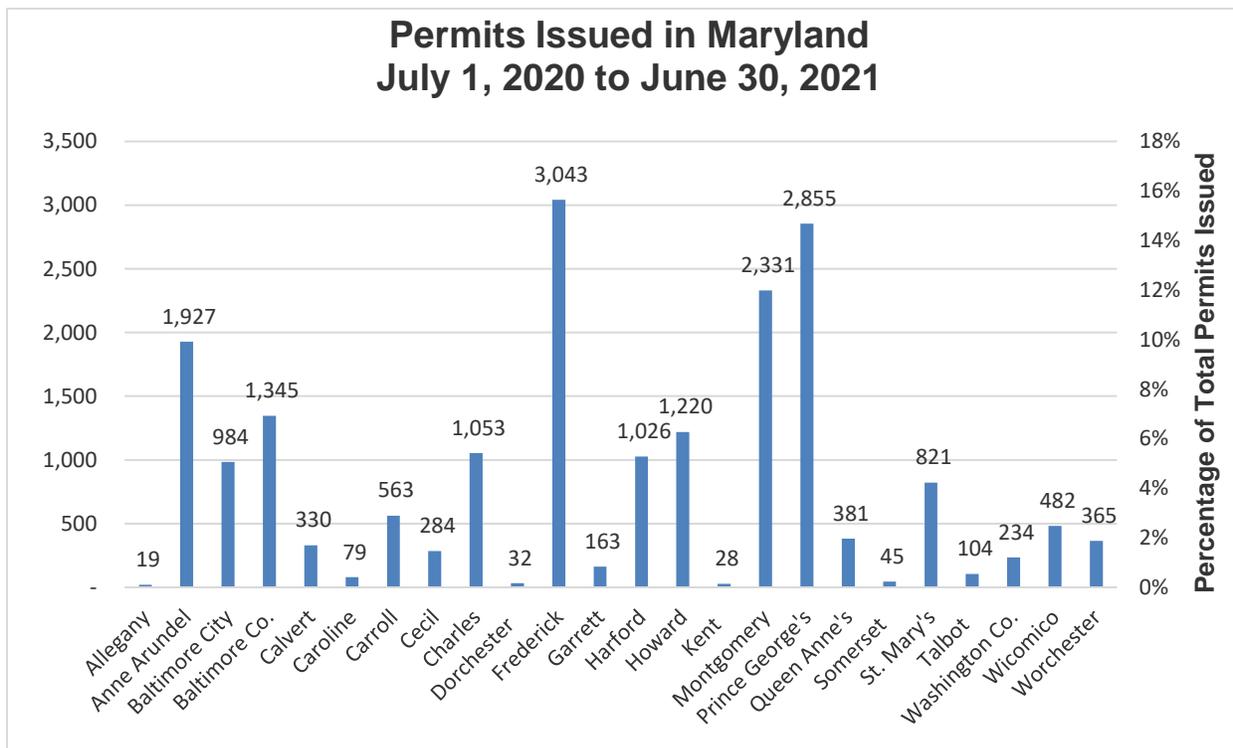
Source: HBRU and Md. Dept. of Planning, and Allegany, Caroline, Dorchester, Kent, & Talbot County Permit Offices for Single Family Permits Issued July 1, 2020 through June 30, 2021.



The following graphs show: (1) the breakdown of builders' headquarters for each county and how many are out of state; and (2) the number of permits issued in each county from July 1, 2020 through June 30, 2021:



Source: HBRU



Source: HBRU and Md. Dept. of Planning, and Allegany, Caroline, Dorchester, Kent, & Talbot County Permit Offices for Single Family Permits Issued July 1, 2020 through June 30, 2021.

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### III. **HOME BUILDER SALES REPRESENTATIVES**

Effective October 1, 2008, sales representatives for home builders were required to register with the Home Builder Registration Unit. A home builder sales representative is an individual employed by a home builder as the home builder's representative to consumers regarding the purchase of a new home from the home builder. Sales representatives are required to complete a registration form and pay a \$300 registration fee for a 2-year registration.

As of July 1, 2021, there were 712 registered sales representatives who worked for 175 builders. 68 new sales representatives registered with the Unit between July 1, 2020 and June 30, 2021. A registered sales representative may be employed by more than one builder. The Unit issues a Registration Certificate to a registered sales representative, who is required to conspicuously display the Certificate at the location where the sales representative primarily works.

Additionally, home builders are required to disclose to prospective home buyers that the sales representative works for the home builder and that, while the sales representative may assist the buyer in purchasing the property, the sales representative's duty of loyalty is to the home builder.

### IV. **LAW ENFORCEMENT**

The Home Builder Registration Act provides an enforcement mechanism with the objectives of (1) keeping unregistered builders from building in Maryland, and (2) preventing registered builders who establish a bad track record or engage in violations of the law from continuing to build in Maryland.

To accomplish these objectives, the HBRA prohibits unregistered builders from building and authorizes the Unit to use civil administrative proceedings to seek a cease and desist order and a civil penalty of up to \$1,000 per day of unregistered practice. HBRA §§ 4.5-501 and 4.5-502. In addition, the HBRA provides that the Unit may deny registration to an applicant, reprimand a registrant, suspend or revoke a registration, or impose a civil penalty if the Unit determines that the applicant or registrant has engaged in any of the specified practices stated in HBRA §4.5-308.

The Unit opened 22 investigations between July 1, 2020 and June 30, 2021, after receiving reports of unregistered building or potential violations of the Home Builder Registration Act, the Consumer Protection Act, the New Home Warranties Act, or violations of the laws governing deposits on new homes. Seven of the investigations resulted in settlements, 5 resulted in charges being filed, and 10 remained under continuing investigation as of June 30, 2021. Of the five investigations in which charges were filed, one settled, two resulted in denial of the home builder registration, one resulted in the registration being revoked, and one awaited hearing.

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The Unit receives information from many sources, including consumers, other builders, subcontractors, and permit offices. The results of some of the Unit's enforcement actions are summarized as follows:

- The Consumer Protection Division entered into a Final Order by Consent with a Montgomery County builder and its principal for violating the Home Builder Registration Act and a prior Assurance of Discontinuance, by failing to: (1) disclose the principal of the builder; (2) disclose that the undisclosed principal of the builder was previously a principal of another registrant; (3) disclose legal proceedings involving the builder and its principal; and, (4) pay a civil penalty that came due under the prior Assurance of Discontinuance. The Final Order by Consent required the builder and its principal to institute cease and desist provisions, such as securing a \$500,000 performance bond for the benefit of consumers, prior to registration and engaging in any home building activity in Maryland. The Final Order by Consent also required the builder and its principal to pay a civil penalty of \$20,000 at the time of the execution of the Final Order, plus costs of \$500, and arbitrate any unresolved consumer complaints through the Division's arbitration program.
- The Consumer Protection Division entered into an Assurance of Discontinuance with a Baltimore County builder and its principals for engaging in unregistered builder activity by using the name and registration number of another builder to apply for and obtain permits in Baltimore County, entering into a contract with a consumer to build a new home, accepting a deposit, and commencing construction of a new home while not registered. The Assurance required the builder and its principals to pay \$3,500 in civil penalties and \$500 in costs. The Assurance also required, among other things, the company to arbitrate any unresolved consumer complaints through the Division's arbitration program.
- The Consumer Protection Division entered into an Assurance of Discontinuance with two Carroll County builders, one Baltimore County builder, and their principal for engaging in unregistered builder activity by using the name and registration number of another builder to apply for and obtain permits, transferring a new home to a consumer, and entering into a contract with a consumer while not registered. The Assurance required the builders and their principal to maintain a performance bond of \$50,000 for the benefit of consumers, and pay \$6,000 in civil penalties and \$500 in costs. The Assurance also required the companies to arbitrate any unresolved consumer complaints through the Division's arbitration program.
- The Consumer Protection Division entered into a Final Order by Consent with a Kent County builder and its principal for failing to pay a subcontractor, failing to include in its contracts with consumers required notices and disclosures, failing to provide accurate information in the application to renew the registration, despite having agreed to do so in three prior agreements. The Final Order by Consent

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required the builder and its principal to continue to provide the Division with a performance bond in the amount of \$50,000.00 for the benefit of consumers, and pay costs of \$500.00 and a civil penalty of \$5,000.00 at the time of the execution of the Final Order. The Final Order by Consent also required the company to provide the Unit with, prior to entering into each contract, a certification that the contract is legally sufficient signed by an attorney, and to arbitrate any unresolved consumer complaints through the Division's arbitration program.

- The Consumer Protection Division entered into an Assurance of Discontinuance with an Anne Arundel County builder and its principal to settle allegations that they violated the Home Builder Registration Act and the Consumer Protection Act by entering into a contract with a consumer for the construction of a custom home while not registered, misrepresenting to consumers that it was lawfully registered to act as a home builder, and using an expired Maryland Home Builder Registration number. The Assurance required, among other things, that the builder and its principal pay civil penalties of \$4,000 and costs of \$500, maintain a performance bond of \$50,000 for the benefit of consumers prior to registration or engaging in home building activity, and arbitrate any unresolved consumer complaints through the Division's arbitration program for the next five years.

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**V. COMMUNICATION WITH BUILDERS AND CONSUMERS****A. OUTREACH TO BUILDERS**

The Unit provides builders with two months' notice that their registrations will be expiring and provides them with the information and forms they will need to renew their registrations. The Unit also handled numerous builder inquiries by phone and by e-mail about the Home Builder Registration Act's registration and renewal processes and corresponded with builders about the requirements of any amendments to the law.

**B. CONSUMER EDUCATION PAMPHLET**

The HBRA requires that the Unit develop a consumer information pamphlet describing the rights and remedies of consumers in the purchase of a new home and providing any other information that the Division considers reasonably necessary to assist consumers in the purchase of a new home. The law further requires that the consumer information pamphlet be given to consumers by builders before they sign a contract to purchase a new home and that the receipt of the consumer information pamphlet be acknowledged in writing. HBRA §4.5-202(c).

The Unit publishes a consumer education pamphlet, *BUYING A NEW HOME - Consumer Rights and Remedies Under Maryland Law*, which it developed in consultation with the industry. The Unit also drafted and distributes a model form for the consumer to sign to acknowledge receipt of the pamphlet. The Unit regularly updates the pamphlet to reflect changes to the law. A copy of the revised pamphlet is available on our website at <http://www.marylandattorneygeneral.gov/Pages/CPD/Homebuilder/default.aspx>

As of June 30, 2021, the Unit had distributed over 277,000 consumer information pamphlets to builders. Between July 1, 2020 and June 30, 2021, the Unit distributed 2,312 pamphlets to builders by mail; and the pamphlet was downloaded 660 times by 565 unique online users of our website.

**C. HBRU WEBSITE**

The Home Builder Registration Unit has maintained and updated its website to make information readily available to consumers, builders, and permit offices. The website is a significant mode of outreach and is an educational resource for both consumers and builders. The website provides consumers, permit offices and others the ability to search for builders either by the name of the builder or by registration number. The website address is:

<http://www.marylandattorneygeneral.gov/Pages/CPD/Homebuilder/default.aspx>.

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The website provides:

- Information about the Home Builder Registration Unit, the Home Builder Registration Act, and the responsibility of builders and sales representatives pursuant to the Act.
- A list of currently registered builders that can be searched either by builder name or by registration number.
- Registration materials including all the registration forms. Builders and sales representatives are able to register and renew their registrations over the Internet.
- The Home Builder Registration Act and other applicable laws, and updates to those laws.
- The consumer information pamphlet developed by the Home Builder Registration Unit, *BUYING A NEW HOME - Consumer Rights and Remedies Under Maryland Law*.
- The Builder New Home Disclosure Form.
- A sample Surety Bond and Letter of Credit that builders can use for the protection of consumer deposits.
- Previous annual reports of the Home Builder Registration Unit.

#### VI. **COORDINATION WITH LOCAL PERMIT OFFICES**

Permit offices play a pivotal role in implementing the Home Builder Registration Act. First, county building and permit departments may not issue a permit for home building unless the permit includes the home builder registration number of a registrant. HBRA § 4.5-601. This is the critical first line of defense against unregistered builders. Second, local permit offices are required to notify the Unit about any builder who fails to correct a building code violation within a reasonable period of time.

The Unit communicates regularly with local and municipal permit offices across the state. Permit offices are able to check the Unit's website to find out if a builder applying for a permit is registered. The Unit also coordinates with local permit offices regarding the payment of fees by builders to fund the Home Builder Guaranty Fund.

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**VII. EVALUATING CONSUMER AND BUILDER DISPUTE RESOLUTION**

Between July 1, 2020 and June 30, 2021, the Mediation Unit of the Consumer Protection Division handled 99 written consumer complaints filed against 61 different home builders. When a consumer complaint is filed with the Consumer Protection Division, a mediator from the Mediation Unit contacts both the builder and consumer and assists them in resolving their dispute. A mediated agreement is possible only if both parties can agree upon mutually acceptable terms. A mediation is considered successful if it results in an agreement. The Division also offers arbitration at no cost to the parties if the builder and consumer are unable to resolve the complaint through mediation and both the builder and consumer agree to submit their dispute to arbitration. Effective January 1, 2009, consumers who are unable to resolve their complaints through mediation are able to submit their claims to the Home Builder Guaranty Fund.

Of the complaints received by the Division's Mediation Unit, 57.5% of the complaints were mediated and, of those, 5% were referred for arbitration and 23% resulted in positive relief for consumers, such as the defects being corrected by the builder or money being paid to the consumer. Overall, 8% were filed for information only and 68.7% were sent to the Guaranty Fund for possible claims. The total amount of money or savings obtained for consumers in these complaints was \$421,434.

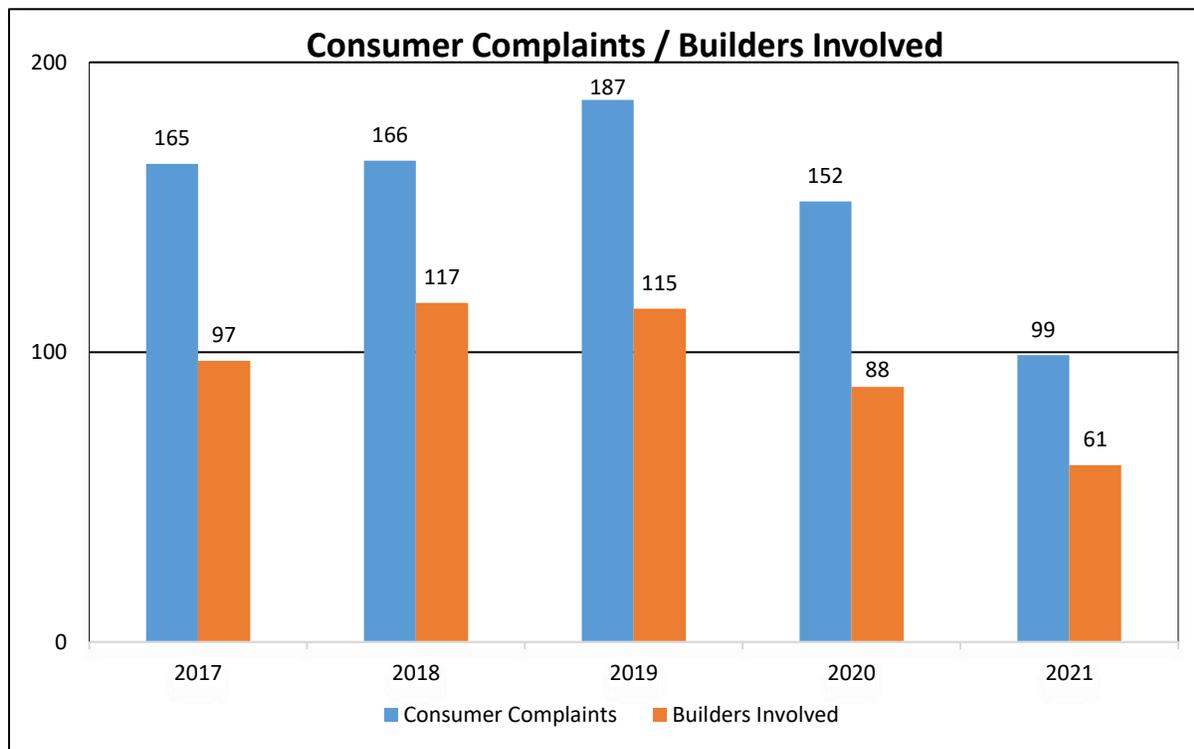
The 99 written complaints raised the following issues:

- *Construction Defect Issues* (52);
- *Incomplete Construction* (17), including disputes between the builder and owner about whether construction had been completed;
- *Contract Disputes* (5);
- *Misrepresentation Claims* (8), including claims that the finished home was not constructed in the manner promised by the builder;
- *Warranty Issues* (11);
- *Deposit Issues* (12), including consumers seeking return of their deposits after being denied financing or withdrawing from their contracts for other reasons;
- *Unsatisfactory Services/Workmanship* (9);
- *Nonpayment of Subcontractors* (1);

- *Price Gouging* (1); and
- *Other/No Consumer Transaction* (14).

Consumers also filed complaints against builders with the Montgomery County Office of Consumer Protection and with the Howard County Office of Consumer Affairs. Between July 1, 2020 and June 30, 2021, there were 21 complaints filed in Montgomery County. In Howard County, 4 were handled during this period.

The following chart shows the number of Consumer Complaints and the number of builders involved in those complaints by year since 2017:



Source: HBRU

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**VIII. WARRANTY PROGRAM**

New Home Warranty Security Plans are required to register with the Home Builder Registration Unit. There are 7 third-party warranty plans approved for operation in Maryland. The Unit requests information from each plan concerning their operations and claims experience to monitor compliance with the requirements of Maryland law.

In calendar year 2020, the 7 approved plans reported a total statewide enrollment of 61,999 homes. Also, in 2020 the warranty plans enrolled 6,474 new homes, generating \$2,483,733 in revenue. The plans reported a total of 208 consumer claims for warranty coverage in 2020. The plans approved 14 claims for coverage and denied 122 claims. The warranty plans reported that 12 claims were resolved without action by the plan. The warranty plans settled 13 approved claims by making payments to the consumers.

New Home Warranty Security Plans are required to notify the Home Builder Registration Unit of each decision to deny warranty coverage for a claim or any part of a claim. From July 1, 2020 to June 30, 2021, the Unit received notice of 74 denied warranty claims. The claims that were denied are categorized with the plan's response as follows:

- *Structural Defects* (13), including the plan's claim that the defect did not meet the plan's definition of a structural defect (12) and warranty coverage expired (1);
- *Material/Workmanship Defects* (53), including the plan's claim that warranty coverage expired (43), the defect is excluded under plan (5); or there was no defect under plan performance standard (5).
- *Equipment/Appliance/Fixture Defects* (4); and
- *Plumbing/Electrical/HVAC* (4).

**Table of Reported Claims Since 2019**

Type of Claim	Claims Denied in FY 2019	Claims Denied in FY 2020	Claims Denied in FY 2021
Structural Defects	35	10	13
Material/Workmanship Defects	50	29	53
Equipment/Appliance/Fixture Defects	3	5	4
Plumbing/Electrical/HVAC Defects	0	2	4

Note: The 208 denied claims that the warranty plans reported were for the 2020 calendar year (January 1, 2020 to December 31, 2020), while the 74 denied claim notices the Unit received were during the fiscal year (July 1, 2020 to June 30, 2021).

#### IX. **HOME BUILDER GUARANTY FUND**

During the 2008 session, the General Assembly created a Home Builder Guaranty Fund to protect buyers of new homes who purchase a new home from a registered home builder and suffer an actual loss as the result of:

- Incomplete construction of a new home;
- Breach of an express or implied warranty;
- Failure to meet construction standards or guidelines; or
- Failure to return a deposit or other payment to which the home buyer is entitled.

The Guaranty Fund applies only to contracts entered into after January 1, 2009.

The Division is required to maintain the Guaranty Fund at a level of at least \$1,000,000. The Guaranty Fund is funded through a \$50 fee to be paid by home builders to the permit office together with the application for a permit for a new home. In the case of a multi-family dwelling, such as a condominium, the Guaranty Fund fee must be paid for each unit to be constructed. The permit offices remit the fees to the Division monthly and may retain an administrative fee of not more than two percent. The balance of the Guaranty Fund is currently maintained in an amount consistent with the statutory requirement.

Claims against the Guaranty Fund were limited to not more than \$50,000 to one claimant or not more than \$300,000 to all claimants against a single registered builder.

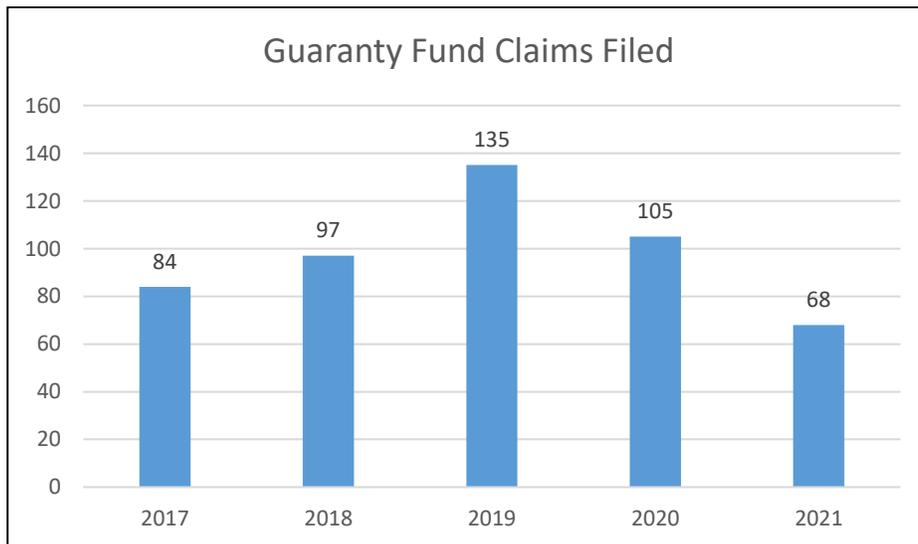
The single builder limit increased to \$500,000, as of October 1, 2020.<sup>4</sup> If a consumer is awarded payment from the Guaranty Fund, the builder’s registration is suspended until the Guaranty Fund has been repaid.

Under the Guaranty Fund law, consumers and builders are encouraged to resolve any issues voluntarily before a claim against the Guaranty Fund can proceed. First, consumers must give the builder notice and an opportunity to remedy any defects with the new home. Second, if the consumer is still not satisfied, the Division’s Mediation Unit will attempt to resolve the claim through mediation between the consumer and the builder. If the Division’s mediation efforts are unsuccessful, the consumer may proceed with a claim against the Guaranty Fund.

From July 1, 2020 until June 30, 2021:

- 68 claims were filed with the Guaranty Fund. Of those claims, 11 claims were settled through mediation. Out of these, 4 claims led to consumers receiving reimbursement totaling \$28,640, 4 claims resolved when the builders agreed to repair the defective work, 2 claims were settled with consumers receiving unknown results, and 1 claim was settled by the repurchase of the consumer’s house by the builder for \$368,744.

The following chart shows the number of Guaranty Fund claims reported in the Annual Reports since 2017:



Source: HBRU

- 5 claims were referred to arbitration and are pending hearings.

<sup>4</sup> Chapter 58 (HB 116)/Chapter 59 (SB 164)

- 11 claims were determined not to be eligible for relief from the Guaranty Fund, and 3 were closed because the claimants failed to provide documentation to support their claims.
- 36 claims remain in the process of mediation or investigation. 1 additional claim is stayed by pending litigation.
- 6 claims were scheduled for hearings at the Office of Administrative Hearings. A Proposed Decision was issued in 1 claim and it is pending issuance of a Final Order by the Consumer Protection Division, 4 claims are pending issuance of proposed decisions from the Office of Administrative Hearings, and 1 claim settled prior to a hearing at the Office of Administrative Hearings or prior to the issuance of a proposed decision.
- Final Orders were issued resolving 18 Guaranty Fund claims. Final Orders were issued resolving 16 of the 18 claims after hearings at the Office of Administrative Hearings, while Final Orders were issued in two claims based on arbitration awards with findings that supported the consumers’ right to recover actual losses; Guaranty Fund relief was awarded in 11 of the 18 claims in the amount of \$316,659.78, and no Guaranty Fund relief was awarded in 7 of the claims..

From July 1, 2020 until June 30, 2021, the Guaranty Fund paid a total of \$529,654.27 to claimants for actual losses resulting from acts or omissions by a registrant in relation to new home construction. The total payout from the Guaranty Fund to Maryland consumers over the past five years exceeds \$2.2 million.

The following chart shows the amount of Guaranty Fund Payouts reported in the Annual Reports since 2017:



Source: HBRU

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**X. LEGISLATIVE CHANGES AFFECTING HOME BUILDERS**

During the 2021 session, the General Assembly enacted the following laws affecting home builders, which became effective July 1, 2021:

**Chapter 301 (HB 70) Energy Efficiency – Net Zero Homes – Contract Preferences:**

This bill requires the Department of Housing and Community Development, when allocating funds from the Energy-Efficient Homes Construction Fund, to give preference to applications for funding for a net-zero home that will use the services of small, minority, women-owned, and veteran-owned businesses in the clean energy industry, particularly those businesses that provide employment for individuals trained through workforce development programs supported by the Strategic Energy Investment Fund and the Clean Energy Workforce.

**Chapter 702 (HB 1239) Department of Housing and Community Development – Appraisal Gap From Historic Redlining Financial Assistance Program – Establishment:**

This bill establishes the Appraisal Gap From Historic Redlining Financial Assistance Program in the Department of Housing and Community Development to make financial assistance available to certain developers working in low-income census tracts in order to help close appraisal gaps that occur in historically redlined neighborhoods; requiring the amount of financial assistance not to exceed 35% of the lesser of the total cost of eligible construction expenses or 80% of the national median sale price for new homes on the date of sale.

During the 2021 session, the General Assembly enacted the following laws affecting home builders, which become effective October 1, 2021:

**Chapter 368 (HB 322) Real Property - Restrictions on Use - Low-Impact Landscaping:** This bill prohibits a certain restriction on land use that imposes unreasonable restrictions on low-impact landscaping such as rain gardens, pollinator gardens, and xeriscaping.

**Chapter 383 (HB 384)/Chapter 384 (SB 474) Real Property - Sale of Mobile Home Parks - Notice Requirements:** This bill amends the notice requirement for the sale of a mobile home park by requiring that a mobile home park owner notify each resident and the Department of Housing and Community Development of the sale at least 30 days before the date of the sale

**Chapter 459 (HB 248) Condominiums and Homeowners Associations - Rights and Restrictions - Composting:** This bill renders provisions of a governing document of a homeowners or condominium association void and unenforceable if they prohibit or unreasonably restrict the composting of organic material for personal or household use or if they unreasonably restrict or prohibit a unit owner from contracting with a private entity to collect organic waste for composting at a composting facility.

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**Chapter 455 (HB 110) Electric Vehicle Recharging Equipment for Multifamily Units**

**Act:** This bill renders provisions of a governing document of a homeowners or condominium association void and unenforceable if they prohibit or unreasonably restrict the installation or use of electric vehicle recharging equipment in a deeded parking space. In addition, this bill places the costs of installation, maintenance and removal of the equipment on the owner of the parking space and establishes an electric vehicle infrastructure modernization grant program.

**Chapter 592 (HB 399) - Real Property - Required Notices for Contracts of Sale - Zones of Dewatering Influence:**

This bill requires a contract for the sale of real property in Baltimore, Carroll, Frederick or Washington Counties to include a notice advising the purchaser that the property may be located in a zone of dewatering influence in which water is being pumped from the ground and advising the purchaser to check the Department of the Environment's website. A purchaser who fails to receive the notice may rescind the contract.

**Chapter 593 (HB 541) Residential Property Sales - School District Information:** This bill requires a contract for the sale of residential real property in Montgomery County to include a notice that school district boundaries are subject to change.

**Chapter 629 (HB 784) - Residential Construction - Electric Vehicle Recharging:** This bill requires a builder of new housing units including single-family detached homes and townhomes or a builder's agent to provide each buyer or prospective buyer with the option to include on or in a garage, carport, or driveway an electric vehicle charging station or a dedicated electric line capable of providing at least level 2 charging.

**Chapter 759 (HB 1061)/Chapter 760 (SB 832) - Southern Maryland - Dwelling Registration and Inspection - Fees and Fines:** This bill authorizes the home rule counties of Southern Maryland to require rental property owners to register their properties with the county in order to offer the property for lease; authorizes the home rule counties to charge a fee for registering the rental properties with the county and to impose a fine for a dwelling that is not registered with the county; and authorizes home rule counties of Southern Maryland to conduct inspections and impose fines for violations.