



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

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# **2023 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 2023.

The report focuses on the following areas:

- **Registration of Builders:** 2,302 builders were registered as of June 30, 2023. 214 of those builders registered for the first time between July 1, 2022 and June 30, 2023. The overall number of registered builders decreased by about 9.7% from the previous year.
- **Registration Renewal:** Between July 1, 2022 and June 30, 2023, 1,299 builders renewed their registrations.
- **Law Enforcement:** The Unit opened 23 investigations between July 1, 2022 and June 30, 2023, 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. 8 of the investigations resulted in settlements, 2 resulted in the denial of registration, and 13 remained under continuing investigation as of June 30, 2023. The Unit receives information from many sources, including consumers, other builders, subcontractors, and permit offices.

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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.

• **Education of Builders and Consumers:** As of June 30, 2023, the Unit had distributed over 279,000 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, 2022 and June 30, 2023, the Unit distributed 1,295 pamphlets to 57 builders by mail and the pamphlet was downloaded 414 times.

• **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 134 consumer complaints involving 72 home builders between July 1, 2022 and June 30, 2023. 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, 2023, there were 495 registered sales representatives who worked for 116 builders.

• **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.

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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, 2022 until June 30, 2023, there were 95 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. HBRA §4.5-304. 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, an Assistant Attorney General 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.

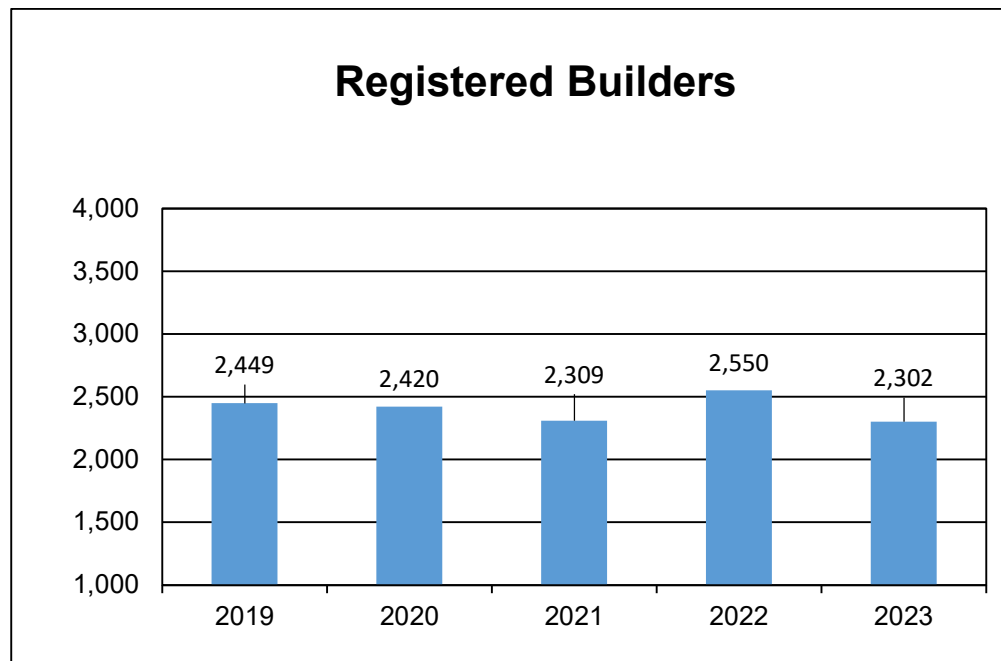
To register, builders are required to complete an application form, provide information about the principals of the company and legal proceedings involving the builder, and pay the registration fee. Each builder's registration lasts two years and expires on one of four quarterly dates based upon the 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, 2023, 2302 home builders were registered with the Unit. 1,299 builders were approved for renewal and 214 new builders registered with the Unit between July 1, 2022 and June 30, 2023. Of the 1,299 builders that have been renewed, 1,270 (97.8%) renewed their registrations over the Internet.

The following chart shows the number of registered builders reported in the Annual Report since 2019:



Source: HBRU

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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:

- **Type of Construction:** Of the 2,302 registered builders in Maryland as of June 30, 2023, the vast majority report building either custom homes (78.5%) and/or other new homes (47.7%). Another 9.3% report building condominiums, 8.6% report building industrialized buildings, and 6.1% report selling or installing mobile homes.
- **Location of Builders and Housing Construction:** 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, 2022 through June 30, 2023, and the percentage of the total number of single-family home permits issued in Maryland in each region during that period.

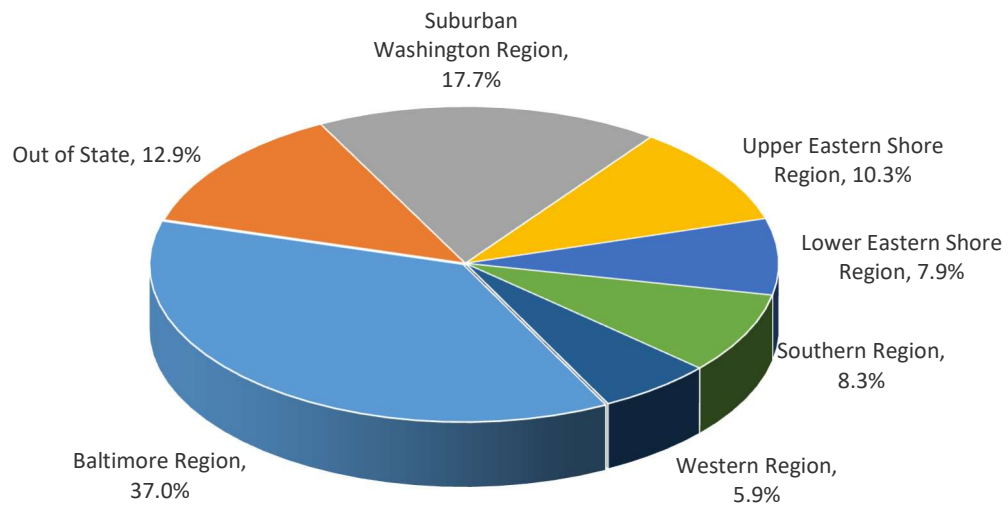
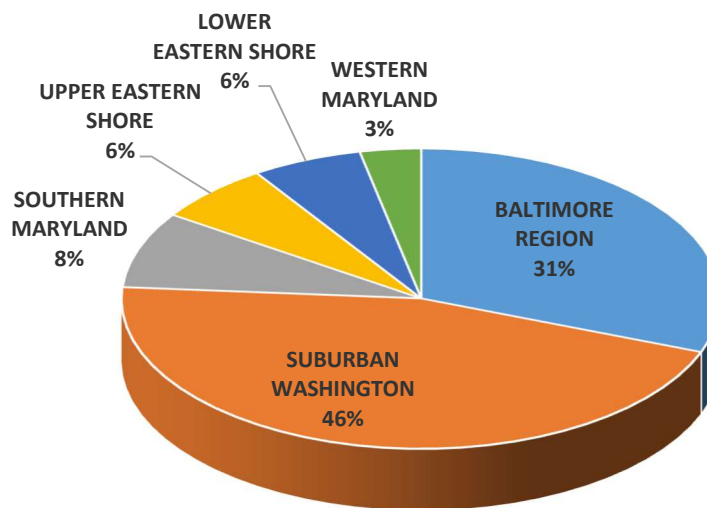
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<sup>3</sup> The HBRA excludes from registration employees, subcontractors and vendors of a registered home builder; the manufacturer of industrialized buildings unless it also installs the building; real estate developers who do not also contract 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.

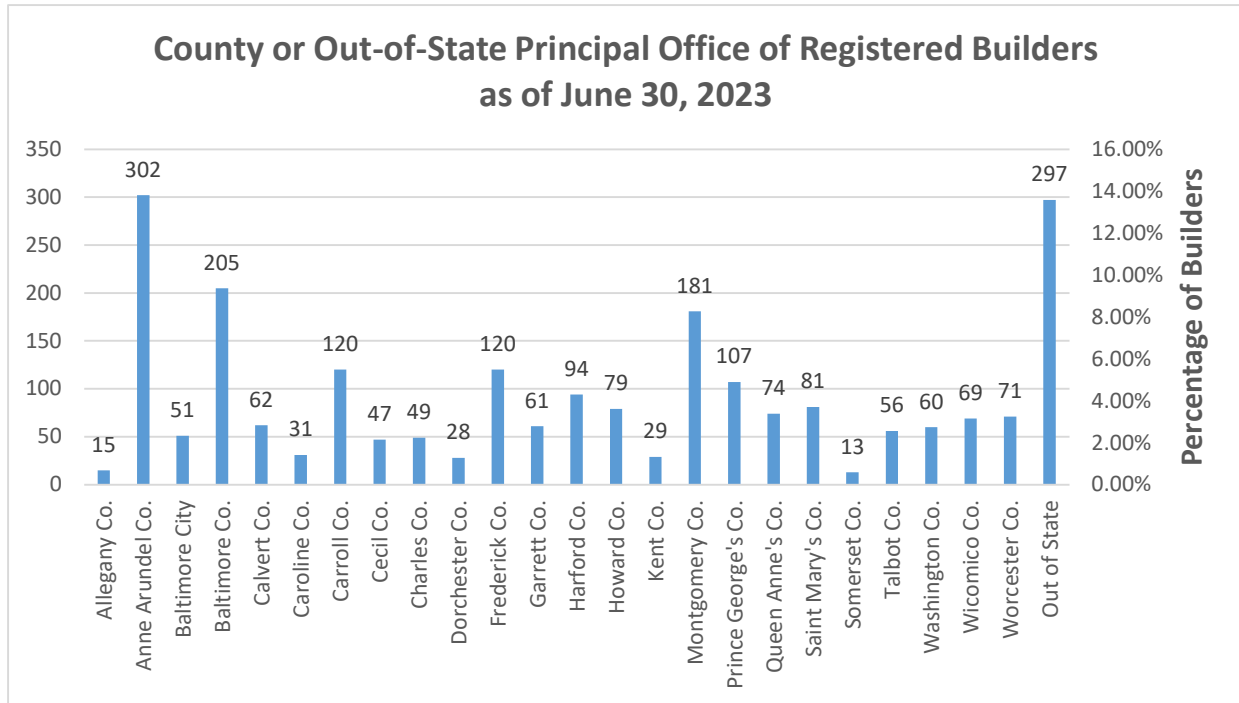


Region	Percentage of Builders With Headquarters in Region	Number of Permits Issued in Region (7/1/22- 6/30/23)	Percentage of State-wide Permits Issued in Region
<b>Baltimore Region</b> (Anne Arundel, Baltimore City, Baltimore County, Carroll, Harford, Howard)	37.0%	5,533	30.8%
<b>Suburban Washington Region</b> (Frederick, Montgomery, Prince George's)	17.7%	8,153	45.4%
<b>Upper Eastern Shore Region</b> (Caroline, Cecil, Kent, Queen Anne's, Talbot)	10.3%	1,137	6.3%
<b>Southern Region</b> (Calvert, Charles, St. Mary's)	8.3%	1,475	8.2%
<b>Lower Eastern Shore Region</b> (Dorchester, Somerset, Wicomico, Worcester)	7.9%	1,069	6.0%
<b>Western Region</b> (Allegany, Garrett, Washington)	5.9%	593	3.3%
<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)	12.9%		
Totals	100%	17,960	100%

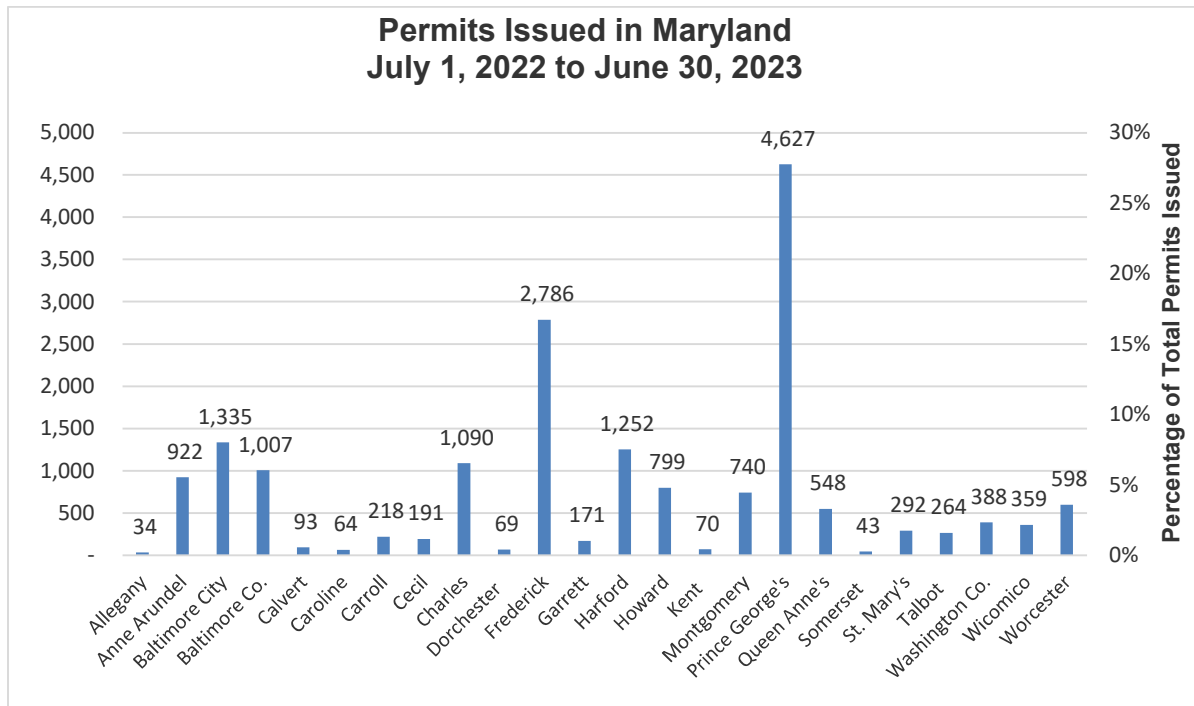
Source: HBRU and Md. Dept. of Planning for Single Family Permits Issued July 1, 2022 through June 30, 2023.

**Percentage of Builders in Region as of June 30, 2023****Percentage of Permits in Each Region**

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, 2022 through June 30, 2023:



Source: HBRU



Source: HBRU and Md. Dept. of Planning, for Single Family Permits Issued July 1, 2022 through June 30, 2023.

### **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, 2023, there were 445 registered sales representatives who worked for 116 builders. 51 new sales representatives registered with the Unit between July 1, 2022 and June 30, 2023. 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 23 investigations between July 1, 2022 and June 30, 2023, 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. 8 of the investigations resulted in settlements, 2 resulted in the denial of registration, and 13 remained under continuing investigation as of June 30, 2023.

In ongoing investigations that were pending at the beginning of Fiscal Year 2023, the Unit brought charges against 2 builders between July 1, 2022 and June 30, 2023, and the charges were settled with the builders; and settled 2 other ongoing investigations without bringing charges.

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 to resolve charges that three builders and their principal violated the Consumer Protection Act and related home builder laws by accepting thousands of dollars from consumers, but, in some instances, either failing to begin or complete construction of the homes, or failing to repair defects in some of the homes, and failing to return the money taken from the consumers to begin or complete construction of the consumers' homes. The Final Order required the builders and their principal to pay at least \$258,507.00 in restitution and \$84,403.00 in economic damages that resulted from the builders' actions. The Final Order also required them to pay \$3,000.00 in costs, and \$60,000.00 in civil penalties, with all but \$30,000.00 being waived if the builders comply with the terms of the settlement. The Final Order also contained injunctive relief to prevent future violations and required the builders to submit to binding arbitration any consumer complaint that cannot be resolved through mediation, promptly comply with any arbitration decision entered against them, and provide the Division with a \$500,000.00 performance bond prior to engaging in any home building activity.
- The Consumer Protection Division entered into a Final Order by Consent to resolve charges that a West Virginia builder and its principal violated the Consumer Protection Act and related home builder laws by accepting thousands of dollars from consumers, but failing to begin construction or repair defective work, and failing to return the money taken from the consumers to begin construction of their homes or required to repair defective work. The Final Order required the builder and its principal to pay about \$47,443 in restitution and \$6,439 in economic damages that resulted from the builders' actions. The Final Order also required them to pay \$500.00 in costs, and \$16,000.00 in civil penalties, with all but \$3,000.00 being waived if the builder complies with the terms of the settlement. The Final Order also contained injunctive relief to prevent future violations and required the builder to submit to binding arbitration any consumer complaint that cannot be resolved through mediation, promptly comply with any arbitration decision entered against them, and provide the Division with a \$50,000.00 performance bond prior to engaging in any home building activity.

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- The Consumer Protection Division entered into Assurances of Discontinuance with nine builders and their principals (2 builders in Baltimore, Anne Arundel and Montgomery County; 1 builder in Wicomico and Talbot County; and 1 builder in Pennsylvania) for engaging in unregistered builder activity, failing to properly protect consumer money, using an expired home builder registration number or another's registration number, and/or failing to include statutorily required provisions in a contract. The Assurances required the builders and their principals to pay civil penalties totaling \$16,500.00 and costs totaling \$4,500.00, and some builders were required to maintain a performance bond. The Assurances also required the companies to arbitrate any unresolved consumer complaints through the Division's arbitration program.

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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 the 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, 2023, the Unit had distributed over 279,000 consumer information pamphlets to builders. Between July 1, 2022 and June 30, 2023, the Unit distributed 1,295 pamphlets to 57 builders by mail and the pamphlet was downloaded 414 times.

**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 registered 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, 2022 and June 30, 2023, the Mediation Unit of the Consumer Protection Division handled 134 written consumer complaints filed against 72 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. Since January 1, 2009, consumers who are unable to resolve their complaints through mediation have been able to submit their claims to the Home Builder Guaranty Fund.

Of the complaints received by the Division's Mediation Unit, 69 (51.5%) of the complaints were mediated, and of those 3 (4.3%) were referred for arbitration. Overall, 5 (3.7%) were filed for information only and 41 (59.4%) of the complaints mediated by the Division resulted in positive relief for consumers, such as the defects being corrected by the builder or money being paid to the consumer. The total amount of money or savings obtained for consumers in these complaints was \$116,606.22.

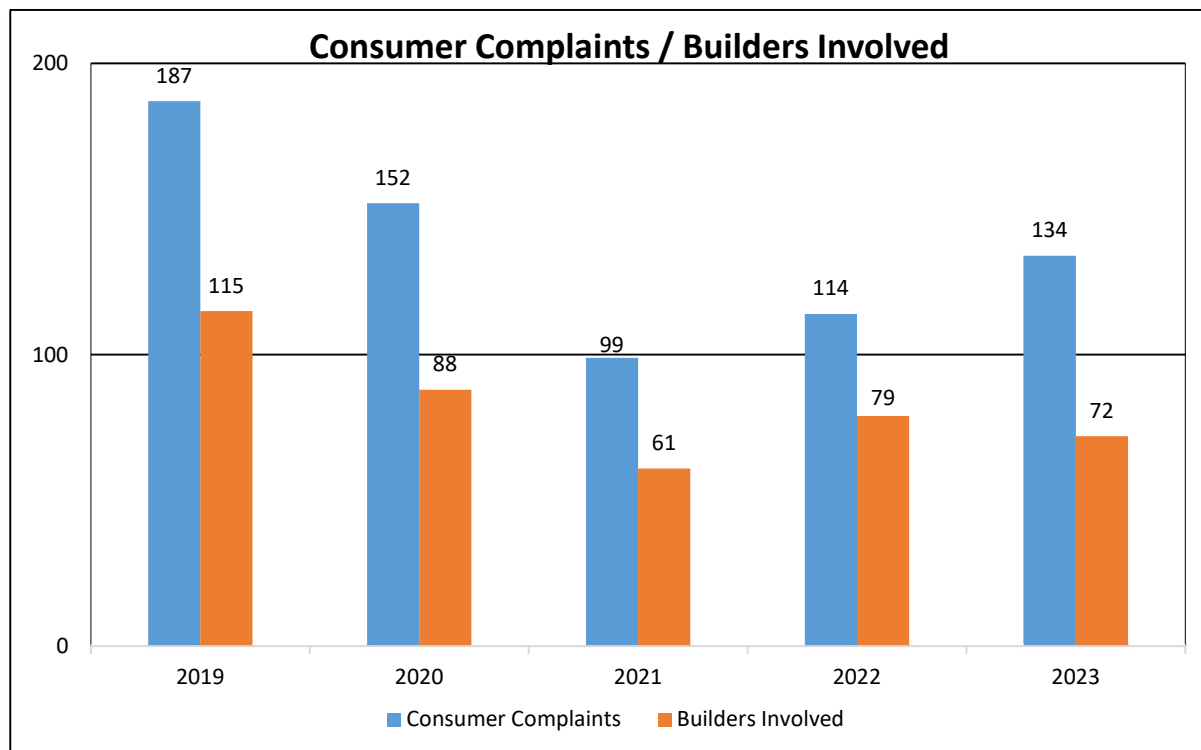
The 134 written complaints raised the following issues:

- *Construction Defect Issues* (53);
- *Incomplete Construction* (34), including disputes between the builder and owner about whether construction had been completed;
- *Other/No Consumer Transaction* (15);
- *Deposit Issues* (14), including consumers seeking return of their deposits after being denied financing or withdrawing from their contracts for other reasons;
- *Warranty Issues* (12);
- *Contract Disputes* (9);
- *Misrepresentation Claims* (7), including claims that the finished home was not constructed in the manner promised by the builder;
- *Unsatisfactory Services/Workmanship* (4);
- *Defective/Damaged Goods* (3);

- *Nonpayment of Subcontractors* (3);
- *Price Gouging* (1);
- *Service Delays* (1);
- *Failure to Deliver Correct Goods/Services* (1); and
- *Failure to Disclose Front Footage Assessment Fees* (1).

Consumers also filed complaints against builders with the Montgomery County Office of Consumer Protection and with the Howard County Office of Consumer Protection. Between July 1, 2022 and June 30, 2023, there were 23 complaints filed in Montgomery County. In Howard County, 5 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 2019:



Source: HBRU

## 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 2022, the 7 approved plans reported a total statewide enrollment of 63,776 homes. Also, in 2022 the warranty plans enrolled 5,039 new homes, generating \$2,683,267.00 in revenue. The plans reported a total of 174 consumer claims for warranty coverage in 2022. The plans approved 4 claims for coverage and denied 102 claims. The warranty plans reported that 48 claims were resolved without action by the plan. The warranty plans settled 2 approved claims by making payment to the consumer.

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, 2022 to June 30, 2023, the Unit received notice of 90 denied warranty claims. The claims that were denied are categorized with the plan's response as follows:

**Table of Reported Claims Since 2021**

Type of Claim	Claims Denied in FY 2021	Claims Denied in FY 2022	Claims Denied in FY 2023
Structural Defects <sup>4</sup>	13	16	15
Material/Workmanship Defects <sup>5</sup>	53	69	65
Equipment/Appliance/Fixture Defects	4	7	4
Plumbing/Electrical/HVAC Defects	4	3	6

Note: The 102 denied claims that the warranty plans reported were for the 2022 calendar year (January 1, 2022 to December 31, 2023), while the 90 denied claim notices the Unit received were during the fiscal year (July 1, 2022 to June 30, 2023).

<sup>4</sup> *Structural Defects*, meaning the plan's assertion that the defect did not meet the plan's definition of a structural defect.

<sup>5</sup> *Material/Workmanship Defects* (65), including the plan's assertion that warranty coverage expired (54), the defect is excluded under plan (7); or there was no defect under plan performance standard (4).

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**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 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>6</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, 2022 until June 30, 2023:

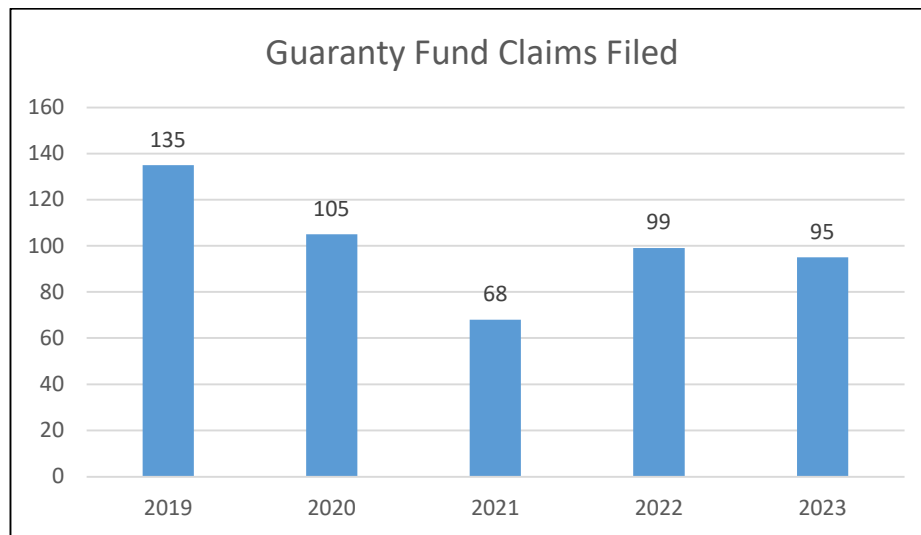
- 95 claims were filed with the Guaranty Fund. Of those claims, 27 claims were settled through mediation or after being referred for a Guaranty Fund hearing but before a hearing was scheduled. Out of these, 17 claims led to consumers receiving reimbursement totaling \$302,171; 7 claims resolved when the builders agreed to repair the defective work (and, as to 2 of the 7 claims, the consumers also received

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<sup>6</sup> Chapter 58 (HB 116)/Chapter 59 (SB 164) (2020)

some reimbursement); and 5 claims were settled with consumers receiving unknown or other results.

The following chart shows the number of Guaranty Fund claims reported in the Annual Reports since 2019:



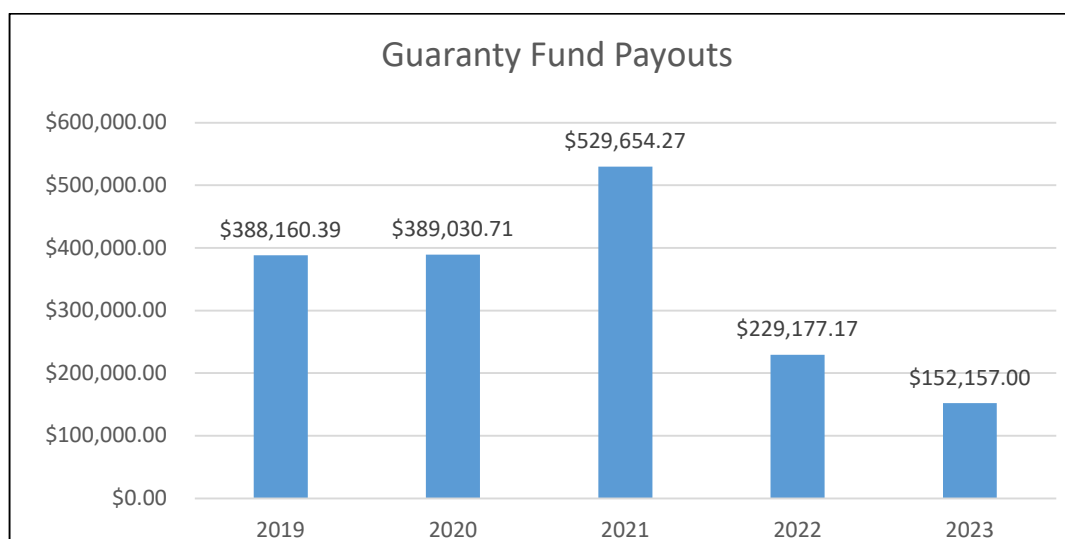
Source: HBRU

- 2 claims are stayed pending awards in arbitration and 3 additional claims are stayed due to pending litigation.
- 2 claims were determined not to be eligible for relief from the Guaranty Fund (e.g., claims against unregistered builders, claims against the wrong builder/party, and claims that do not involve a new home), and 3 were closed because the claimants failed to provide documentation to support their claims.
- 58 claims remain in the process of mediation or investigation.
- 29 claims were scheduled for hearings at the Office of Administrative Hearings. Proposed Decisions were issued by an Administrative Law Judge in 20 claims, 2 claims are pending issuance of Proposed Decisions from the Office of Administrative Hearings, 1 claim is stayed pending circuit court litigation, and 6 claims settled prior to a hearing at the Office of Administrative Hearings or prior to the issuance of a Proposed Decision.
- 3 claims were submitted to the Agency for final decision without a hearing before the Office of Administrative Hearings based on an arbitration award or court order, or to resolve a claim of less than \$7,500. Of these 3, one of the builders paid the full arbitration award of \$43,302.49.

- Final Orders were issued by the Agency resolving 7 Guaranty Fund claims. Final Orders were issued resolving 5 of the 7 claims after hearings at the Office of Administrative Hearings, while Final Orders were issued in 2 claims based on an arbitration decision or to resolve a claim of less than \$7,500 without a hearing at the Office of Administrative Hearings. Guaranty Fund relief was awarded in 4 of the 7 claims in the amount of \$57,627.00, and no Guaranty Fund relief was awarded in 3 of the claims.

From July 1, 2022 until June 30, 2023, the Guaranty Fund paid a total of \$152,157.00 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 \$1.68 million.

The following chart shows the amount of Guaranty Fund Payouts reported in the Annual Reports since 2019:



Source: HBRU

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**X. LEGISLATIVE CHANGES AFFECTING HOME BUILDERS**

During the 2023 session, the General Assembly enacted the following law affecting home builders and/or homeowners, which became effective June 1, 2023:

- **Chapter 525 (SB 579) - Residential Property - Service Agreements – Prohibitions:** This bill limits certain “service agreements” entered into by a homeowner for maintenance or for the purchase or sale of real property to a one-year term, prohibits the “service agreements” from running with the land and binding successors in interest, and prohibits the “service agreement” from being recorded as a lien, or other encumbrance, to the real property. This bill also provides that a service agreement made in violation of the limits and prohibitions outlined in the article is an enumerated violation of the Consumer Protection Act.

During the 2023 session, the General Assembly enacted the following laws affecting home builders and/or homeowners, which became effective October 1, 2023:

- **Chapter 177 (HB 23)/Chapter 176 (SB 746) - Mobile and Manufactured Homes - Relocation Plans and Sales of Communities (Manufactured Housing Modernization Act of 2023):** This bill requires that an owner of a manufactured housing community containing two or more manufactured homes notify the homeowners of a pending sale of the community and its terms; offer homeowners the opportunity to purchase the manufactured housing community; and negotiate, in good faith, with homeowners seeking to purchase the manufactured housing community.
- **Chapter 180 (HB 92)/Chapter 181 (SB 193) - Ground Leases - Collection of Rent, Interest, Fees, and Other Expenses - Registration Requirements:** This bill first clarifies that a ground rent is not registered until the ground lease, or any amendment, is posted to the State Department of Assessment and Taxation (SDAT) online registry. A ground rent holder may not collect ground rents, fees, and interest if the ground lease is not registered with SDAT. If a ground rent holder impermissibly collects ground rents, fees, and interest while unregistered, this bill permits SDAT to void any ground lease registration after reviewing a complaint from a ground rent tenant, evidence presented, and any response by a ground lease holder. Any decision made by SDAT can be challenged de novo by the ground rent holder or ground rent tenant in Circuit Court.

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- **Chapter 183 (HB 93)/Chapter 182 (SB 196) - Residential Ground Leases - Redemption and Extinguishment – Requirements:** This bill alters when a ground rent tenant seeking to extinguish a ground rent must submit to SDAT redemption fees and escrowed ground rent after an application. Under the bill, the ground rent tenant can submit payment of any escrowed ground rent and redemption fees at any time after the tenant submits an application. After SDAT has received the application, posted notice for at least 90 days, and has received the required fees, SDAT will issue a ground rent redemption certificate or a ground rent extinguishment certificate.
  - **Chapter 184 (HB 118)/Chapter 185 (SB 194) - Ground Leases – Notices and Billing – Forms and Requirements:** This bill adds several protections to the ground rent statutes which promote redemption. First, the bill requires ground rent holders to mail ground rent bills to ground rent tenants at least 60 days prior to pursuing a collection action against the ground rent tenant. The bill provided by the ground rent holder must be in the form provided by SDAT, and the ground rent holder cannot charge the tenant for the cost of mailing the bill. Second, the bill requires ground rent holders to notify ground rent tenants and SDAT of any transfer of the ground rent. Third, the bill limits to three years the amount of ground rent a tenant must hold in escrow for an unregistered ground rent. And, finally, the bill proclaims that it is the intent of the General Assembly and in the public interest for ground rents to be redeemed and that SDAT should assist in the redemption of ground rents through its ground rent redemption program.
  - **Chapter 186 (HB 98) - Condominiums – Mandatory Insurance Coverage – Alterations:** This bill requires the council of unit owners in a condominium to carry property insurance on the unit and common elements for attached or multifamily units and for the common elements only if the unit is detached. For detached units the bill requires the owner to carry insurance on the entire unit.
  - **Chapter 752 (SB 277) - Real Property - Sheriff's Sales - Procedures and Subordinate Interests:** This bill establishes that a sheriff's sale of real property extinguishes any subordinate liens or interests on the land being sold. This bill also adds to the enumerated interests not impacted by a sheriff's sale liens on land from a local government's judgment for maintenance or nuisance violations.



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- **Chapter 216 (HB 844) - Housing and Community Development - Common Ownership Community Website:** This bill will require the Department of Housing and Community Development to establish and maintain a website that provides information on the rights and responsibilities of individuals living in common ownership communities (COCs).
  - **Chapter 585 (SB 651) - The Anthony Moorman Act:** This bill requires the holder of trust money to distribute the trust money to a purchaser of real property within 30 days if the purchaser has canceled a contract of sale due to a contingency as identified in the contract that was not met. If, after notice from the purchaser, the holder of trust money receives a copy of a complaint filed in District Court or a notarized request for mediation from the seller, then the holder of trust money should retain the funds until a judgment is issued by the District Court or a mediation agreement is reached.