

**NOT SO FAST, HOME BUILDERS...  
SALES PERSONS LICENSING LAWS CHANGE, YET AGAIN!**

By Matthew S. Wineman, Esquire

***Hey Home Builders!*** Remember the fire drill that you and your sales staff went through last summer to comply with House Bill 1288? You know the one, where your compensation and employment agreements with all of your employee sales staff had to be restructured and your entire sales staff was required to take 60 hours of real estate classes, pay licensing and regulatory fees, and affiliate with a licensed real estate broker, all so that they could become licensed “sales persons” under the guidelines of the Maryland Real Estate Commission, and so you could continue selling new homes (*oh, and don't forget, this all had to be completed in less than 6 months!*).

***Well, get ready to do it again!*** On May 13, 2008, the Governor signed House Bill 1557 which REPEALED House Bill 1288. The new law, which becomes effective on October 1, 2008, provides that:

- All “Home Builder Sales Representatives” must be “**REGISTERED SALES REPRESENTATIVES**” with the newly re-named **HOME BUILDER AND HOME BUILDER SALES REPRESENTATIVE REGISTRATION UNIT** (a unit within the Consumer Protection Division) [*and no longer need to be “salespersons” licensed by the Maryland Real Estate Commission*];
- Registered Sales Representatives must pay an initial **REGISTRATION FEE** of \$200, and an additional \$200 **RENEWAL FEE** every 2 years;
- All Home Builders shall provide each prospective home buyer with **NEW DISCLOSURES** regarding the relationship of the “Home Builder Sales Representative” to the Home Builder, in contracts and written materials made available to the home buyer;
- All Home Builders must pay a **GUARANTY FUND FEE** of \$50 with each application for a building permit for construction of a new home;
- The newly established **GUARANTY FUND** will be **AVAILABLE TO CLAIMANTS** for any “Actual Loss” [*arising from incomplete construction, breach of a representation or warranty, failure to meet required construction standards or guidelines, and deposits which are not returned as required*]; and
- **A HOME BUILDER MUST REIMBURSE** the Guaranty Fund for claims paid, plus interest.

In addition to the *frustration factor* for Maryland Home Builders and their “salespersons” or “registered sales representatives” (*whichever term is now correct*), as

well as the *increased exposure* to fines and penalties imposed by the Consumer Protection Division in order to comply with this new law (House Bill 1557), **New Home Builders in the State of Maryland must now incur additional costs and expenses:**

- To pay Registration Fees and Renewal Fees for “Home Builder Sales Representatives” to obtain and maintain a “Registration Certificate”;
- To terminate the arrangements they had made for their “salespersons” to be affiliated with licensed real estate brokers (as required under last year’s House Bill 1288), and to restructure their salespersons’ compensation and employment arrangements to reflect their status as employees of the Home Builder;
- To modify their Contracts of Sale and Marketing Materials to comply with the new disclosure requirements;
- To pay increased Registration Fees and Renewal Fees to obtain and maintain a Home Builder Registration Number;
- **AND.....Be prepared to comply with all of these new requirements in less than 5 months!**

After going through all of these efforts (*again!*); let’s hope they got it right this time.

If you have any questions regarding compliance with this new law or need assistance with any of your real estate needs, please contact Matt Wineman (410-649-1239, or [mwineman@rosenbergmartin.com](mailto:mwineman@rosenbergmartin.com)) or any attorney in our real estate group:

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