

May 17, 2001

The Honorable Casper R. Taylor, Jr.
Speaker of the House
State House
Annapolis MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed House Bill 82 – Home Builders – Regulation.

House Bill 82 would have transferred the responsibility for holding home builders' surety bonds and letters of credit and for the approval and monitoring of third party warranty plans from the Department of Labor, Licensing, and Regulation to the Consumer Protection Division of the Office of the Attorney General. House Bill 82 also would have exempted a builder constructing a custom home from the disclosure requirements related to hazardous or regulated materials. In addition, House Bill 82 would have corrected an oversight in the State Home Builders Registration Act by requiring a new homebuilder to disclose to an owner that the builder must be registered with the Consumer Protection Division of the Office of the Attorney General.

While I strongly support the provisions of House Bill 82 which would have transferred certain responsibilities from the Department of Labor, Licensing, and Regulation to the Consumer Protection Division, I cannot support exempting custom homebuilders from the disclosure requirements related to hazardous or regulated materials. The rationale for exempting custom home builders from these disclosure requirements appears to be that, unlike new homes, the builder does not own the property. Therefore, the builder does not have actual knowledge of the condition of the property prior to constructing a home on the property.

Nonetheless, this exemption does not take into account the scenario where the custom home builder, for some reason, has actual knowledge that hazardous or regulated materials are present on the site. For example, a builder could be approached by a property owner to build a home on a lot which the builder has previously refused to purchase after the builder discovered an environmental hazard, such as radon, present on the property. Under this scenario, the builder could proceed with constructing the custom home for the property owner without having to tell the property owner of the presence of the environmental hazard. While a situation like this may be rare, I believe the State should err on the side of protecting the public, when possible. The current disclosure requirement does not place an unreasonable burden on the custom home builder. Under the disclosure requirements, custom home builders are not required to investigate whether the property contains any hazardous or regulated materials. Rather, the custom home builder is only required to disclose when the builder has actual knowledge that hazardous or regulated materials are present on the site or disclose to the property owner that the builder is making no representations or warranties as to whether there is any hazardous or regulated material on the site of the new home. Therefore, the benefit to the property owner in receiving information related to hazardous or regulated materials under the current