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By: **Delegates McConkey and Stern, V. Clagett, Cluster, Fulton, Holmes,  
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Assigned to: Environmental Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2005

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Real Property - ~~Resale of a Condominium Unit by a Unit Owner - Time~~**  
 3 **Frames Task Force on the Resale of Homes in Condominiums and**  
 4 **Homeowners Associations**

5 FOR the purpose of ~~altering the time frame within which a condominium unit owner~~  
 6 ~~is required to furnish a purchaser certain documents and statements under~~  
 7 ~~certain circumstances; altering the time frame within which a council of unit~~  
 8 ~~owners is required to furnish a certificate of information to a unit owner under~~  
 9 ~~certain circumstances; altering the time frame within which a purchaser may~~  
 10 ~~rescind a contract for the resale of a condominium unit without any liability~~  
 11 ~~under certain circumstances; altering the content of certain notices required to~~  
 12 ~~be given to a purchaser of a condominium unit under certain circumstances;~~  
 13 ~~making stylistic changes; and generally relating to the resale of a condominium~~  
 14 ~~unit by a unit owner creating a Task Force on the Resale of Homes in~~  
 15 ~~Condominiums and Homeowners Associations; providing for the composition of~~  
 16 ~~the Task Force; requiring the President of the Senate and the Speaker of the~~  
 17 ~~House to designate a chair of the Task Force; requiring the Department of~~  
 18 ~~Legislative Services to provide staff for the Task Force; prohibiting a member~~  
 19 ~~from receiving compensation but entitling a member to reimbursement for~~  
 20 ~~certain expenses; providing for the duties of the Task Force; requiring the Task~~  
 21 ~~Force to submit certain reports to the Governor and the General Assembly on or~~  
 22 ~~before certain dates; providing for the termination of this Act; and generally~~  
 23 ~~relating to the Task Force on the Resale of Homes in Condominiums and~~  
 24 ~~Homeowners Associations.~~

25 ~~BY repealing and reenacting, with amendments,~~  
 26 ~~Article Real Property~~

1 ~~Section 11-135~~  
2 ~~Annotated Code of Maryland~~  
3 ~~(2003 Replacement Volume and 2004 Supplement)~~

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
5 MARYLAND, That ~~the Laws of Maryland read as follows:~~

6 (a) There is a Task Force on the Resale of Homes in Condominiums and  
7 Homeowners Associations.

8 (b) The Task Force consists of the following members:

9 (1) one member of the Senate of Maryland, appointed by the President of  
10 the Senate;

11 (2) two members of the House of Delegates, appointed by the Speaker of  
12 the House;

13 (3) one representative of the Consumer Protection Division of the Office  
14 of the Attorney General; and

15 (4) the following members, appointed by the President of the Senate and  
16 the Speaker of the House:

17 (i) one representative of realtors;

18 (ii) one representative of associations that represent common  
19 ownership communities;

20 (iii) one representative of professional management companies of  
21 large condominiums or homeowners associations;

22 (iv) one representative of professional management companies of  
23 small and medium-size condominiums or homeowners associations;

24 (v) one representative of attorneys at law licensed to practice in the  
25 State who represent buyers in residential real estate transactions;

26 (vi) one representative of attorneys at law licensed to practice in the  
27 State who represent condominiums or homeowners associations; and

28 (vii) three representatives of the general public:

29 1. two of whom are members of a council of unit owners in a  
30 condominium or governing body of a homeowners association; and

31 2. one of whom owns a unit in a condominium or a lot in a  
32 homeowners association and is not a member of the council of unit owners in the  
33 condominium or the governing body of the homeowners association.

1 (c) The President of the Senate and the Speaker of the House shall designate  
2 the chair of the Task Force.

3 (d) The Department of Legislative Services shall provide staff for the Task  
4 Force.

5 (e) A member of the Task Force:

6 (1) may not receive compensation; but

7 (2) is entitled to reimbursement for expenses under the Standard State  
8 Travel Regulations, as provided in the State budget.

9 (f) The Task Force shall study and make recommendations regarding:

10 (1) the issues involved with the resale by owners of homes located in  
11 condominiums or homeowners associations, including:

12 (i) the time frames for the delivery of documents and statements to  
13 sellers and to buyers;

14 (ii) the content of documents and statements that sellers must  
15 provide to buyers;

16 (iii) the consequences when time frames for the delivery of  
17 documents and statements to sellers and to buyers are not satisfied; and

18 (iv) the time period within which a buyer may rescind a sales  
19 contract without any liability; and

20 (2) the issues involved with the resale by owners of homes located in  
21 condominiums or homeowners associations that are subject to multiple common  
22 ownership regimes, including the coordination of the preparation of the documents  
23 and statements for the resale process.

24 (g) The Task Force shall submit an interim report on its findings and  
25 recommendations on or before June 30, 2006, and a final report on or before  
26 December 31, 2006, to the Governor and, subject to § 2-1246 of the State Government  
27 Article, the General Assembly.

28 **~~Article—Real Property~~**

29 ~~11-135.~~

30 ~~(a) Except as provided in subsection (b) of this section, a contract for the resale~~  
31 ~~of a unit by a unit owner other than a developer is not enforceable unless the contract~~  
32 ~~of sale contains in conspicuous type a notice in the form specified in subsection (g)(1)~~  
33 ~~of this section, and the unit owner furnishes to the purchaser not later than [15] 5~~  
34 ~~CALENDAR days prior to closing:~~

- 1           (1)     A copy of the declaration (other than the plats);
- 2           (2)     The bylaws;
- 3           (3)     The rules or regulations of the condominium;
- 4           (4)     A certificate containing:
- 5                   (i)     A statement disclosing the effect on the proposed conveyance of  
6 any right of first refusal or other restraint on the free alienability of the unit other  
7 than any restraint created by the unit owner;
- 8                   (ii)    A statement setting forth the amount of the monthly common  
9 expense assessment and any unpaid common expense or special assessment currently  
10 due and payable from the selling unit owner;
- 11                  (iii)   A statement of any other fees payable by the unit owners to the  
12 council of unit owners;
- 13                  (iv)    A statement of any capital expenditures approved by the council  
14 of unit owners planned at the time of the conveyance which are not reflected in the  
15 current operating budget disclosed under subparagraph (vi) of this paragraph;
- 16                  (v)     The most recent regularly prepared balance sheet and income  
17 expense statement, if any, of the condominium;
- 18                  (vi)    The current operating budget of the condominium including  
19 details concerning the reserve fund for repair and replacement and its intended use,  
20 or a statement that there is no reserve fund;
- 21                  (vii)   A statement of any judgments against the condominium and the  
22 existence of any pending suits to which the council of unit owners is a party;
- 23                  (viii)   A statement generally describing any insurance policies  
24 provided for the benefit of unit owners, a notice that copies of the policies are  
25 available for inspection, stating the location at which the copies are available, and a  
26 notice that the terms of the policy prevail over the description;
- 27                  (ix)    A statement as to whether the council of unit owners has  
28 knowledge that any alteration or improvement to the unit or to the limited common  
29 elements assigned to the unit violates any provision of the declaration, bylaws, or  
30 rules or regulations;
- 31                  (x)     A statement as to whether the council of unit owners has  
32 knowledge of any violation of the health or building codes with respect to the unit, the  
33 limited common elements assigned to the unit, or any other portion of the  
34 condominium;

1 (xi) A statement of the remaining term of any leasehold estate  
 2 affecting the condominium and the provisions governing any extension or renewal  
 3 thereof; and

4 (xii) A description of any recreational or other facilities which are to  
 5 be used by the unit owners or maintained by them or the council of unit owners, and  
 6 a statement as to whether or not they are to be a part of the common elements; and

7 (5) A statement by the unit owner as to whether the unit owner has  
 8 knowledge:

9 (i) That any alteration to the unit or to the limited common  
 10 elements assigned to the unit violates any provision of the declaration, bylaws, or  
 11 rules and regulations;

12 (ii) Of any violation of the health or building codes with respect to  
 13 the unit or the limited common elements assigned to the unit; and

14 (iii) That the unit is subject to an extended lease under § 11-137 of  
 15 this title or under local law, and if so, a copy of the lease must be provided.

16 (b) A contract for the resale by a unit owner other than a developer of a unit in  
 17 a condominium containing less than 7 units is not enforceable unless the contract of  
 18 sale contains in conspicuous type a notice in the form specified in subsection (g)(2) of  
 19 this section, and the unit owner furnishes to the purchaser not later than [15] 5  
 20 CALENDAR days prior to closing:

21 (1) A copy of the declaration (other than the plats);

22 (2) The bylaws;

23 (3) The rules and regulations of the condominium; and

24 (4) A statement by the unit owner of the unit owner's expenses during  
 25 the preceding 12 months relating to the common elements.

26 (e) (1) The council of unit owners, within [20] 10 CALENDAR days after a  
 27 written request by a unit owner and receipt of a reasonable fee therefor, not to exceed  
 28 the cost to the council of unit owners, if any, shall furnish a certificate containing the  
 29 information necessary to enable the unit owner to comply with subsection (a) of this  
 30 section. A unit owner providing a certificate under subsection (a) of this section is not  
 31 liable to the purchaser for any erroneous information provided by the council of unit  
 32 owners and included in the certificate.

33 (2) With respect to the remaining information that the unit owner is  
 34 required to disclose under subsection (a) of this section that is not provided by the  
 35 council of unit owners and included in the certificate, a unit owner:

36 (i) Except as provided in subparagraph (ii) of this paragraph, is  
 37 liable to the purchaser under this section for damages proximately caused by:

1                         ~~1.~~     An untrue statement about a material fact; and  
2                         ~~2.~~     An omission of a material fact that is necessary to make  
3 the statements made not misleading, in light of the circumstances under which the  
4 statements were made; and

5                         (ii)     Is not liable to the purchaser under this section if the owner  
6 had, after reasonable investigation, reasonable grounds to believe, and did believe, at  
7 the time the information was provided to the purchaser, that the statements were  
8 true and that there was no omission to state a material fact necessary to make the  
9 statements made not misleading, in light of the circumstances under which the  
10 statements were made.

11                        (d)     A purchaser is not liable for any unpaid assessment or fee greater  
12 than the amount set forth in the certificate prepared by the council of unit owners. A  
13 unit owner is not liable to a purchaser for the failure or delay of the council of unit  
14 owners to provide the certificate in a timely manner.

15                        (e)     The rights of a purchaser under this section may not be waived in the  
16 contract of sale, and any attempted waiver is void. However, if a purchaser proceeds  
17 to closing, [his] THE PURCHASER'S right to rescind the contract under subsection (f)  
18 ~~OF THIS SECTION~~ is terminated.

19                        (f)     Any purchaser may at any time within [7] 5 CALENDAR days following  
20 receipt of all of the information required under subsection (a) or (b) of this section,  
21 whichever is applicable, rescind in writing the contract of sale without stating any  
22 reason and without any liability on [his] THE PURCHASER'S part. The purchaser,  
23 upon rescission, is entitled to the return of any deposits made on account of the  
24 contract.

25                        (g)     (1)     A notice given as required by subsection (a) of this section shall be  
26 sufficient for the purposes of this section if it is in substantially the following form:

27                                                 "NOTICE

28     The seller is required by law to furnish to you not later than [15] 5 CALENDAR  
29 days prior to closing certain information concerning the condominium which is  
30 described in § 11-135 of the Maryland Condominium Act. This information must  
31 include at least the following:

- 32                        (i)     A copy of the declaration (other than the plats);  
33                        (ii)    A copy of the bylaws;  
34                        (iii)   A copy of the rules and regulations of the condominium;  
35                        (iv)    A certificate containing:

- 1                                   1.       A statement disclosing the effect on the proposed  
2 conveyance of any right of first refusal or other restraint on the free alienability of the  
3 unit, other than any restraint created by the unit owner;
  
- 4                                   2.       A statement of the amount of the monthly common  
5 expense assessment and any unpaid common expense or special assessment currently  
6 due and payable from the selling unit owner;
  
- 7                                   3.       A statement of any other fees payable by the unit owners  
8 to the council of unit owners;
  
- 9                                   4.       A statement of any capital expenditures approved by the  
10 council of unit owners or its authorized designee planned at the time of the  
11 conveyance which are not reflected in the current operating budget included in the  
12 certificate;
  
- 13                                  5.       The most recently prepared balance sheet and income and  
14 expense statement, if any, of the condominium;
  
- 15                                  6.       The current operating budget of the condominium,  
16 including details concerning the amount of the reserve fund for repair and  
17 replacement and its intended use, or a statement that there is no reserve fund;
  
- 18                                  7.       A statement of any judgments against the condominium  
19 and the existence of any pending suits to which the council of unit owners is a party;
  
- 20                                  8.       A statement generally describing any insurance policies  
21 provided for the benefit of the unit owners, a notice that the policies are available for  
22 inspection stating the location at which they are available, and a notice that the  
23 terms of the policy prevail over the general description;
  
- 24                                  9.       A statement as to whether the council of unit owners has  
25 knowledge that any alteration or improvement to the unit or to the limited common  
26 elements assigned to the unit violates any provision of the declaration, bylaws, or  
27 rules or regulations;
  
- 28                                  10.      A statement as to whether the council of unit owners has  
29 knowledge of any violation of the health or building codes with respect to the unit, the  
30 limited common elements assigned to the unit, or any other portion of the  
31 condominium;
  
- 32                                  11.      A statement of the remaining term of any leasehold estate  
33 affecting the condominium and the provisions governing any extension or renewal of  
34 it; and
  
- 35                                  12.      A description of any recreational or other facilities which  
36 are to be used by the unit owners or maintained by them or the council of unit owners,  
37 and a statement as to whether or not they are to be a part of the common elements;  
38 and

1 (v) A statement by the unit owner as to whether the unit owner has  
 2 knowledge:

3 1. That any alteration to the unit or to the limited common  
 4 elements assigned to the unit violates any provision of the declaration, bylaws, or  
 5 rules and regulations.

6 2. Of any violation of the health or building codes with  
 7 respect to the unit or the limited common elements assigned to the unit.

8 3. That the unit is subject to an extended lease under §  
 9 11-137 of this title or under local law, and if so, a copy of the lease must be provided.

10 You will have the right to cancel this contract without penalty, at any time  
 11 within [7] 5 CALENDAR days following delivery to you of all of this information.  
 12 However, once the sale is closed, your right to cancel the contract is terminated."

13 (2) A notice given as required by subsection (b) of this section shall be  
 14 sufficient for the purposes of this section if it is in substantially the following form:

15 "NOTICE

16 The seller is required by law to furnish to you not later than [15] 5 CALENDAR  
 17 days prior to closing certain information concerning the condominium which is  
 18 described in § 11-135 of the Maryland Condominium Act. This information must  
 19 include at least the following:

20 (1) A copy of the declaration (other than the plats);

21 (2) A copy of the bylaws;

22 (3) A copy of the rules and regulations of the condominium; and

23 (4) A statement by the seller of his expenses relating to the common  
 24 elements during the preceding 12 months.

25 You will have the right to cancel this contract without penalty, at any time  
 26 within [7] 5 CALENDAR days following delivery to you of all of this information.  
 27 However, once the sale is closed, your right to cancel the contract is terminated."

28 (h) Upon any sale of a condominium unit, the purchaser or his agent shall  
 29 provide to the council of unit owners to the extent available, the name and forwarding  
 30 address of the prior unit owner, the name and address of the purchaser, the name and  
 31 address of any mortgagee, the date of settlement, and the proportionate amounts of  
 32 any outstanding condominium fees or assessments assumed by each of the parties to  
 33 the transaction.

34 (i) This section does not apply to the sale of any unit which is to be used and  
 35 occupied for nonresidential purposes.



1 (j) ~~Subsections (a), (b), (c), (d), (e), (f), and (g) of this section do not apply to a~~  
2 ~~sale of a unit in an action to foreclose a mortgage or deed of trust.~~

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 ~~October~~ June 1, 2005. It shall remain effective for a period of 1 year and 7 months  
5 and, at the end of December 31, 2006, with no further action required by the General  
6 Assembly, this Act shall be abrogated and of no further force and effect.