

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 176 (Senator Kelley)  
Judicial Proceedings

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**Condominiums and Homeowners Associations - Contracts for Resale - Notice of Potential Special Assessments**

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This bill requires that specified disclosure documents include notice of any potential special assessment referenced within the preceding 12 months in either the agenda or minutes of any meeting of the governing body or a vote at a meeting of the governing body. The bill applies to documents needed for the (1) resale of a unit in a condominium by an owner other than the developer and (2) the resale of a lot within a homeowners association (HOA) development of any size to anyone using the lot as residential property. The bill also amends the notice required to be included in the contract of sale for the resale of a unit or lot to reflect the need for the additional information.

The bill applies only prospectively and has no application to any contract for the resale of a unit in a condominium or lot in a development subject to an HOA that is entered into before October 1, 2013.

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**Fiscal Summary**

**State Effect:** The bill does not directly affect State governmental operations or finances.

**Local Effect:** The bill does not directly affect local governmental operations or finances.

**Small Business Effect:** Minimal.

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## Analysis

### Current Law:

*Condominiums:* A contract for the resale of a unit in any condominium by a unit owner other than the developer is not enforceable unless the owner discloses specified information to the purchaser no later than 15 days prior to closing. The information required to be disclosed depends on the number of units within the condominium.

For the resale of a unit in a condominium of any size, the required disclosure must include a copy of the declaration, the bylaws, the rules or regulations of the condominium, and written notice of the unit owner's property insurance deductible responsibilities. While this information is required regardless of the size of the condominium, the owner must provide additional information if the condominium contains seven or more units. Generally, this additional information consists of more detailed financial data but also includes information regarding whether the council of unit owners or the unit owner has knowledge of violations of specified code provisions or condominium governing documents. If the condominium contains fewer than seven units, the accompanying information must include a statement by the unit owner of his or her expenses during the preceding 12 months relating to the condominium's common elements.

To collect the information needed to make the required disclosures, the unit owner may make a written request, accompanied by a reasonable fee, for the necessary information from the council of unit owners. The council of unit owners must provide this information within 20 days of receipt of the request and fee. The unit owner is not liable for any erroneous information provided by the council of unit owners and passed along to the buyer. However, the unit owner may be liable to the buyer in specified situations in which the owner provides erroneous information that was not provided by the council of unit owners.

The bill does not apply to the contract for the initial sale of a unit. The contract for the initial sale of a unit to a member of the public is not enforceable if it does not include a current public offering statement amended and registered with the Secretary of State. The contents of a current public offering statement are determined by the Maryland Condominium Act.

*Homeowners Associations:* For the resale of a lot within a development of any size, the seller must provide the purchaser with specified disclosure documents within 20 days of entering into the contract. These disclosures include information regarding past and present monthly fees or assessments, the existence of any delinquent charges against the

lot, the contact information of any HOA management agent, a statement as to the existence of any actions against the HOA or lot, and a copy of the HOA's governing documents. The above disclosures may be summarized or produced through any collection of documents but must be clear and concise and effectively convey the required information to the purchaser.

The bill does not apply to the initial sale of a lot within an HOA. However, the required disclosure documents for a lot in a development containing 12 or fewer lots are the same as the required disclosure documents for a resale of a lot within a development of any size. If the development contains more than 12 lots, the vendor must provide the purchaser with different disclosure documents, specified in the Maryland Homeowners Association Act, within seven calendar days of entering into the contract.

**Background:** The Secretary of State reports that 2,559 condominiums are registered in Maryland with a total of 165,437 units. No State office tracks the number of HOAs in Maryland.

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### **Additional Information**

**Prior Introductions:** HB 262 of 2012, a similar bill, received an unfavorable report from the House Environmental Matters Committee. Its cross file, SB 75, received an unfavorable report from the Senate Judicial Proceedings Committee.

**Cross File:** HB 23 (Delegate Beidle) - Environmental Matters.

**Information Source(s):** Office of the Attorney General (Consumer Protection Division), Judiciary (Administrative Office of the Courts), Secretary of State, Department of Legislative Services

**Fiscal Note History:** First Reader - January 29, 2013  
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