

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1007

(Delegate McMillan, *et al.*)

Environment and Transportation

Judicial Proceedings

**Real Property - Condominiums and Homeowners Associations - Disclosures to
Purchasers on Resale of Unit or Lot - Limitation on Fees**

This bill limits the fees that a condominium council of unit owners may charge a unit owner for providing specified information necessary to comply with required disclosures to purchasers on the resale of the unit and for specified inspections. The bill limits the fees that a homeowners association (HOA), the management agent of the HOA, or any other authorized officer or agent of the HOA may charge a lot owner for providing specified information necessary to comply with required disclosures to purchasers on the resale of the lot or the initial sale of a lot in a development containing 12 or fewer lots. The bill also limits the liability of a council of unit owners or an HOA for an error or omission in the information provided to the amount of the fees paid for the information.

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.

Analysis

Bill Summary:

Condominiums: A council of unit owners may charge a unit owner \$175 or the actual cost, whichever is less, for providing specified information in the form of a certificate. A council of unit owners may also charge a reasonable fee of up to \$100 for an inspection of the unit owner's unit. Finally, a council of unit owners may also charge a reasonable fee of up to \$100 for ensuring the completion of the inspection and the delivery of the certificate within 14 days after a written request by a unit owner.

Homeowners Associations: An HOA, or an authorized officer or agent of an HOA, must provide specified information to a lot owner within 20 days after receiving a written request from a lot owner, accompanied by a reasonable fee of up to \$175 or the actual cost of providing the information, whichever is less. An HOA may also charge a reasonable fee of up to \$100 for providing the specified resale information within 14 days after a written request by a lot owner.

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 and 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. This additional information includes a certificate containing specified data, primarily related to finances of the condominium and a statement regarding whether the council of unit owners or the unit owner has knowledge of any violations of health or building codes or alterations to the unit or common elements that violate the condominium governing documents.

To collect the information needed to make the required disclosures, the unit owner may make a written request, accompanied by a reasonable fee, to the council of unit owners to provide a certificate containing the necessary information. The council of unit owners must provide this certificate 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 purchaser. However, the unit owner may be liable to the purchaser in specified

situations in which the owner provides erroneous information that was not provided by the council of unit owners.

Homeowners Associations: For the resale of a lot within a development of any size or the initial sale of a lot in a development containing 12 or fewer lots, 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 judgments or pending 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.

Background: The Secretary of State reports that, as of January 30, 2015, 2,575 condominiums were registered in Maryland with a total of 165,520 units. The Foundation for Community Association Research (FCAR) estimates that there were 6,500 community associations in the State in 2013, the most recent year for which data is available. FCAR's definition of "community association" includes planned communities such as homeowners associations, condominium communities, and housing cooperatives.

Additional Information

Prior Introductions: Similar legislation was considered in 2014. HB 412 of 2014 passed the House as amended and was referred to the Senate Rules Committee, where no further action was taken. Its cross file, SB 229, was amended in both the Senate and House and, although a conference committee was appointed, the differences were not reconciled.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Judiciary (Administrative Office of the Courts), Secretary of State, Foundation for Community Association Research, Department of Legislative Services

Fiscal Note History: First Reader - March 8, 2015
min/kdm Revised - House Third Reader - April 1, 2015

Analysis by: Nathan W. McCurdy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510