

HOUSE BILL 676

N1
HB 1170/16 – ENV

7lr2449
CF SB 670

By: **Delegate Holmes**

Introduced and read first time: February 1, 2017

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 2017

CHAPTER _____

1 AN ACT concerning

2 **Condominiums – Unenforceability of Certain Provisions of Governing**
3 **Documents**

4 FOR the purpose of making unenforceable a provision of a declaration, a bylaw, a contract
5 for the initial sale of a unit, or any other instrument made by a developer or vendor
6 in accordance with certain provisions of law relating to certain claims that shortens
7 the statute of limitations applicable to the claim, waives the application of a certain
8 rule, requires a unit owner or the council of unit owners to assert a certain claim
9 within a certain period of time under certain circumstances, or operates to prevent
10 a unit owner or the council of unit owners from asserting a certain claim within a
11 certain period of time; defining a certain term; providing for the application of this
12 Act; and generally relating to warranty claims for condominiums.

13 BY adding to
14 Article – Real Property
15 Section 11–134.1
16 Annotated Code of Maryland
17 (2015 Replacement Volume and 2016 Supplement)

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

20 **Article – Real Property**

21 **11–134.1.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (A) IN THIS SECTION, "VENDOR" HAS THE MEANING STATED IN § 10-201 OF
2 THIS ARTICLE.

3 (B) THIS SECTION DOES NOT APPLY TO:

4 (1) A UNIT THAT IS OCCUPIED AND USED SOLELY FOR
5 NONRESIDENTIAL PURPOSES;

6 (2) AN AGREEMENT OR OTHER INSTRUMENT ENTERED INTO BY A
7 DEVELOPER OR VENDOR AND A COUNCIL OF UNIT OWNERS FOR THE PURPOSE OF
8 SETTLING A DISPUTED CLAIM ~~THAT ARISES~~ AFTER THE DATE ON WHICH THE UNIT
9 OWNERS, OTHER THAN THE DEVELOPER AND ITS AFFILIATES, FIRST ELECT A
10 CONTROLLING MAJORITY OF THE MEMBERS OF THE BOARD OF DIRECTORS FOR THE
11 COUNCIL OF UNIT OWNERS; OR

12 (3) AN AGREEMENT OR OTHER INSTRUMENT ENTERED INTO BY A
13 DEVELOPER OR VENDOR AND A UNIT OWNER FOR THE PURPOSE OF SETTLING A
14 DISPUTED CLAIM ~~THAT ARISES~~ AFTER THE DATE THE UNIT IS CONVEYED TO THE
15 PURCHASER OF THE UNIT.

16 (C) (1) ANY PROVISION OF A DECLARATION, A BYLAW, A CONTRACT FOR
17 THE INITIAL SALE OF A UNIT TO A MEMBER OF THE PUBLIC, OR ANY OTHER
18 INSTRUMENT MADE BY A DEVELOPER OR VENDOR IN ACCORDANCE WITH THIS TITLE
19 SHALL BE UNENFORCEABLE IF THE PROVISION:

20 (I) SHORTENS THE STATUTE OF LIMITATIONS APPLICABLE TO
21 ANY CLAIM;

22 (II) WAIVES THE APPLICATION OF THE "DISCOVERY RULE" OR
23 OTHER ACCRUAL DATE APPLICABLE TO A CLAIM;

24 (III) REQUIRES A UNIT OWNER OR THE COUNCIL OF UNIT
25 OWNERS TO ASSERT A CLAIM SUBJECT TO ARBITRATION WITHIN A PERIOD OF TIME
26 THAT IS SHORTER THAN THE STATUTE OF LIMITATIONS APPLICABLE TO THE CLAIM;
27 OR

28 (IV) OPERATES TO PREVENT A UNIT OWNER OR THE COUNCIL OF
29 UNIT OWNERS FROM FILING A LAWSUIT, INITIATING ARBITRATION PROCEEDINGS
30 FOR A CLAIM SUBJECT TO ARBITRATION, OR OTHERWISE ASSERTING A CLAIM
31 WITHIN THE STATUTE OF LIMITATIONS APPLICABLE TO THE CLAIM.

32 (2) PARAGRAPH (1) OF THIS SUBSECTION APPLIES ONLY TO A
33 PROVISION RELATING TO ~~THE~~ ANY RIGHT OF A UNIT OWNER OR COUNCIL OF UNIT

1 OWNERS TO BRING A CLAIM UNDER APPLICABLE LAW ALLEGING THE FAILURE TO
2 COMPLY WITH:

- 3 (I) APPLICABLE BUILDING CODES;
- 4 (II) PLANS AND SPECIFICATIONS APPROVED BY A COUNTY OR
5 MUNICIPALITY;
- 6 (III) MANUFACTURER’S INSTALLATION INSTRUCTIONS; OR
- 7 (IV) WARRANTY PROVISIONS UNDER § 10-203 OF THIS ARTICLE
8 AND § 11-131 OF THIS TITLE; ~~OR~~
- 9 ~~(V) OTHER APPLICABLE CONSTRUCTION INDUSTRY~~
10 ~~STANDARDS.~~

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
12 apply only prospectively and may not be applied or interpreted to have any effect on or
13 application to:

14 (1) any provision of a declaration or bylaws of a condominium recorded in
15 the land records of the county where the property is located before the effective date of this
16 Act; or

17 (2) any other instrument executed before the effective date of this Act.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2017.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.