

SENATE BILL 258

N1
SB 670/17 – JPR

8lr0682
CF HB 77

By: **Senators Kelley, Conway, King, Lee, McFadden, Robinson, Rosapepe, Smith, and Young**

Introduced and read first time: January 19, 2018

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums – Claims Against Developers and Vendors – Unenforceability of**
3 **Certain Provisions**

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 claims against condominium developers and vendors.

13 BY adding to

14 Article – Real Property

15 Section 11–134.1

16 Annotated Code of Maryland

17 (2015 Replacement Volume and 2017 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.**

22 (A) IN THIS SECTION, “VENDOR” HAS THE MEANING STATED IN § 10–201 OF
23 THIS ARTICLE.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(B) THIS SECTION DOES NOT APPLY TO:**

2 **(1) A UNIT THAT IS OCCUPIED AND USED SOLELY FOR**
3 **NONRESIDENTIAL PURPOSES;**

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

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

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

18 **(I) SHORTENS THE STATUTE OF LIMITATIONS APPLICABLE TO**
19 **ANY CLAIM;**

20 **(II) WAIVES THE APPLICATION OF THE DISCOVERY RULE OR**
21 **OTHER ACCRUAL DATE APPLICABLE TO A CLAIM;**

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

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

30 **(2) PARAGRAPH (1) OF THIS SUBSECTION APPLIES ONLY TO A**
31 **PROVISION RELATING TO ANY RIGHT OF A UNIT OWNER OR COUNCIL OF UNIT**
32 **OWNERS TO BRING A CLAIM UNDER APPLICABLE LAW ALLEGING THE FAILURE TO**
33 **COMPLY WITH:**

- 1 **(I) APPLICABLE BUILDING CODES;**
- 2 **(II) PLANS AND SPECIFICATIONS APPROVED BY A COUNTY OR**
3 **MUNICIPALITY;**
- 4 **(III) MANUFACTURER’S INSTALLATION INSTRUCTIONS; OR**
- 5 **(IV) WARRANTY PROVISIONS UNDER § 10–203 OF THIS ARTICLE**
6 **AND § 11–131 OF THIS TITLE.**

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

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

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

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2018.