

Chapter 346

(House Bill 77)

AN ACT concerning

Condominiums – Claims Against Developers and Vendors – Unenforceability of Certain Provisions

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

BY adding to

Article – Real Property

Section 11–134.1

Annotated Code of Maryland

(2015 Replacement Volume and 2017 Supplement)

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

Article – Real Property

11–134.1.

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

(B) THIS SECTION DOES NOT APPLY TO:

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

(2) AN AGREEMENT OR OTHER INSTRUMENT ENTERED INTO BY A DEVELOPER OR VENDOR AND A COUNCIL OF UNIT OWNERS FOR THE PURPOSE OF SETTling A DISPUTED CLAIM AFTER THE DATE ON WHICH THE UNIT OWNERS, OTHER THAN THE DEVELOPER AND ITS AFFILIATES, FIRST ELECT A CONTROLLING MAJORITY OF THE MEMBERS OF THE BOARD OF DIRECTORS FOR THE COUNCIL OF

UNIT OWNERS; OR

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

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

(i) SHORTENS THE STATUTE OF LIMITATIONS APPLICABLE TO ANY CLAIM;

(ii) WAIVES THE APPLICATION OF THE DISCOVERY RULE OR OTHER ACCRUAL DATE APPLICABLE TO A CLAIM;

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

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

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

(i) APPLICABLE BUILDING CODES;

(ii) PLANS AND SPECIFICATIONS APPROVED BY A COUNTY OR MUNICIPALITY;

(iii) MANUFACTURER'S INSTALLATION INSTRUCTIONS; OR

(iv) WARRANTY PROVISIONS UNDER § 10-203 OF THIS ARTICLE AND § 11-131 OF THIS TITLE.

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

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

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

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

Approved by the Governor, April 24, 2018.