

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1039 (Delegate Terrasa, *et al.*)
Environment and Transportation

Condominiums and Homeowners Associations – Resale Contracts – Notice
Requirements

This bill authorizes specified information required for the resale of a unit within a condominium or a lot within a homeowners association (HOA) to be provided to the purchaser’s real estate agent. Among other provisions, the bill also (1) alters the fees a governing body for a condominium or HOA (or its agent) may charge for providing specified information and (2) alters the time period within which a purchaser of a lot within an HOA may cancel a contract if the purchaser does not receive the required information.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law:

Certificates and Information for the Resale of Condominium Units

In General: Generally, under current law, a contract for the resale of a unit by a unit owner other than the developer is not enforceable unless the owner provides specified information, including a certificate containing certain disclosures (*e.g.*, a statement of fees

payable by unit owners to the council of unit owners, the operating budget of the condominium, etc.) to the purchaser no later than 15 days prior to closing. The bill authorizes the requirement to be satisfied if the information is provided to the purchaser's real estate agent. The bill makes an identical change to statutory provisions that specifically govern the resale of a unit within a condominium containing fewer than seven units.

Under current law, on written request by the unit owner, the council of unit owners must provide within 20 days a certificate containing the information necessary to enable the unit owner to comply with the above requirements. The bill reduces, from 20 days to 10 days, the time within which the council of unit owners must comply.

Fees: Under current law (and unchanged by the bill), the written request from a unit owner must be accompanied by any reasonable fee charged by the council of unit owners; the fee may be up to \$250 but may not exceed the actual cost to the council of unit owners to provide the information.

Under current law, a council of unit owners is also entitled to a reasonable fee of up to \$50 for delivery of the certificate within 14 days after a written request, or a fee of up to \$100 for delivery of the certificate within 7 days. The bill repeals these provisions, instead authorizing (1) a maximum fee of \$100 for delivery of the certificate within 5 days and (2) a maximum fee of \$50 for a financial update ordered by a settlement agent.

Information for the Resale of Lots within a Homeowners Associations

In General: Under current law, a contract for the resale of a lot within an HOA development of any size (or the initial sale of a lot in a development containing 12 or fewer lots) is not enforceable by the seller unless the purchaser is provided with specified information before entering into the contract or within 20 days after doing so. This information includes, among other items, information regarding past and present monthly fees or assessments, the existence of any delinquent charges against the lot, and a copy of the HOA's governing documents.

The bill (1) authorizes the purchaser's real estate agent to receive the required information (including any changes or substantial and material amendments, as specified) and (2) changes the applicable period to no later than 15 days before closing.

Under current law, to facilitate these requirements, an HOA, a management agent of an HOA, or any authorized officer or agent of an HOA must provide specified information to a lot owner within 20 days after receiving a written request from the lot owner. The bill decreases this time period to 10 days.

Fees: Under current law (and unchanged by the bill), the written request from a lot owner must be accompanied by any reasonable fee charged by the HOA; the fee may be up to \$250 but may not exceed the actual cost to the HOA to provide the information.

Under current law, an HOA is also entitled to a reasonable fee of up to \$50 for delivery of the information within 14 days after a written request, or a fee of up to \$100 for delivery of the information within 7 days. The bill repeals these provisions, instead authorizing (1) a maximum fee of \$100 for delivery of the information within 5 days and (2) a maximum fee of \$50 for a financial update ordered by a settlement agent.

Termination of Contract: Under current law, if a purchaser has not received all of the required information within five calendar days or more before entering into the contract (within an HOA community, as specified), the purchaser may cancel the contract – within five calendar days following the eventual receipt of the required specified disclosures – without stating a reason and without liability on the part of the purchaser. The bill extends each of these time periods to seven days.

Additional Comments: For additional information on condominiums and HOAs – which, along with cooperative housing corporations, are known as common ownership communities – see the **Appendix – Common Ownership Communities**.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 898 (Senator Waldstreicher) - Judicial Proceedings.

Information Source(s): Maryland Department of Labor; Office of the Attorney General; Judiciary (Administrative Office of the Court); Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2024
km/jkb

Analysis by: Donavan A. Ham

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

Appendix – Common Ownership Communities

When a person purchases a single-family home, condominium, or an interest in a cooperative housing corporation, he or she may also be required to join an association of owners, which is intended to act in the common interests of all the homeowners, condominium unit owners, or cooperative owners in the community. Collectively, these associations are often referred to as common ownership communities (COCs). In Maryland, a growing number of newly constructed or newly converted residences are located in some form of a COC. Because registration of the various COCs is not required statewide, the exact number of COCs in Maryland is unknown. However, the Foundation for Community Association Research estimated that there were 7,100 community associations with an estimated 1 million residents in these associations in the State in 2023.

The affairs of a condominium are governed by a council of unit owners, which comprises all unit owners. Among other powers, the council of unit owners has the power to impose assessments on the unit owners to pay common expenses. A council of unit owners may delegate its powers to a board of directors, officers, or a managing agent. Condominiums are governed under Title 11 of the Real Property Article.

Many new housing developments are subject to a homeowners association (HOA) that is created by a governing document and has the authority to impose mandatory fees on lots in the development in connection with the provision of services or for the benefit of the lots, the lot owners, or the common areas. HOAs are governed under Title 11B of the Real Property Article.

A cooperative housing corporation or “cooperative” is a corporation that owns real property. A resident of a cooperative does not own his or her unit; instead, the person owns an interest in the corporation, which leases the unit to the person for residential use. Cooperatives are governed by the laws in Title 5, Subtitle 6B of the Corporations and Associations Article.

Condominiums and HOAs may be authorized by their governing documents to impose liens on units or lots to collect unpaid assessments or fees. In a cooperative, the governing documents usually provide for the collection of delinquent fees, and evictions for outstanding fees are generally pursued by way of a landlord-tenant action.

Task Force on Common Ownership Communities

With a growing number of Marylanders residing in COCs, and evidence that some COCs had issues with governance, dispute resolution, and financial stability, the

General Assembly created the Task Force on Common Ownership Communities in 2005 (Chapter 469 of 2005). The issues addressed by the task force included the availability of alternative dispute resolution services, special considerations of aging COCs, collection of assessments, and resale of homes within COCs. The task force met 10 times, held five public hearings, and submitted its [final report](#) in December 2006. The report's findings and recommendations have served, in subsequent years, as the basis for numerous pieces of legislation intended to improve the operation of COCs.

The task force's report also featured findings and recommendations relating to the creation of an ombudsman in local governments. Since the report's release, Prince George's County created its Common Ownership Communities Program in 2007 with the stated purpose of assisting governing bodies, as well as owners and residents of HOAs, residential condominiums, and cooperative housing corporations, with education, training, and alternative dispute resolution. Charles and Montgomery counties have offices dedicated to COCs that predate the task force.