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By: Delegates McConkey, Cane, V. Clagett, Glassman, Holmes, Love, Montgomery, Parker, Sossi, Stull, and Weir

Introduced and read first time: January 21, 2004

Assigned to: Environmental Matters

A BILL ENTITLED

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1	$\Delta I I$	Λ CI	COHCCHIIII

2	Real Property - Resale of a Condominium Unit by a Unit Owner - I	Required
3	Disclosures	

- 4 FOR the purpose of repealing a certain provision regarding the enforceability of a
- 5 contract for the resale of a condominium unit by a unit owner under certain
- 6 circumstances; requiring the contract for the resale of a condominium unit to
- 7 contain a certain notice under certain circumstances; altering the time frame
- 8 within which a condominium unit owner is required to furnish a purchaser
- 9 certain documents and statements under certain circumstances; altering the
- 10 content of certain statements that a unit owner is required to provide a
- purchaser under certain circumstances; altering the time frame within which a
- 12 council of unit owners is required to furnish a certificate of information to a unit
- owner under certain circumstances; repealing a certain provision regarding the
- liability of a unit owner to a purchaser as to certain statements made by the unit
- owner under certain circumstances; altering the time frame within which a
- purchaser may rescind a contract for the resale of a condominium unit without
- 17 any liability under certain circumstances; altering the content of certain notices
- 18 required to be given to a purchaser of a condominium unit under certain
- 19 circumstances; making stylistic changes; and generally relating to required
- 20 disclosures in the resale of a condominium unit by a unit owner.
- 21 BY repealing and reenacting, with amendments,
- 22 Article Real Property
- 23 Section 11-135
- 24 Annotated Code of Maryland
- 25 (2003 Replacement Volume and 2003 Supplement)
- 26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 27 MARYLAND, That the Laws of Maryland read as follows:

1 Article - Real Property 2 11-135. 3 (a) Except as provided in subsection (b) of this section, [a contract for] IN the 4 resale of a unit by a unit owner other than a developer [is not enforceable unless], the contract of sale [contains] SHALL CONTAIN in conspicuous type a notice in the form specified in subsection (g)(1) of this section, and the unit owner [furnishes] SHALL 7 FURNISH to the purchaser not later than [15] 5 days prior to closing: 8 A copy of the declaration (other than the plats); (1) 9 (2) The bylaws; 10 (3) The rules or regulations of the condominium; AND 11 (4) A certificate containing: 12 A statement disclosing the effect on the proposed conveyance of (i) 13 any right of first refusal or other restraint on the free alienability of the unit other 14 than any restraint created by the unit owner; 15 A statement setting forth the amount of the monthly common (ii) expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner; 18 A statement of any other fees payable by the unit owners to the 19 council of unit owners: A statement of any capital expenditures approved by the council 20 (iv) 21 of unit owners planned at the time of the conveyance which are not reflected in the 22 current operating budget disclosed under subparagraph (vi) of this paragraph; 23 The most recent regularly prepared balance sheet and income (v) expense statement, if any, of the condominium; The current operating budget of the condominium including 25 (vi) 26 details concerning the reserve fund for repair and replacement and its intended use, 27 or a statement that there is no reserve fund; 28 A statement of any judgments against the condominium and the 29 existence of any pending suits to which the council of unit owners is a [party] 30 DEFENDANT: 31 (viii) A statement generally describing any insurance policies 32 provided for the benefit of unit owners, a notice that copies of the policies are 33 available for inspection, stating the location at which the copies are available, and a 34 notice that the terms of the policy prevail over the description; 35 A statement as to whether the council of unit owners has (ix) 36 knowledge that any alteration or improvement to the unit or to the limited common

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	elements assigned to the unit violates any provision of the declaration, bylaws, or rules or regulations;		
5	(x) A statement as to whether the council of unit owners has knowledge of any violation of the health or building codes with respect to the unit, the limited common elements assigned to the unit, or any other portion of the condominium;		
	(xi) A statement of the remaining term of any leasehold estate affecting the condominium and the provisions governing any extension or renewal thereof; and		
	(xii) A description of any recreational or other facilities which are to be used by the unit owners or maintained by them or the council of unit owners, and a statement as to whether or not they are to be a part of the common elements[; and		
13 14	(5) A statement by the unit owner as to whether the unit owner has knowledge:		
	(i) That any alteration to the unit or to the limited common elements assigned to the unit violates any provision of the declaration, bylaws, or rules and regulations;		
18 19	(ii) Of any violation of the health or building codes with respect to the unit or the limited common elements assigned to the unit; and		
20 21	(iii) That the unit is subject to an extended lease under § 11-137 of this title or under local law, and if so, a copy of the lease must be provided].		
24 25	(b) [A contract for the] IN A resale by a unit owner other than a developer of a unit in a condominium containing less than 7 units [is not enforceable unless], the contract of sale [contains] SHALL CONTAIN in conspicuous type a notice in the form specified in subsection (g)(2) of this section, and the unit owner [furnishes] SHALL FURNISH to the purchaser not later than [15] 5 days prior to closing:		
27	(1) A copy of the declaration (other than the plats);		
28	(2) The bylaws;		
29	(3) The rules and regulations of the condominium; and		
30 31	(4) A statement by the unit owner of the unit owner's expenses during the preceding 12 months relating to the common elements.		
34 35	(c) [(1)] The council of unit owners, within [20] 10 days after a written request by a unit owner and receipt of a reasonable fee therefor, not to exceed the cost to the council of unit owners, if any, shall furnish a certificate containing the information necessary to enable the unit owner to comply with subsection (a) of this section. A unit owner providing a certificate under subsection (a) of this section is not		

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	liable to the purchaser for any erroneous information provided by the council of unit owners and included in the certificate.
	[(2) With respect to the remaining information that the unit owner is required to disclose under subsection (a) of this section that is not provided by the council of unit owners and included in the certificate, a unit owner:
6 7	(i) Except as provided in subparagraph (ii) of this paragraph, is liable to the purchaser under this section for damages proximately caused by:
8	1. An untrue statement about a material fact; and
	2. An omission of a material fact that is necessary to make the statements made not misleading, in light of the circumstances under which the statements were made; and
14 15 16	(ii) Is not liable to the purchaser under this section if the owner had, after reasonable investigation, reasonable grounds to believe, and did believe, at the time the information was provided to the purchaser, that the statements were true and that there was no omission to state a material fact necessary to make the statements made not misleading, in light of the circumstances under which the statements were made.]
20	(d) A purchaser is not liable for any unpaid assessment or fee greater than the amount set forth in the certificate prepared by the council of unit owners. A unit owner is not liable to a purchaser for the failure or delay of the council of unit owners to provide the certificate in a timely manner.
24	(e) The rights of a purchaser under this section may not be waived in the contract of sale, and any attempted waiver is void. However, if a purchaser proceeds to closing, [his] THE PURCHASER'S right to rescind the contract under subsection (f) OF THIS SECTION is terminated.
28 29 30	(f) Any purchaser may at any time within [7 days] 72 HOURS following receipt [of all] of the information required under subsection (a) or (b) of this section, whichever is applicable, rescind in writing the contract of sale without stating any reason and without any liability on [his] THE PURCHASER'S part. The purchaser, upon rescission, is entitled to the return of any deposits made on account of the contract.
32 33	(g) (1) A notice given as required by subsection (a) of this section shall be sufficient for the purposes of this section if it is in substantially the following form:
34	"NOTICE
37	The seller is required by law to furnish to you not later than [15] 5 days prior to closing certain information concerning the condominium which is described in § 11-135 of the Maryland Condominium Act. This information must include at least the following:

1	(1)	A copy of the declaration (other than the plats),
2	(ii)	A copy of the bylaws;
3	(iii)	A copy of the rules and regulations of the condominium; AND
4	(iv)	A certificate containing:
	conveyance of any right of firs unit, other than any restraint cr	1. A statement disclosing the effect on the proposed refusal or other restraint on the free alienability of the eated by the unit owner;
	expense assessment and any undue and payable from the selling	2. A statement of the amount of the monthly common paid common expense or special assessment currently ng unit owner;
11 12	to the council of unit owners;	3. A statement of any other fees payable by the unit owners
15		4. A statement of any capital expenditures approved by the athorized designee planned at the time of the exted in the current operating budget included in the
17 18	expense statement, if any, of t	5. The most recently prepared balance sheet and income and ne condominium;
		6. The current operating budget of the condominium, se amount of the reserve fund for repair and se, or a statement that there is no reserve fund;
	and the existence of any pending DEFENDANT;	7. A statement of any judgments against the condominium ng suits to which the council of unit owners is a [party]
27		8. A statement generally describing any insurance policies unit owners, a notice that the policies are available for at which they are available, and a notice that the r the general description;
31		9. A statement as to whether the council of unit owners has or improvement to the unit or to the limited common iolates any provision of the declaration, bylaws, or
35		10. A statement as to whether the council of unit owners has the health or building codes with respect to the unit, the gned to the unit, or any other portion of the

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	11. A statement of the remaining term of any leasehold estate affecting the condominium and the provisions governing any extension or renewal of it; and
6	12. A description of any recreational or other facilities which are to be used by the unit owners or maintained by them or the council of unit owners, and a statement as to whether or not they are to be a part of the common elements[; and
8 9	(v) A statement by the unit owner as to whether the unit owner has knowledge:
	1. That any alteration to the unit or to the limited common elements assigned to the unit violates any provision of the declaration, bylaws, or rules and regulations.
13 14	2. Of any violation of the health or building codes with respect to the unit or the limited common elements assigned to the unit.
15 16	3. That the unit is subject to an extended lease under § 11-137 of this title or under local law, and if so, a copy of the lease must be provided].
	You will have the right to cancel this contract without penalty, at any time within [7 days] 72 HOURS following delivery to you [of all] of this information. However, once the sale is closed, your right to cancel the contract is terminated."
20 21	(2) A notice given as required by subsection (b) of this section shall be sufficient for the purposes of this section if it is in substantially the following form:
22	"NOTICE
25	The seller is required by law to furnish to you not later than [15] 5 days prior to closing certain information concerning the condominium which is described in § 11-135 of the Maryland Condominium Act. This information must include at least the following:
27	(1) A copy of the declaration (other than the plats);
28	(2) A copy of the bylaws;
29	(3) A copy of the rules and regulations of the condominium; and
30 31	(4) A statement by the seller of [his] THE SELLER'S expenses relating to the common elements during the preceding 12 months.
	You will have the right to cancel this contract without penalty, at any time within [7 days] 72 HOURS following delivery to you [of all] of this information. However, once the sale is closed, your right to cancel the contract is terminated."

- 1 (h) Upon any sale of a condominium unit, the purchaser or [his] THE
- 2 PURCHASER'S agent shall provide to the council of unit owners to the extent available,
- 3 the name and forwarding address of the prior unit owner, the name and address of the
- 4 purchaser, the name and address of any mortgagee, the date of settlement, and the
- 5 proportionate amounts of any outstanding condominium fees or assessments assumed
- 5 proportionate amounts of any outstanding condominum fees of assessments assumed
- 6 by each of the parties to the transaction.
- 7 (i) This section does not apply to the sale of any unit which is to be used and 8 occupied for nonresidential purposes.
- 9 (j) Subsections (a), (b), (c), (d), (e), (f), and (g) of this section do not apply to a 10 sale of a unit in an action to foreclose a mortgage or deed of trust.
- 11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take 12 effect October 1, 2004.