

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 371

(Senator Haines)

Judicial Proceedings

Environmental Matters

**Real Property - Residential Property Disclaimer and Disclosure Statements -
Latent Defect**

This bill requires a seller of single family residential real property to include in a disclaimer given to a purchaser before entering into a sales contract a statement that the seller represents and warrants that the seller has no actual knowledge of latent defects in the real property or an improvement to the real property, except as disclosed on the residential property disclaimer statement. If the seller gives a disclosure statement, the seller must disclose any latent defects of which the seller is aware. Under the bill, a latent defect is a material defect in real property or an improvement that: (1) a purchaser would not reasonably be expected to ascertain by a careful visual inspection; and (2) would pose a direct threat to the health or safety of the purchaser or an occupant.

Fiscal Summary

State Effect: Any change in State activities would not materially affect State finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Generally, a seller of single family residential real property must complete and give to the purchaser a written disclosure or disclaimer statement about the condition of the property before executing the contract of sale. A disclaimer statement must state that the seller makes no representations or warranties as to the condition of the

property or any improvements and that the purchaser will be receiving the property “as is.” A disclosure statement must include information of which the seller has actual knowledge about: (1) water and sewer systems; (2) insulation; (3) structural systems; (4) plumbing, electrical heating, and air conditioning systems; (5) infestation of wood-destroying insects; (6) land use matters; (7) hazardous or regulated materials, such as asbestos or underground storage tanks; (8) any other material defects about which the seller knows; and (9) whether the smoke detectors will provide an alarm in the event of a power outage. The seller is not required to undertake or provide an independent investigation or inspection of the property in order to make the required disclosures.

A disclosure or disclaimer statement must be presented on a form provided by the State Real Estate Commission and must include a notice that the representations are those of the seller and not the real estate broker or salesperson.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 13, 2004
n/jr

Analysis by: Ryan Wilson

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