

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 175 (Delegate McConkey, *et al.*)
Environmental Matters

**Real Property - Resale of a Condominium Unit by a Unit Owner - Required
Disclosures**

This bill makes various changes to the requirements for the resale of a condominium unit under the Maryland Condominium Act.

Fiscal Summary

State Effect: The bill would not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill repeals provisions rendering a contract for the resale of a condominium unit unenforceable unless: (1) the contract contains a notice with specified information; and (2) the unit owner furnishes the purchaser with a copy of the declaration, the bylaws, the condominium's rules or regulations, and a certificate containing specified information. Instead, the bill requires the notice to be included in the contract of sale and requires the owner to furnish the purchaser with the required documents.

The bill shortens the time, from 15 to five days prior to closing, within which the unit's seller must furnish specified documents to a prospective purchaser. The bill also shortens the time, from seven days to 72 hours following the receipt of the required information

about the condominium, within which the a purchaser may rescind the contract of sale without reason or liability. The bill restricts the required disclosure about any judgments or pending suits to those in which the council of unit owners is a defendant.

For condominiums with seven or more units, the bill shortens the time, from 20 to 10 days after a written request by a unit owner and receipt of a fee, within which the council must furnish a certificate with information required for the sale of the unit. For these condominiums, the bill repeals the requirement for a statement about the unit owner's knowledge about alteration of the unit, violation of health or building codes, and any extended lease to which the unit is subject. The bill also repeals liability provisions applicable to unit owners who sell these units.

Current Law: A contract for the resale of a condominium unit by the unit owner other than a developer is not enforceable unless the contract contains a notice, furnished to the purchaser no later than 15 days prior to closing, containing the information stated below.

For condominiums with seven or more units, a contract for the resale of a condominium unit is unenforceable unless the unit owner furnishes the purchaser with a copy of the declaration, the bylaws, the condominium's rules or regulations, and a certificate containing: (1) the condominium's current operating budget; (2) the most recent regularly prepared balance sheet and income expense statement; (3) a description of any recreational or other facilities; (4) statements about the monthly common expense and other fees; (5) a statement about capital expenditures approved by the council; (6) a statement about any judgments against the condominium and any pending suits to which the council is a party; (7) a statement about common insurance policies; (8) a statement about whether the council knows about any alterations to the unit or its limited common areas that violate the declaration or other documents; (9) a statement about whether the council knows of any violations of health or building codes by the unit or its limited common areas; (10) a statement about any leasehold estate affecting the condominium; and (11) a description of any recreational or other facilities. The unit owner must also include a statement about whether the unit owner knows about any alteration of the unit, violation of health or building codes, and any extended lease to which the unit is subject.

A council of unit owners must respond to requests for the above information within 20 days after receiving a written request and a fee to cover the council's expenses. A unit owner is liable for damages proximately caused by an untrue state about a material fact or an omission of a material fact contained in statements not provided by the council of unit owners.

For condominiums with fewer than seven units, a contract for the resale of a condominium unit is unenforceable unless the unit owner furnishes the purchaser with a

copy of the declaration, the bylaws, the condominium's rules or regulations, and a statement by the owner of the owner's common element expenses during the preceding 12 months.

A purchaser is not liable for any unpaid assessment or fee greater than the amount stated in the certificate prepared by the council. A unit owner is not liable to a purchaser for any failure or delay by the council in providing the required information. A purchaser may, within seven days following the receipt of the required information, rescind in writing the contract without stating a reason and without liability. The purchaser is then entitled to the return of any deposits made because of the contract.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Secretary of State, Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

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