

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1036 (Delegate Kach, *et al.*)
Environmental Matters

Sale of Single Family Residential Real Property - Disclosures in a Residential
Property Disclaimer Statement

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. A seller is not required to undertake or provide an independent investigation or inspection in order to make the bill's required statement. Under the bill, a "latent defect" is a material defect that: (1) a purchaser would not reasonably be expected to ascertain or observe by a careful inspection; and (2) poses a direct threat to the health, safety, or life 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: None.

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 - March 10, 2004
mam/jr

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