

**Department of Legislative Services**  
Maryland General Assembly  
2007 Session

**FISCAL AND POLICY NOTE**

House Bill 1012  
Economic Matters

(Delegate Proctor)

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**Real Property - Home Builders - Disclosures in Contracts of Sale**

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This bill requires a home builder that agrees to provide a “community amenity” to a community development to include in the contract of sale the date by which the community amenity will be made available. A home builder is required to return 10% of the contract price to the purchaser if the homebuilder fails to: (1) include in the sales contract the date by which the community amenity will be made available; or (2) make the community amenity available on or before the date specified in the sales contract.

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**Fiscal Summary**

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

**Local Effect:** None.

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law:** Contracts for the sale of real property are subject to specific disclosure requirements. For example, a contract must include, if applicable, information about property subject to a ground rent, water and sewer costs, development impact fees in Prince George’s County, agriculturally assessed property in St. Mary’s and Charles counties, and the cost of recordation or transfer taxes.

A seller of single-family residential real property must also 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; (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.

In most jurisdictions, a contract for the sale of residential real property must contain a disclosure advising the buyer that the property may be located near a military installation that may result in high noise levels.

Home builders are required to register with the Home Builder Registration Unit in the Consumer Protection Division of the Office of the Attorney General. In addition to other disclosures, a contract for the sale of a new home in all jurisdictions except Montgomery County must include the home builder’s registration number, a provision about the home being constructed in accordance with applicable building codes, a provision referring to applicable performance standards and guidelines, and a provision detailing the purchaser’s right to receive a consumer information pamphlet under the Home Builder Registration Act.

Generally, failure to comply with one of the disclosure or disclaimer requirements results in the buyer having a right to pursue monetary damages and does not void the contract of sale. However, a purchaser who does not receive a standard disclosure or disclaimer statement on or before entering into the contract of sale may void the contract under specified circumstances.

**Background:** The Home Builder Registration Unit reported 3,876 home builders registered in the State as of June 30, 2006.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 13, 2007  
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