

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 606

(Senator Conway)

Judicial Proceedings

Residential Property Sales - Disclosure of Utility Consumption

This bill requires a vendor, at the time of listing or advertising a single-family residential property for sale, to provide to prospective purchasers copies of specified utility bills or utility cost and usage history for the 12-month period immediately preceding the date of listing. The bill also requires the vendor to update that information every six months that the property is listed or otherwise advertised. If the vendor did not occupy the property for the full 12-month period prior to the sale, the vendor must provide the information for the part of the 12-month period that the vendor occupied the property. The bill applies to single-family residential property improved by four or fewer dwelling units and does not apply to the initial sale of a residential property that has never been occupied.

The bill only applies prospectively and does not apply to any listing for the sale of single-family residential property posted before October 1, 2011.

Fiscal Summary

State Effect: None. The bill does not affect State finances or operations.

Local Effect: None. The bill does not affect local finances or operations.

Small Business Effect: None.

Analysis

Current Law: Prior to the sale of single-family residential real property improved by four or fewer dwelling units, the vendor must complete and deliver to each purchaser either a written residential property disclosure statement or a written disclaimer statement on a form provided by the State Real Estate Commission. The residential property disclaimer statement must:

- disclose any latent defects of which the vendor has actual knowledge that a purchaser would not reasonably be expected to ascertain by a careful visual inspection and that would pose a direct threat to the health or safety of a purchaser or occupant; and
- state that, except for the disclosed latent defects, the vendor makes no representations or warranties as to the condition of the property or any improvements, and that the purchaser is receiving the property “as is” with all defects that may exist, except as otherwise provided in the sales contract.

If a vendor elects to complete and deliver to each purchaser a written residential property disclosure statement, the vendor’s disclosure form must contain a notice to prospective buyers and vendors that the parties may wish to obtain professional advice concerning an inspection of the property. Additionally, the form must notify a prospective buyer that the written disclosure statement is not a substitute for an independent home inspection and that the prospective buyer may wish to obtain an independent inspection. The disclosure form must include a list of defects, including latent defects, or information of which the vendor has actual knowledge regarding specified conditions.

Home vendors in Montgomery County are required to provide energy consumption and cost history to prospective purchasers. The vendor must provide *either* copies of electricity, gas, and home heating oil bills *or* a cost and usage history for the past 12 months immediately prior to sale. The vendor must also provide home purchasers with information designed to improve home energy efficiency performance.

Background: The Maryland Energy Administration (MEA) recommended, in its 2010 *Maryland Energy Outlook* (MEO), that time-of-sale disclosure of energy consumption of all residential and commercial buildings for the previous year be required, subject to size limitations. MEA indicated that such disclosure would encourage property owners to invest in energy efficiency to increase the value of their buildings and help consumers make more informed purchases.

According to MEA, Alaska, Colorado, Rhode Island, and Florida allow for the voluntary disclosure of a Home Energy Rater Score (HERS) on their Multiple Listings Services. HERS uses information derived from a comprehensive energy audit of the property.

Florida has created a database of HERS-rated homes in the state to enable prospective purchasers to search for the HERS rating of a specific address. MEA advises that Nevada, Kansas, South Dakota, and Massachusetts and the cities of Austin, Texas; Berkeley, California; San Francisco, California; and Burlington, Vermont have various residential energy disclosure requirements which range from requiring residential property energy audits to energy efficiency upgrades that must be made prior to the sale of a property.

Additional Information

Prior Introductions: SB 952 of 2010, which included similar provisions, received an unfavorable report from the Senate Judicial Proceedings Committee. Its cross file, HB 1291, received an unfavorable report from the House Environmental Matters Committee.

Cross File: Although designated as a cross file, HB 719 (Delegates McIntosh, *et al.* – Environmental Matters) is not identical.

Information Source(s): Maryland Energy Administration; Judiciary (Administrative Office of the Courts); Office of the Attorney General (Consumer Protection Division); Department of Labor, Licensing, and Regulation; Department of Legislative Services

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mlm/kdm

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