

Department of Legislative Services
2011 Session

FISCAL AND POLICY NOTE

House Bill 838

(Delegates Hogan and Hucker)

Environmental Matters

Judicial Proceedings

Residential Real Property Sales - Property Tax Disclaimer

This bill requires the disclosure and disclaimer form, used in the sale of single-family residential real property, to contain the following statement: “Due to a variety of Maryland property tax credit programs, the buyer’s property tax bill may be significantly different than the tax bill paid previously by the seller of the property. Buyers should contact the local government for an estimate of their property tax obligation.”

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: None. Updating the disclosure and disclaimer form can be handled with existing resources.

Local Effect: None.

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.

Background: The State Real Estate Commission, within the Department of Labor, Licensing, and Regulation (DLLR), has a link to the most recent version of the residential property disclosure and disclaimer form on the DLLR website at www.dllr.state.md.us.

State Fiscal Effect: DLLR indicates that updating the disclosure and disclaimer form does not affect agency expenditures as the form is only a model for use by real estate professionals. In addition, the form is updated periodically to conform to changes mandated by the General Assembly.

Additional Information

Prior Introductions: HB 109 of 2010 passed the House but received no further action from the Senate. HB 233 of 2009 passed the House, as amended, and was heard in the Senate Budget and Taxation Committee but received no further action.

Cross File: Although not designated as a cross file, SB 530 (Senator Peters, *et al.* - Judicial Proceedings and Finance) is identical.

Information Source(s): State Department of Assessments and Taxation; Office of the Attorney General (Consumer Protection Division); Department of Labor, Licensing, and Regulation; Department of Legislative Services

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