

# HOUSE BILL 156

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CF SB 224

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By: **Delegate Beidle**

Introduced and read first time: January 23, 2012

Assigned to: Environmental Matters

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Committee Report: Favorable

House action: Adopted

Read second time: February 28, 2012

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Real Property – Condominiums – Rescission of Sales Contracts**

3 FOR the purpose of limiting a condominium purchaser's right to rescind in writing a  
4 contract of sale based on amended material in a vendor's public offering  
5 statement to certain amendments that affect materially and adversely the  
6 purchaser's rights; requiring a purchaser to state in writing the purchaser's  
7 reason for rescission when it is based on certain amended material in a vendor's  
8 public offering statement; stating the intent of the General Assembly; making  
9 stylistic changes; and generally relating to the rescission of condominium sales  
10 contracts.

11 BY repealing and reenacting, without amendments,  
12 Article – Real Property  
13 Section 11–126(a), (b), and (d)  
14 Annotated Code of Maryland  
15 (2010 Replacement Volume and 2011 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article – Real Property  
18 Section 11–126(e)  
19 Annotated Code of Maryland  
20 (2010 Replacement Volume and 2011 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 MARYLAND, That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **Article – Real Property**

2 11–126.

3 (a) A contract for the initial sale of a unit to a member of the public is not  
4 enforceable by the vendor unless:5 (1) The purchaser is given on or before the time a contract is entered  
6 into between the vendor and the purchaser, a current public offering statement as  
7 amended and registered with the Secretary of State containing all of the information  
8 set forth in subsection (b) of this section; and

9 (2) The contract of sale contains, in conspicuous type, a notice of:

10 (i) The purchaser's right to receive a public offering statement  
11 and his rescission rights under this section; and

12 (ii) The warranties provided by § 11–131 of this title.

13 (b) The public offering statement required by subsection (a) of this section  
14 shall be sufficient for the purposes of this section if it contains at least the following:

15 (1) A copy of the proposed contract of sale for the unit;

16 (2) A copy of the proposed declaration, bylaws, and rules and  
17 regulations;18 (3) A copy of the proposed articles of incorporation of the council of  
19 unit owners, if it is to be incorporated;20 (4) A copy of any proposed management contract, insurance contract,  
21 employment contract, or other contract affecting the use of, maintenance of, or access  
22 to all or part of the condominium to which it is anticipated the unit owners or the  
23 council of unit owners will be a party, and a statement of the right of the council of  
24 unit owners to terminate contracts entered into during the developer control period  
25 under § 11–133 of this title;26 (5) A copy of the actual annual operating budget for the condominium  
27 or, if no actual operating budget exists, a copy of the projected annual operating  
28 budget for the condominium including reasonable details concerning:29 (i) The estimated monthly payments by the purchaser for  
30 assessments;31 (ii) Monthly charges for the use, rental, or lease of any facilities  
32 not part of the condominium;

1 (iii) The amount of the reserve fund for repair and replacement  
2 and its intended use; and

3 (iv) Any initial capital contribution or similar fee, other than  
4 assessments for common expenses, to be paid by unit owners to the council of unit  
5 owners or vendor, and a statement of how the fees will be used;

6 (6) A plain language statement of the policy and procedures for  
7 collecting assessments and handling collection of delinquencies, including reasonable  
8 details concerning:

9 (i) The number and percentage of unit owners who are  
10 delinquent or in arrears in an amount equal to or greater than 50% of the annual  
11 assessment of the unit owner;

12 (ii) The number of unsatisfied liens currently recorded against  
13 unit owners under the Maryland Contract Lien Act;

14 (iii) The number of unsatisfied judgments obtained against unit  
15 owners for unpaid assessments; and

16 (iv) The total amount of arrearages among all unit owners;

17 (7) A copy of any lease to which it is anticipated the unit owners or the  
18 council of unit owners will be a party following closing;

19 (8) A description of any contemplated expansion of the condominium  
20 with a general description of each stage of expansion and the maximum number of  
21 units that can be added to the condominium;

22 (9) A copy of the floor plan of the unit or the proposed condominium  
23 plats;

24 (10) A description of any recreational or other facilities which are to be  
25 used by the unit owners or maintained by them or by the council of unit owners, and a  
26 statement as to whether or not they are to be part of the common elements;

27 (11) A statement as to whether streets within the condominium are to  
28 be dedicated to public use or maintained by the council of unit owners;

29 (12) A statement of any judgments against the council of unit owners  
30 and the existence of any pending suits to which the council of unit owners is a party;

31 (13) In the case of a condominium containing buildings substantially  
32 completed more than 5 years prior to the filing of the application for registration under  
33 § 11–127 of this title, a statement of the physical condition and state of repair of the

1 major structural, mechanical, electrical, and plumbing components of the  
2 improvements, to the extent reasonably ascertainable, and estimated costs of repairs  
3 for which a present need is disclosed in the statement and a statement of repairs  
4 which the vendor intends to make. The vendor is entitled to rely on the reports of  
5 architects or engineers authorized to practice their profession in this State;

6 (14) A description of any provision in the declaration or bylaws limiting  
7 or providing for the duration of developer control or requiring the phasing-in of unit  
8 owner participation, or a statement that there is no such provision;

9 (15) If the condominium is one which will be created by the conversion  
10 of a rental facility, a copy of the notice and materials required by §§ 11-102.1 and  
11 11-137 of this title;

12 (16) A statement of whether the unit being purchased is subject to an  
13 extended lease under § 11-137 of this title, or local law, and a copy of any extended  
14 lease;

15 (17) A written notice of the unit owner's responsibility for the council of  
16 unit owners' property insurance deductible and the amount of the deductible; and

17 (18) Any other information required by regulation duly adopted and  
18 issued by the Secretary of State.

19 (d) (1) Following execution of a contract of sale by a purchaser, the vendor  
20 may not amend any of the material required to be furnished by subsection (a) of this  
21 section without the approval of the purchaser if the amendment would affect  
22 materially the rights of the purchaser.

23 (2) Approval is not required if the amendment is required by any  
24 governmental authority or public utility, or if the amendment is made as a result of  
25 actions beyond the control of the vendor or in the ordinary course of affairs of the  
26 council of unit owners.

27 (3) A copy of any amendments shall be delivered promptly to any  
28 purchaser and to the Secretary of State.

29 (e) (1) Any purchaser may **RESCIND IN WRITING THE CONTRACT OF**  
30 **SALE, WITHOUT ANY LIABILITY ON THE PURCHASER'S PART,** at any time [(i)]  
31 within:

32 (i) 15 days following receipt of all of the information required  
33 under subsection (b) of this section or the signing of the contract, whichever is later[;  
34 and (ii) within], **WITHOUT STATING ANY REASON; OR**

1                   **(II)** 5 days following receipt of the information required **TO BE**  
2 **DELIVERED** under subsection ~~[(d)]~~ **(D)(3)** of this section[, rescind in writing the  
3 contract of sale without stating any reason and without any liability on his part, and  
4 he shall be entitled to the return of any deposits made on account of the contract] **IF:**

5                   **1. THE PURCHASER HAS APPROVAL RIGHTS UNDER**  
6 **SUBSECTION (D)(1) OF THIS SECTION;**

7                   **2. THE AMENDMENT AFFECTS MATERIALLY AND**  
8 **ADVERSELY THE RIGHTS OF THE PURCHASER; AND**

9                   **3. THE PURCHASER STATES IN WRITING THE**  
10 **REASON FOR RESCISSION.**

11                   **(2) A PURCHASER WHO RESCINDS IN WRITING A CONTRACT OF**  
12 **SALE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE ENTITLED TO THE**  
13 **RETURN OF ANY DEPOSITS MADE ON ACCOUNT OF THE CONTRACT.**

14                   **(3) IF THE PURCHASER'S APPROVAL OF AN AMENDMENT IS NOT**  
15 **REQUIRED UNDER SUBSECTION (D)(1) OF THIS SECTION, A PURCHASER MAY**  
16 **NOT RESCIND A CONTRACT OF SALE UNDER PARAGRAPH (1)(II) OF THIS**  
17 **SUBSECTION.**

18                   **[(2)] (4)** The return of any deposits held in trust by a licensed real  
19 estate broker to a purchaser under this subsection shall comply with the procedures  
20 set forth in § 17-505 of the Business Occupations and Professions Article.

21                   **SECTION 2. AND BE IT FURTHER ENACTED,** That it is the intent of the  
22 General Assembly that this Act:

23                   (a) abrogate a holding of the Court of Special Appeals in *Herlson v. RTS*  
24 *Residential Block 5, LLC*, 191 Md. App. 719 (2010); and

25                   (b) clarify that the right of a condominium unit purchaser to rescind a  
26 contract of sale when there is a change to the public offering statement only applies if  
27 the change materially and adversely affects the rights of the purchaser.

28                   **SECTION 3. AND BE IT FURTHER ENACTED,** That this Act shall take effect  
29 October 1, 2012.