

# HOUSE BILL 740

N1

2lr1987  
CF SB 725

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By: **Delegate Braveboy**

Introduced and read first time: February 8, 2012

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Residential Condominiums – Governing Documents – Claims Provisions**

3 FOR the purpose of making unenforceable a provision of a declaration, bylaw, contract  
4 for sale of a unit, or other instrument made by a developer in accordance with  
5 certain provisions of law that purports to shorten the statute of limitations  
6 applicable to certain claims, purports to waive the application of a certain rule  
7 or other accrual date applicable to certain claims, operates to prevent a unit  
8 owner or the council of unit owners from asserting a certain claim in a certain  
9 manner within the applicable statute of limitations, or requires a unit owner or  
10 the council of unit owners to assert a certain claim within a certain period of  
11 time under certain circumstances; making unenforceable a provision of a  
12 declaration, bylaw, contract for sale of a unit, or other instrument made by a  
13 developer in accordance with certain provisions of law that requires a certain  
14 vote of unit owners as a precondition to the institution or maintenance of  
15 certain proceedings unless the council of unit owners adopts the provision under  
16 certain circumstances; providing for the applicability of this Act; and generally  
17 relating to claims provisions in the governing documents of a residential  
18 condominium.

19 BY adding to

20 Article – Real Property

21 Section 11–134.1

22 Annotated Code of Maryland

23 (2010 Replacement Volume and 2011 Supplement)

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

26 **Article – Real Property**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



11-134.1.

(A) THIS SECTION DOES NOT APPLY TO A CONDOMINIUM THAT IS OCCUPIED AND USED SOLELY FOR NONRESIDENTIAL PURPOSES.

(B) ANY PROVISION OF A DECLARATION, A BYLAW, A CONTRACT FOR THE SALE OF A UNIT TO A MEMBER OF THE PUBLIC, OR ANY OTHER INSTRUMENT MADE BY A DEVELOPER IN ACCORDANCE WITH THIS TITLE SHALL BE UNENFORCEABLE IF THE PROVISION:

(1) PURPORTS TO SHORTEN THE STATUTE OF LIMITATIONS APPLICABLE TO ANY WARRANTY CLAIM OR OTHER STATUTORY OR COMMON LAW CLAIM;

(2) PURPORTS TO WAIVE THE APPLICATION OF THE "DISCOVERY RULE" OR OTHER ACCRUAL DATE APPLICABLE TO ANY WARRANTY CLAIM OR OTHER STATUTORY OR COMMON LAW CLAIM;

(3) OPERATES TO PREVENT A UNIT OWNER OR THE COUNCIL OF UNIT OWNERS FROM FILING A LAWSUIT, INITIATING ARBITRATION PROCEEDINGS, OR OTHERWISE ASSERTING A CLAIM WITHIN THE APPLICABLE STATUTE OF LIMITATIONS; OR

(4) REQUIRES A UNIT OWNER OR THE COUNCIL OF UNIT OWNERS TO ASSERT A CLAIM SUBJECT TO ARBITRATION WITHIN A PERIOD OF TIME THAT IS SHORTER THAN THE STATUTE OF LIMITATIONS APPLICABLE TO THE CLAIM.

(C) (1) ANY PROVISION OF A DECLARATION, A BYLAW, A CONTRACT FOR THE SALE OF A UNIT TO A MEMBER OF THE PUBLIC, OR ANY OTHER INSTRUMENT MADE BY A DEVELOPER IN ACCORDANCE WITH THIS TITLE THAT REQUIRES THE COUNCIL OF UNIT OWNERS TO OBTAIN A VOTE OF UNIT OWNERS OR THE APPROVAL OF THE DEVELOPER OR ANY NONUNIT OWNERS AS A PRECONDITION TO THE INSTITUTION OR MAINTENANCE OF A LAWSUIT, ARBITRATION, MEDIATION, OR A SIMILAR PROCEEDING SHALL BE UNENFORCEABLE UNLESS THE COUNCIL OF UNIT OWNERS ADOPTS THE PROVISION ON A DATE FOLLOWING THE DATE ON WHICH THE UNIT OWNERS, OTHER THAN THE DEVELOPER AND ITS AFFILIATES, FIRST ELECT A CONTROLLING MAJORITY OF THE MEMBERS OF THE BOARD OF DIRECTORS FOR THE COUNCIL OF UNIT OWNERS.

(2) THE ADOPTION OF THE PROVISION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE ACCOMPLISHED IN

1 ACCORDANCE WITH THE SAME REQUIREMENTS NECESSARY TO AMEND THE  
2 DECLARATION OR BYLAWS UNDER THIS TITLE.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 2012.