

SENATE BILL 725

N1

2lr2846
CF 2lr1987

By: **Senator Kelley**

Introduced and read first time: February 3, 2012

Assigned to: Judicial Proceedings

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**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 11-134.1.

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

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

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

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

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

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

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

33 (2) THE ADOPTION OF THE PROVISION DESCRIBED IN
34 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.