

SENATE BILL 725

N1

2lr2846
CF HB 740

By: **Senator Kelley**

Introduced and read first time: February 3, 2012

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: March 19, 2012

CHAPTER _____

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)

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

3 **Article – Real Property**

4 **11-134.1.**

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

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

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

14 (2) PURPORTS TO WAIVE THE APPLICATION OF THE “DISCOVERY
15 RULE” OR OTHER ACCRUAL DATE APPLICABLE TO ANY WARRANTY CLAIM OR
16 OTHER STATUTORY OR COMMON LAW CLAIM;

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

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

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

1 **(2) THE ADOPTION OF THE PROVISION DESCRIBED IN**
2 **PARAGRAPH (1) OF THIS SUBSECTION SHALL BE ACCOMPLISHED IN**
3 **ACCORDANCE WITH THE SAME REQUIREMENTS NECESSARY TO AMEND THE**
4 **DECLARATION OR BYLAWS UNDER THIS TITLE.**

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.