

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1331

(Delegate Carr, *et al.*)

Environmental Matters

Judicial Proceedings

Residential Property Sales - Disclosure of Utility Consumption

This bill requires a vendor of single-family residential real property to provide to prospective purchasers, upon written request, copies of specified utility bills or a document detailing utility cost and usage history for the 12-month period immediately preceding the time of a property's first marketing if (1) the request is made by a prospective purchaser who has signed a letter of intent; and (2) the vendor has access to the information. The information is provided without warranties, either express or implied, including as to accuracy, completeness, or suitability of the information. The bill requires the State Real Estate Commission to develop methods to inform consumers of the right to request utility information and report to the Senate Judicial Proceedings Committee and the House Environmental Matters Committee on the commission's efforts by December 31, 2012.

The bill only applies prospectively and does not apply to the sale of single-family residential property marketed for sale before October 1, 2012.

Fiscal Summary

State Effect: The State Real Estate Commission can perform the bill's requirements within existing budgeted resources.

Local Effect: None. The bill does not affect local finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill applies to single-family residential property improved by four or fewer dwelling units and does not apply to specified sales or transfers. The bill does not limit the vendor from making utility information available to prospective purchasers in a sale listing on the Multiple Listing Service and does not prohibit a local government from enacting a local law with more stringent utility disclosure requirements for vendors.

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 about which the vendor has actual knowledge regarding specified conditions.

Home vendors in Montgomery County are required to provide energy consumption and cost history to prospective purchasers. The vendor must provide *either* copies of electricity, gas, and home heating oil bills *or* a cost and usage history for the past 12 months immediately prior to sale. The vendor must also provide home purchasers with information designed to improve home energy efficiency performance.

Background: The Maryland Energy Administration (MEA) recommended, in its 2010 *Maryland Energy Outlook* (MEO), that time-of-sale disclosure of energy consumption of all residential and commercial buildings for the previous year be

required, subject to size limitations. MEA indicated that such disclosure would encourage property owners to invest in energy efficiency to increase the value of their buildings and help consumers make more informed purchases.

According to MEA, Alaska, Colorado, Rhode Island, and Florida allow for the voluntary disclosure of a Home Energy Rating Score (HERS) on their Multiple Listings Services. HERS uses information derived from a comprehensive energy audit of the property. Florida has created a database of HERS-rated homes in the state to enable prospective purchasers to search for the HERS rating of a specific address. MEA advises that Nevada, Kansas, South Dakota, and Massachusetts and the cities of Austin, Texas; Berkeley, California; San Francisco, California; and Burlington, Vermont have various residential energy disclosure requirements which range from requiring residential property energy audits to energy efficiency upgrades that must be made prior to the sale of a property.

Additional Information

Prior Introductions: HB 719 of 2011, a similar bill, was withdrawn after being heard in the House Environmental Matters Committee. Its cross file, SB 606 of 2011, received an unfavorable report from the Senate Judicial Proceedings Committee. SB 952/HB 1291 of 2010 each received unfavorable reports from the Senate Judicial Proceedings Committee and the House Environmental Matters Committee, respectively.

Cross File: SB 968 (Senator Conway) - Judicial Proceedings.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Department of Housing and Community Development, Judiciary (Administrative Office of the Courts), Public Service Commission, Maryland Energy Administration, Department of Legislative Services

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