

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 156

(Delegate Beidle)

Environmental Matters

Judicial Proceedings

Real Property - Condominiums - Rescission of Sales Contracts

This bill limits a condominium purchaser's right to rescind a contract of sale because of amended material in a vendor's public offering statement solely to instances involving amendments which materially and adversely affect the purchaser's rights. The bill also clarifies the authority for a condominium purchaser to rescind a contract without stating a reason within 15 days following receipt of the public offering statement or the signing of the contract, whichever is later.

Fiscal Summary

State Effect: The bill does not directly affect State governmental operation or finances.

Local Effect: The bill does not directly affect local governmental operation or finances.

Small Business Effect: Potential minimal.

Analysis

Current Law/Background: For a vendor to enforce a contract for the initial sale of a condominium unit, the vendor must provide the purchaser with a public offering statement on or before the time a contract is executed. Additionally, the contract of sale must contain a notice of the purchaser's right to receive the public offering statement, the purchaser's rescission rights, and specified warranties. The public offering statement must be registered with the Secretary of State and contain specified information.

Once the contract of sale has been executed, the vendor may not amend the public offering statement or the notice of specified rights and warranties without the purchaser's

approval if the amendment would materially affect the purchaser's rights. However, approval is not necessary if the amendment is required by a governmental authority or public utility, is made due to actions beyond the control of the vendor, or is made in the ordinary course of affairs of the council of unit owners. A copy of any amendments must be delivered promptly to any purchaser and the Secretary of State.

If a contract of sale has not been amended, the purchaser may rescind in writing the contract of sale within 15 days following the receipt of a public offering statement or the signing of the contract, whichever is later. If there has been an amendment, the purchaser may rescind the contract in writing within five days following receipt of the copy of any amendments. Regardless of whether the vendor amends the contract of sale, the purchaser may rescind the contract, within specified time limits, without stating any reason and is entitled to the return of any deposits made on account of the contract.

The bill is in response to a recent Maryland Court of Special Appeals case, *Herlson v. RTS Residential Block 5, LLC*, 191 Md. App. 719 (2010). The Court ruled that the statute authorized a purchaser to rescind an amended contract of sale regardless of whether the amendment had materially affected the purchaser's rights. This bill is intended to establish that a purchaser may only rescind an amended contract of sale if the amendment materially and adversely affects the purchaser's rights.

Additional Information

Prior Introductions: HB 887 of 2011 passed the House but received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: SB 224 (Senator Gladden) - Judicial Proceedings.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Secretary of State; Department of Legislative Services

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ncs/kdm

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