

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 968

(Senator Conway)

Judicial Proceedings

Rules and Executive Nominations

Residential Property Sales - Disclosure of Utility Consumption

This bill requires a vendor to display or make available to prospective purchasers, at the location of the residential real property, copies of specified utility bills or utility cost and usage history for the 12-month period immediately preceding the time of its first marketing. The information must be displayed or made available at any scheduled time when the public may view the house and included in any documents that describe the property and are made available to a prospective purchaser at the property's location. The vendor may also provide prospective purchasers a Home Energy Rating Score (HERS Index), a U.S. Department of Energy Home Score, or energy equivalent obtained during the same period. The bill applies to single-family residential property improved by four or fewer dwelling units if the owner has owned and resided at the property for at least 12 months before the property is first marketed for sale by the owner. It 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.

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

Fiscal Summary

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

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

Small Business Effect: Minimal.

Analysis

Bill Summary: Any information is provided without warranties, either express or implied, including as to the accuracy, completeness, or suitability of the information. The failure of a seller to provide a purchaser with the utility consumption information does not give the purchaser the right to rescind a contract of sale based on the failure of the seller to comply with the bill.

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 of 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 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: HB 1331 (Delegate Carr, *et al.*) - Environmental Matters.

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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