

# HOUSE BILL 1354

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By: **Delegate Conaway**

Introduced and read first time: February 11, 2013

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Disclosure Requirements – Death by Other Than Natural**  
3 **Causes**

4 FOR the purpose of eliminating a certain immunity for an owner or a seller of real  
5 property or the owner's or seller's agent who fails to disclose a homicide, a  
6 suicide, an accidental death, or a felony that occurred on a property offered for  
7 sale or lease; requiring a residential property disclaimer statement and a  
8 residential property disclosure statement to include information of which a  
9 vendor has actual knowledge relating to any death by other than natural  
10 causes, such as a homicide, a suicide, or an accidental death, that occurred at a  
11 property; providing for the application of this Act; and generally relating to the  
12 sale or lease of real property.

13 BY repealing and reenacting, with amendments,  
14 Article – Real Property  
15 Section 2–120 and 10–702(d) and (e)  
16 Annotated Code of Maryland  
17 (2010 Replacement Volume and 2012 Supplement)

18 BY repealing and reenacting, without amendments,  
19 Article – Real Property  
20 Section 10–702(a) through (c)  
21 Annotated Code of Maryland  
22 (2010 Replacement Volume and 2012 Supplement)

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

25 **Article – Real Property**

26 2–120.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) Under this title, it is not a material fact or a latent defect relating to  
2 property offered for sale or lease that:

3 (1) An owner or occupant of the property is, was, or is suspected to be:

4 (i) Infected with human immunodeficiency virus; or

5 (ii) Diagnosed with acquired immunodeficiency syndrome; or

6 (2) A [homicide, suicide, accidental death,] natural death[, or felony]  
7 occurred on the property.

8 (b) An owner or seller of real property or the owner's or seller's agent shall be  
9 immune from civil liability or criminal penalty for failure to disclose a fact contained  
10 in subsection (a) of this section.

11 10-702.

12 (a) In this section, "latent defects" means material defects in real property or  
13 an improvement to real property that:

14 (1) A purchaser would not reasonably be expected to ascertain or  
15 observe by a careful visual inspection of the real property; and

16 (2) Would pose a direct threat to the health or safety of:

17 (i) The purchaser; or

18 (ii) An occupant of the real property, including a tenant or  
19 invitee of the purchaser.

20 (b) (1) This section applies only to single family residential real property  
21 improved by four or fewer single family units.

22 (2) This section does not apply to:

23 (i) The initial sale of single family residential real property:

24 1. That has never been occupied; or

25 2. For which a certificate of occupancy has been issued  
26 within 1 year before the vendor and purchaser enter into a contract of sale;

27 (ii) A transfer that is exempt from the transfer tax under §  
28 13-207 of the Tax - Property Article, except land installment contracts of sale under §

1 13–207(a)(11) of the Tax – Property Article and options to purchase real property  
2 under § 13–207(a)(12) of the Tax – Property Article;

3 (iii) A sale by a lender or an affiliate or subsidiary of a lender  
4 that acquired the real property by foreclosure or deed in lieu of foreclosure;

5 (iv) A sheriff’s sale, tax sale, or sale by foreclosure, partition, or  
6 by court appointed trustee;

7 (v) A transfer by a fiduciary in the course of the administration  
8 of a decedent’s estate, guardianship, conservatorship, or trust;

9 (vi) A transfer of single family residential real property to be  
10 converted by the buyer into a use other than residential use or to be demolished; or

11 (vii) A sale of unimproved real property.

12 (c) (1) A vendor of single family residential real property shall complete  
13 and deliver to each purchaser:

14 (i) A written residential property condition disclosure  
15 statement on a form provided by the State Real Estate Commission; or

16 (ii) A written residential property disclaimer statement on a  
17 form provided by the State Real Estate Commission.

18 (2) The State Real Estate Commission shall develop by regulation a  
19 single standardized form that includes the residential property condition disclosure  
20 and disclaimer statements required by this subsection.

21 (d) The residential property disclaimer statement shall:

22 (1) Disclose any latent defects of which the vendor has actual  
23 knowledge that a purchaser would not reasonably be expected to ascertain by a careful  
24 visual inspection and that would pose a direct threat to the health or safety of the  
25 purchaser or an occupant; [and]

26 **(2) DISCLOSE THE OCCURRENCE AT THE PROPERTY OF ANY**  
27 **DEATH BY OTHER THAN NATURAL CAUSES, SUCH AS A HOMICIDE, A SUICIDE, OR**  
28 **AN ACCIDENTAL DEATH, OF WHICH THE VENDOR HAS ACTUAL KNOWLEDGE; AND**

29 **[(2)] (3)** State that:

30 (i) Except for latent defects **AND DEATHS** disclosed under [item  
31 **(1)] ITEMS (1) AND (2)** of this subsection, the vendor makes no representations or

1 warranties as to the condition of the real property or any improvements on the real  
2 property; and

3 (ii) The purchaser will be receiving the real property “as is”,  
4 with all defects, including latent defects, that may exist, except as otherwise provided  
5 in the contract of sale of the real property.

6 (e) (1) The residential property disclosure statement shall disclose those  
7 items that, to carry out the provisions of this section, the State Real Estate  
8 Commission requires to be disclosed about the physical condition of the property.

9 (2) The disclosure form shall include a list of defects, including latent  
10 defects, or information of which the vendor has actual knowledge in relation to the  
11 following:

12 (i) Water and sewer systems, including the source of household  
13 water, water treatment systems, and sprinkler systems;

14 (ii) Insulation;

15 (iii) Structural systems, including the roof, walls, floors,  
16 foundation, and any basement;

17 (iv) Plumbing, electrical, heating, and air conditioning systems;

18 (v) Infestation of wood–destroying insects;

19 (vi) Land use matters;

20 (vii) Hazardous or regulated materials, including asbestos,  
21 lead–based paint, radon, underground storage tanks, and licensed landfills;

22 (viii) Any other material defects of which the vendor has actual  
23 knowledge;

24 (ix) Whether the smoke detectors will provide an alarm in the  
25 event of a power outage; [and]

26 (x) If the property relies on the combustion of a fossil fuel for  
27 heat, ventilation, hot water, or clothes dryer operation, whether a carbon monoxide  
28 alarm is installed on the property; **AND**

29 **(XI) ANY DEATH BY OTHER THAN NATURAL CAUSES, SUCH**  
30 **AS A HOMICIDE, A SUICIDE, OR AN ACCIDENTAL DEATH, THAT OCCURRED AT**  
31 **THE PROPERTY.**

1           (3)    The disclosure form shall contain:

2                   (i)    A notice to prospective purchasers and vendors that the  
3 prospective purchaser or vendor may wish to obtain professional advice about or an  
4 inspection of the property;

5                   (ii)   A notice to prospective purchasers that disclosure by the  
6 seller is not a substitute for an inspection by an independent home inspection  
7 company, and that the purchaser may wish to obtain such an inspection;

8                   (iii)  A notice to purchasers that the information contained in the  
9 disclosure statement is the representation of the vendor and is not the representation  
10 of the real estate broker or salesperson, if any; and

11                   (iv)  A notice to purchasers that the information contained in the  
12 disclosure statement is not a warranty by the vendor as to:

13                           1.    The condition of the property of which the vendor has  
14 no actual knowledge; or

15                           2.    Other conditions of which the vendor has no actual  
16 knowledge.

17           (4)    The vendor is not required to undertake or provide an independent  
18 investigation or inspection of the property in order to make the disclosures required by  
19 this section.

20           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
21 construed to apply only prospectively and may not be applied or interpreted to have  
22 any effect on or application to any contract of sale executed before the effective date of  
23 this Act.

24           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2013.