

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 40

(Delegate Carr)

Environmental Matters

Judicial Proceedings

Residential Property Sales - Disclosure of Utility Consumption

This bill requires a vendor to disclose, if the property owner has owned and resided at the property for at least 12 months, specified utility consumption information to prospective purchasers for the 12-month period immediately preceding the time of a property's marketing. The information must be displayed or made available at any scheduled time for a viewing of the property (whether open to the public or by an individual prospective purchaser) and included in any documents that describe the property and are made available to a prospective purchaser at the property's location.

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: The bill applies to single-family residential real 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. The utility consumption information is provided without warranties, either express or implied, including as to its accuracy, completeness, or suitability, and the failure of a vendor to provide a purchaser with the specified utility consumption information does not allow the purchaser the right to rescind the contract.

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 condition disclosure statement or a written residential property disclaimer statement. Both statements must be 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 (1) a purchaser would not reasonably be expected to ascertain by a careful visual inspection and (2) would pose a direct threat to the health or safety of a purchaser or occupant. The disclaimer statement must also notify the purchaser that, except for the disclosed latent defects, the vendor makes no representations or warranties as to the condition of the property and its improvements, and that the receipt of the property is “as is,” 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 include a list of defects, including latent defects, or information of which the vendor has actual knowledge regarding specified conditions. The disclosure form must also contain various notices, including those relating to inspections of the property and that the disclosure form is not a warranty as to a condition of the property, or any other condition, of which the vendor has no actual knowledge.

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*, 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, in addition to Montgomery County, the cities of Austin, Texas and Santa Fe, New Mexico and the states of New York, Alaska, and Maine all have mandatory utility bill disclosure laws at the time of sale.

Alaska, Colorado, Rhode Island, and Florida allow for the voluntary disclosure of a Home Energy Rating System (HERS) score, which is a method to measure the efficiency

of a home, on their Multiple Listing 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 score of a specific address. MEA advises that Nevada, Kansas, South Dakota, and Massachusetts and the cities of 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 1331 of 2012, a similar bill, passed both the House and the Senate, but the Senate members of the conference committee were not appointed. Its cross file, SB 968, passed the Senate but received no further action from the House. A similar bill, HB 719 of 2011, 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. Likewise, SB 952 and HB 1291 of 2010 each received unfavorable reports from the Senate Judicial Proceedings Committee and the House Environmental Matters Committee, respectively.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation; Office of the Attorney General (Consumer Protection Division); Department of Housing and Community Development; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Maryland Energy Administration; Public Service Commission; Montgomery County; www.realtor.com; Department of Legislative Services

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