

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1043

(Prince George's County Delegation)

Environmental Matters

Education, Health, and Environmental Affairs

**Prince George's County - Deferred Water and Sewer Charges Homeowner
Disclosure Act of 2014
PG 413-14**

This bill requires a contract for the initial sale of residential real property in Prince George's County to include specified disclosures relating to deferred water and sewer assessments. The bill applies to assessments recorded by a covenant or declaration that defers costs for water and sewer improvements for which the purchaser may be liable. The bill prohibits a person or entity that is establishing water and sewer costs for the initial sale of residential real property from amortizing costs passed on to a purchaser by imposing a deferred water and sewer charge for more than 20 years after the date of the initial sale.

For existing single-family residential real property in Prince George's County, a person or entity that imposes a deferred water and sewer charge must provide the property owner with a bill including specified disclosures. The balance owed on a deferred water and sewer assessment may be redeemed at the present value of the assessment.

The bill requires Prince George's County to study specified issues relating to deferred water and sewer charges and report its preliminary findings to the Prince George's County Senators and the House Delegation by December 1, 2014, and report its final findings by December 1, 2015.

Fiscal Summary

State Effect: None. The bill primarily affects local government operations and does not impact State government operations or finances.

Local Effect: It is assumed that the costs associated with the study are minimal and absorbable within existing county resources. The bill does not materially affect Washington Suburban Sanitary Commission (WSSC) operations or finances.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The disclosure statement in sales contracts and bills sent to property owners must include:

- the amount of the annual assessment;
- the approximate number of payments remaining on the assessment;
- the amount remaining on the assessment, including interest;
- the name and address of the person or entity most recently responsible for collection of the assessment;
- the interest rate on the assessment;
- the estimated payoff amount of the assessment; and
- a statement that payoff of the assessment is allowed without prepayment penalty.

Initial sales contracts covered by the bill must also disclose the existence of the deferred private water and sewer assessments. Specified *bills sent to property owners* must disclose the method used to compute the deferred water and sewer charge on the property.

If the required disclosures are not made in an initial sales contract, the bill authorizes the purchaser to recover specified damages from the seller or, if the violation is discovered before settlement, rescind the real estate contract without penalty.

The bill requires Prince George's County to study (1) the feasibility of establishing a centralized clearinghouse for the registration of deferred water and sewer charges by private developers, including the feasibility of requiring recordation of deferred water and sewer charges in the county land records; (2) methods to certify the accuracy of deferred water and sewer charges imposed by private developers; and (3) methods to audit previously imposed deferred water and sewer charges. To complete the studies, the county may consult with any water and sewer company operating within the county.

If Prince George's County determines that the establishment of a centralized clearinghouse is feasible, the bill requires the county to conduct a feasibility study on requiring a contract for the sale of residential real property, other than the initial sale, to include the same disclosures as those required for initial sales contracts under the bill.

Current Law:

Maryland: Section 14-117(b) and (c) of the Real Property Article requires that a contract for the initial sale of improved residential real property to a person who intends to occupy or rent the property for residential purposes must disclose the estimated cost of any deferred water and sewer charges for which the purchaser becomes liable. “Water and sewer authority” includes a person to which the duties and responsibilities of WSSC have been delegated by a written agreement or in accordance with a local ordinance (for example, a property developer). Violation of these requirements entitles the initial purchaser to recover from the seller (1) two times the amount of deferred charges the purchaser would be obligated to pay during the five years of payments following the sale; (2) no amount greater than actually paid thereafter; and (3) any deposit moneys actually paid by the purchaser that were lost as a result of the violation.

Prince George’s County: CB-111-2012 requires contracts for the sale of any residential real property in the county to contain a disclosure of any deferred water and sewer charges for which the purchaser might be liable. The law specifies that the disclosure by the seller at the time the contract is signed include the amount of the annual assessment, the approximate number of years remaining on the assessment, and the name and address of the party most recently responsible for collection of the assessment. If the deferred water and sewer charges are not disclosed, the buyer may rescind the real estate contract before settlement. The law also specifies that the remedy of rescinding the real estate contract is not the exclusive remedy and that other remedies may be available.

Background: Chapter 685 of 2012 created the Task Force to Study Rates and Charges in the Washington Suburban Sanitary District to, among other things, study the process that developers follow in charging for the construction of and connection to water and sewer facilities and make recommendations on standards for the construction of and connection to water and sewer facilities. In December 2013, the task force published its findings and recommendations. This bill addresses 6 of the task force’s 13 recommendations based on several key findings.

In general, private developers are responsible for constructing and financing water and sewer pipelines within the WSSC territory. WSSC provides water and sewer services to 1.8 million residents in Montgomery and Prince George’s counties. It has more than 460,000 customer accounts, serves an area of around 1,000 square miles, and employs more than 1,500 people. Chapter 516 of 1998 required all water and sewer pipelines or facilities necessary to provide service to a development in the Washington Suburban Sanitary District to be constructed by the owner or developer of the property at the owner’s own expense. Before enactment of Chapter 516, WSSC was responsible for constructing new water and sewer subdivision lines in the Washington Suburban Sanitary

District, and WSSC would then impose an annual front foot benefit charge on owners of new residential, commercial, or industrial development to recover the costs.

WSSC is no longer responsible for imposing or collecting front foot benefit charges on construction costs incurred by private developers. These charges are imposed and collected by the private developers with no oversight by WSSC or county government. Thus, the calculation of these assessments can vary by private developer with costs varying by project. While WSSC has no authority over deferred water and sewer charges imposed by private developers, the commission has identified more than 27,000 properties in Montgomery and Prince George's counties that receive water and/or sewer services from facilities constructed by private developers.

The task force observed that bills customers received from either private developers or third-party contractors contained varying degrees of details on the deferred assessments. There are also variations in the time period used in assessing deferred water and sewer charges within WSSC's territory. The assessment period used for WSSC corresponds to the bond amortization period. During 2013, WSSC reduced the period of time these deferred water and sewer assessments were levied from 23 to 20 years. Private developers, on the other hand, are able to assess customers over time periods that vary from WSSC's 20-year limit. However, based on testimony heard by the task force, it appears some private developers follow the assessment period previously used by WSSC.

Notably, the task force found that, while customers are often given the option to pay the assessment in full up front, in practice few do. Most often, customers receive an annual bill (usually for a period between 20 and 30 years) for deferred water and sewer charges from a utility company set up by the private developer, or a third party contracted to administer these bills.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Prince George's County; Washington Suburban Sanitary Commission; Department of Legislative Services

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