

HOUSE BILL 1039

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CF SB 898

By: **Delegates Terrasa, Lehman, and Ziegler**

Introduced and read first time: February 7, 2024

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums and Homeowners Associations – Resale Contracts – Notice**
3 **Requirements**

4 FOR the purpose of establishing that certain required notices in certain retail contracts
5 may be provided to a purchaser's real estate agent; altering certain fees a council of
6 unit owners or a homeowners association or its agent may charge for providing
7 certain disclosures; altering the time period within which a purchaser may cancel a
8 certain contract; and generally relating to resale contract notice requirements.

9 BY repealing and reenacting, with amendments,
10 Article – Real Property
11 Section 11–135(a) through (c), 11B–106(a) and (c), and 11B–108(b)(1)
12 Annotated Code of Maryland
13 (2023 Replacement Volume)

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

16 **Article – Real Property**

17 11–135.

18 (a) Except as provided in subsection (b) of this section, a contract for the resale of
19 a unit by a unit owner other than a developer is not enforceable unless the contract of sale
20 contains in conspicuous type a notice in the form specified in subsection (g)(1) of this
21 section, and the unit owner furnishes to the purchaser **OR THE PURCHASER'S REAL**
22 **ESTATE AGENT** not later than 15 days prior to closing:

23 (1) A copy of the declaration (other than the plats);

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (2) The bylaws;
- 2 (3) The rules or regulations of the condominium;
- 3 (4) A certificate containing:
- 4 (i) A statement disclosing the effect on the proposed conveyance of
5 any right of first refusal or other restraint on the free alienability of the unit other than
6 any restraint created by the unit owner;
- 7 (ii) A statement setting forth the amount of the common expense
8 assessment and any unpaid common expense or special assessment adopted by the council
9 of unit owners that is due and payable from the selling unit owner;
- 10 (iii) A statement of any other fees payable by the unit owners to the
11 council of unit owners;
- 12 (iv) A statement of any capital expenditures approved by the council
13 of unit owners planned at the time of the conveyance which are not reflected in the current
14 operating budget disclosed under item (vi) of this item;
- 15 (v) The most recent regularly prepared balance sheet and income
16 expense statement, if any, of the condominium;
- 17 (vi) The current operating budget of the condominium including the
18 current reserve study report or a summary of the report, a statement of the status and
19 amount of any reserve or replacement fund, or a statement that there is no reserve fund;
- 20 (vii) A statement of any unsatisfied judgments or pending lawsuits to
21 which the council of unit owners is a party, excluding assessment collection suits;
- 22 (viii) A statement generally describing any insurance policies provided
23 for the benefit of unit owners, a notice that copies of the policies are available for inspection,
24 stating the location at which the copies are available, and a notice that the terms of the
25 policy prevail over the description;
- 26 (ix) A statement as to whether the council of unit owners has actual
27 knowledge of any violation of the health or building codes with respect to the common
28 elements of the condominium;
- 29 (x) A description of any recreational or other facilities which are to
30 be used by the unit owners or maintained by them or the council of unit owners, and a
31 statement as to whether or not they are to be a part of the common elements; and
- 32 (xi) 1. A statement as to whether the council of unit owners has
33 entered into any agreement that settles or releases the council of unit owners' claims
34 related to common element warranties under § 11–131 of this title; and

1 2. A statement as to whether the board of directors has
2 disclosed to the council of unit owners in accordance with § 11–134.1(c)(2) of this title, the
3 board’s intention to enter into an agreement for the purpose of settling a disputed common
4 element warranty claim under § 11–131 of this title;

5 (5) A statement by the unit owner as to whether the unit owner has
6 knowledge:

7 (i) That any alteration to the unit or to the limited common
8 elements assigned to the unit violates any provision of the declaration, bylaws, or rules and
9 regulations;

10 (ii) Of any violation of the health or building codes with respect to
11 the unit or the limited common elements assigned to the unit; and

12 (iii) That the unit is subject to an extended lease under § 11–137 of
13 this title or under local law, and if so, a copy of the lease must be provided; and

14 (6) A written notice of the unit owner’s responsibility for the council of unit
15 owners’ property insurance deductible and the amount of the deductible.

16 (b) A contract for the resale by a unit owner other than a developer of a unit in a
17 condominium containing less than 7 units is not enforceable unless the contract of sale
18 contains in conspicuous type a notice in the form specified in subsection (g)(2) of this
19 section, and the unit owner furnishes to the purchaser **OR THE PURCHASER’S REAL**
20 **ESTATE AGENT** not later than 15 days prior to closing:

21 (1) A copy of the declaration (other than the plats);

22 (2) The bylaws;

23 (3) The rules and regulations of the condominium;

24 (4) A statement by the unit owner of the unit owner’s expenses during the
25 preceding 12 months relating to the common elements; and

26 (5) A written notice of the unit owner’s responsibility for the council of unit
27 owners’ property insurance deductible and the amount of the deductible.

28 (c) (1) **(I)** Except as provided in paragraph ~~[(4)]~~ **(3)** of this subsection, the
29 council of unit owners, within ~~[20]~~ **10** days after a written request by a unit owner and
30 receipt of a reasonable fee therefor, not to exceed the cost to the council of unit owners, if
31 any, up to a maximum of \$250, shall furnish a certificate containing the information
32 necessary to enable the unit owner to comply with subsection (a) of this section.

33 **(II)** A unit owner providing a certificate under subsection (a) of this

1 section is not liable to the purchaser for any erroneous information provided by the council
2 of unit owners and included in the certificate.

3 (2) In addition to the fee under paragraph (1) of this subsection, the council
4 of unit owners [is entitled to a] **MAY CHARGE ONLY THE FOLLOWING FEES:**

5 (I) A reasonable fee not to exceed \$100 for an inspection of the unit
6 owner's unit, if required;

7 (II) **A REASONABLE FEE NOT TO EXCEED \$100 FOR DELIVERY OF**
8 **THE CERTIFICATE WITHIN 5 DAYS AFTER THE REQUEST FOR THE CERTIFICATE; OR**

9 (III) **A REASONABLE FEE NOT TO EXCEED \$50 FOR A FINANCIAL**
10 **UPDATE ORDERED BY A SETTLEMENT AGENT.**

11 [(3) In addition to the fees under paragraphs (1) and (2) of this subsection,
12 the council of unit owners is entitled to a reasonable fee:

13 (i) Not to exceed \$50 for delivery of the certificate within 14 days
14 after the request for the certificate; and

15 (ii) Not to exceed \$100 for delivery of the certificate within 7 days
16 after the request for the certificate.]

17 [(4) (3) (i) The Department of Housing and Community Development
18 shall adjust the maximum fee authorized under paragraph (1) of this subsection every 2
19 years, beginning October 1, 2018, to reflect any aggregate increase in the Consumer Price
20 Index for All Urban Consumers (CPI-U) for the Washington Metropolitan Area, or any
21 successor index, for the previous 2 years.

22 (ii) The Department of Housing and Community Development shall
23 maintain on its website a list of the maximum fees authorized under paragraph (1) of this
24 subsection as adjusted every 2 years in accordance with subparagraph (i) of this paragraph.

25 [(5) (4) With respect to the remaining information that the unit owner is
26 required to disclose under subsection (a) of this section that is not provided by the council
27 of unit owners and included in the certificate, a unit owner:

28 (i) Except as provided in item (ii) of this paragraph, is liable to the
29 purchaser under this section for damages proximately caused by:

30 1. An untrue statement about a material fact; and

31 2. An omission of a material fact that is necessary to make
32 the statements made not misleading, in light of the circumstances under which the
33 statements were made; and

1 (ii) Is not liable to the purchaser under this section if the owner had,
2 after reasonable investigation, reasonable grounds to believe, and did believe, at the time
3 the information was provided to the purchaser, that the statements were true and that
4 there was no omission to state a material fact necessary to make the statements made not
5 misleading, in light of the circumstances under which the statements were made.

6 11B-106.

7 (a) A contract for the resale of a lot within a development, or for the initial sale of
8 a lot within a development containing 12 or fewer lots, to a member of the public who
9 intends to occupy or rent the lot for residential purposes, is not enforceable by the vendor
10 unless:

11 (1) The purchaser **OR THE PURCHASER'S REAL ESTATE AGENT** is given,
12 on or before entering into the contract for the sale of [such] **THE** lot, or [within 20 calendar
13 days of entering into the contract] **NOT LATER THAN 15 DAYS BEFORE CLOSING**, the
14 disclosures set forth in subsection (b) of this section;

15 (2) The purchaser **OR THE PURCHASER'S REAL ESTATE AGENT** is given
16 any changes in mandatory fees and payments exceeding 10 percent of the amount
17 previously stated to exist and any other substantial and material amendment to the
18 disclosures after they become known to the vendor; and

19 (3) The contract of sale contains a notice in conspicuous type, which shall
20 include bold and underscored type, in a form substantially the same as the following:

21 "This sale is subject to the requirements of the Maryland Homeowners Association
22 Act (the "Act"). The Act requires that the seller disclose to you at or before the time the
23 contract is entered into, [or within 20 calendar days of entering into the contract] **AND NOT**
24 **LATER THAN 15 DAYS BEFORE CLOSING**, certain information concerning the
25 development in which the lot you are purchasing is located. The content of the information
26 to be disclosed is set forth in § 11B-106(b) of the Act (the "MHAA information") as follows:

27 (The notice shall include at this point the text of § 11B-106(b) in its entirety).

28 If you have not received all of the MHAA information [5] 7 calendar days or more
29 before entering into the contract, you have [5] 7 calendar days to cancel this contract after
30 receiving all of the MHAA information. You must cancel the contract in writing, but you do
31 not have to state a reason. The seller must also provide you with notice of any changes in
32 mandatory fees exceeding 10% of the amount previously stated to exist and copies of any
33 other substantial and material amendment to the information provided to you. You have 3
34 calendar days to cancel this contract after receiving notice of any changes in mandatory
35 fees, or copies of any other substantial and material amendment to the MHAA information
36 which adversely affects you. If you do cancel the contract you will be entitled to a refund of
37 any deposit you made on account of the contract. However, unless you return the MHAA

1 information to the seller when you cancel the contract, the seller may keep out of your
2 deposit the cost of reproducing the MHAA information, or \$100, whichever amount is less.

3 By purchasing a lot within this development, you will automatically be subject to
4 various rights, responsibilities, and obligations, including the obligation to pay certain
5 assessments to the homeowners association within the development. The lot you are
6 purchasing may have restrictions on:

- 7 (1) Architectural changes, design, color, landscaping, or appearance;
- 8 (2) Occupancy density;
- 9 (3) Kind, number, or use of vehicles;
- 10 (4) Renting, leasing, mortgaging, or conveying property;
- 11 (5) Commercial activity; or
- 12 (6) Other matters.

13 You should review the MHAA information carefully to ascertain your rights,
14 responsibilities, and obligations within the development.”

15 (c) (1) Except as provided in paragraph [(4)] **(3)** of this subsection, within [20]
16 **10** days after a written request by a lot owner other than a declarant and receipt of a
17 reasonable fee, not to exceed the cost to the homeowners association, if any, up to a
18 maximum of \$250, the homeowners association, the management agent of the homeowners
19 association, or any other authorized officer or agent of the homeowners association, shall
20 provide the information listed under subsection (b) of this section.

21 (2) In addition to the fee under paragraph (1) of this subsection, the
22 homeowners association [is entitled to a] **MAY CHARGE ONLY THE FOLLOWING FEES:**

23 **(I) A reasonable fee not to exceed \$50 for an inspection of the lot**
24 **owner’s lot if the inspection is required by the governing documents of the homeowners**
25 **association;**

26 **(II) A REASONABLE FEE NOT TO EXCEED \$100 FOR DELIVERY OF**
27 **THE CERTIFICATE WITHIN 5 DAYS AFTER THE REQUEST FOR THE CERTIFICATE; AND**

28 **(III) A REASONABLE FEE NOT TO EXCEED \$50 FOR A FINANCIAL**
29 **UPDATE ORDERED BY A SETTLEMENT AGENT.**

30 [(3) In addition to the fees under paragraphs (1) and (2) of this subsection,
31 the homeowners association is entitled to a reasonable fee:

1 (i) Not to exceed \$50 for delivery of the information within 14 days
2 after the request for the information; and

3 (ii) Not to exceed \$100 for delivery of the information within 7 days
4 after the request for the information.]

5 **[(4)] (3)** (i) The Department of Housing and Community Development
6 shall adjust the maximum fee authorized under paragraph (1) of this subsection every 2
7 years, beginning on October 1, 2018, to reflect any aggregate increase in the Consumer
8 Price Index for All Urban Consumers (CPI-U) for the Washington Metropolitan Area, or
9 any successor index, for the previous 2 years.

10 (ii) The Department of Housing and Community Development shall
11 maintain on its website a list of the maximum fees authorized under paragraph (1) of this
12 subsection as adjusted every 2 years in accordance with subparagraph (i) of this paragraph.

13 11B-108.

14 (b) (1) Any purchaser who has not received all of the disclosures required
15 under § 11B-105 or § 11B-106 of this title, as applicable, **[5] 7** calendar days or more before
16 the contract was entered into, within **[5] 7** calendar days following receipt by the purchaser
17 of the disclosures required by § 11B-105(a) and (b) or § 11B-106(a) and (b) of this title, as
18 applicable, may cancel in writing the contract without stating a reason and without liability
19 on the part of the purchaser.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2024.