

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1196 (Delegate Rose, *et al.*)
Environment and Transportation

Real Property - Contracts of Sale - Title Report Requirement

This bill requires the seller of any real property to provide a title report to the buyer prior to closing. A buyer may rescind a contract of sale by providing written notice to the seller no later than five days after closing if the provided title report reveals specified defects to the title. Violation of the bill is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil and criminal penalty provisions.

Fiscal Summary

State Effect: General fund expenditures increase by an estimated \$4,500 in FY 2025 and \$6,000 annually thereafter for the Department of General Services to provide title reports for State property that is sold. The bill's imposition of existing penalty provisions does not have a material impact on State finances or operations. The Office of the Attorney General, Consumer Protection Division, can handle the bill's requirements with existing resources.

Local Effect: The bill's imposition of existing penalty provisions does not have a material impact on local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: Prior to the closing of a real estate transaction within the State, the seller must provide the buyer with a title report, supported by an affidavit by the person making the title search stating that a complete search of the public records was conducted in

accordance with generally accepted standards of title examination. The scope of this search must encompass at least 60 years.

No later than five days after closing, the buyer, by written notice to the seller, may rescind the contract if the provided title report reveals any of the following defects:

- an unmarketable title;
- a fraudulent or forged deed;
- an encumbrance or easement;
- a missing heir;
- a lien;
- a disputed boundary; or
- any other defect that materially impacts the buyer's claim of title.

Current Law: An unfair, abusive, or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair, abusive, or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 962 (Senator Ready) - Judicial Proceedings.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of General Services; Maryland Department of Labor; Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2024
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