

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 1354 (Delegate Conaway)
Environmental Matters

Real Property - Disclosure Requirements - Death by Other Than Natural Causes

This bill requires a vendor of single-family residential property to disclose to a purchaser the occurrence of any death by other than natural causes, such as a homicide, suicide, or accidental death, on the property of which the vendor has actual knowledge. The bill also repeals the occurrence of a homicide, suicide, accidental death, or felony on a property from the specific exclusions of a material fact or latent defect relating to a property offered for sale or lease. The bill also eliminates the civil or criminal immunity given to an owner or seller of real property, or the agent of the owner or seller, for the failure to disclose the occurrence of a homicide, suicide, accidental death, or felony on the property.

The bill applies prospectively and may not be applied or interpreted to affect any contract of sale executed before the bill's October 1, 2013 effective date.

Fiscal Summary

State Effect: The bill does not directly affect State governmental operations and finances.

Local Effect: The bill does not directly affect local governmental operations and finances.

Small Business Effect: Minimal.

Analysis

Current Law: A latent defect means a material defect in real property or an improvement to real property that (1) a purchaser would not reasonably be expected to ascertain or observe by a careful visual inspection of the real property and (2) would pose a direct threat to the health or safety of the purchaser or any occupant of the real property. It is not a material fact or a latent defect that a homicide, suicide, accidental death, natural death, or felony occurred on the property and an owner or seller of the property, or the agent of the owner or seller, is immune from civil or criminal liability if the death or felony is not disclosed.

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. 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.

Background: The State Real Estate Commission, within the Department of Labor, Licensing, and Regulation (DLLR), has a link to the most recent version of the residential property disclosure and disclaimer form on the DLLR website at www.dllr.state.md.us.

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; Department of Legislative Services

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ncs/kdm

Analysis by: Michael F. Bender

Direct Inquiries to:
(410) 946-5510
(301) 970-5510