

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 412 (Delegate McMillan)
Environmental Matters

**Real Property - Condominiums and Homeowners Associations - Disclosures to
Purchasers on Resale of Unit or Lot - Limitation on Fees**

This bill limits the fee that a condominium council of unit owners may charge a unit owner for providing specified information necessary to comply with required disclosures to purchasers on the resale of the unit. The bill limits the fee that a homeowners association (HOA), the management agent of the HOA, or any other authorized officer or agent of the HOA may charge a lot owner for providing specified information necessary to comply with required disclosures to purchasers on the resale of the lot or the initial sale of a lot in a development containing 12 or fewer lots. Accordingly, a council of unit owners, an HOA, or an authorized officer or agent of an HOA may only charge unit or lot owners \$250 or the actual cost, whichever is less, for providing the specified information.

Fiscal Summary

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

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

Small Business Effect: Minimal.

Analysis

Current Law:

Condominiums: A contract for the resale of a unit in any condominium by a unit owner other than the developer is not enforceable unless the owner discloses specified

information to the purchaser no later than 15 days prior to closing. The information required to be disclosed depends on the number of units within the condominium.

For the resale of a unit in a condominium of any size, the required disclosure must include a copy of the declaration, the bylaws, the rules and regulations of the condominium, and written notice of the unit owner's property insurance deductible responsibilities. While this information is required regardless of the size of the condominium, the owner must provide additional information if the condominium contains seven or more units. This additional information includes a certificate containing specified information such as more detailed financial data and information regarding whether the council of unit owners or the unit owner has knowledge of any violations of health or building codes or the condominium governing documents.

To collect the information needed to make the required disclosures, the unit owner may make a written request, accompanied by a reasonable fee, to the council of unit owners to provide a certificate containing the necessary information. The council of unit owners must provide this certificate within 20 days of receipt of the request and fee. The unit owner is not liable for any erroneous information provided by the council of unit owners and passed along to the buyer. However, the unit owner may be liable to the buyer in specified situations in which the owner provides erroneous information that was not provided by the council of unit owners.

Homeowners Associations: For the resale of a lot within a development of any size or the initial sale of a lot in a development containing 12 or fewer lots, the seller must provide the purchaser with specified disclosure documents within 20 days of entering into the contract. These disclosures include information regarding past and present monthly fees or assessments, the existence of any delinquent charges against the lot, the contact information of any HOA management agent, a statement as to the existence of any judgments or pending actions against the HOA or lot, and a copy of the HOA's governing documents. The above disclosures may be summarized or produced through any collection of documents but must be clear and concise and effectively convey the required information to the purchaser.

Background: The Secretary of State reports that 2,549 condominiums are registered in Maryland with a total of 164,324 units. The Foundation for Community Association Research (FCAR) estimates that there were 6,400 community associations in the State in 2012. FCAR's definition of "community association" includes planned communities such as homeowners associations, condominium communities, and housing cooperatives.

Additional Information

Prior Introductions: None.

Cross File: SB 229 (Senator Frosh) - Judicial Proceedings.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Secretary of State, Foundation for Community Association Research, Department of Legislative Services

Fiscal Note History: First Reader - January 29, 2014
mc/kdm Revised - House Third Reader - April 5, 2014

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