

Chapter 638

(House Bill 989)

AN ACT concerning

Residential Real Property – Sales Contracts – Notice of Water and Sewer Charges

FOR the purpose of making clarifying changes to a certain notice requirement about water and sewer charges in a contract for the initial sale of residential real property; requiring a contract for the resale of residential real property that is served by public water or wastewater facilities for which deferred water and sewer charges have been established by a recorded covenant or declaration to contain a certain notice concerning the deferred water and sewer charges; providing that a purchaser is entitled to certain rights for a violation of this Act; providing for the application of certain provisions of this Act; and generally relating to notices of water and sewer charges in contracts for the sale of residential real property.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 14–117(a) and (b)
Annotated Code of Maryland
(2015 Replacement Volume)

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

Article – Real Property

14–117.

(a) (1) In this subsection, “water and sewer authority” includes a person to which the duties and responsibilities of the Washington Suburban Sanitary Commission have been delegated by a written agreement or in accordance with a local ordinance.

(2) A contract for the initial sale of improved, residential real property to a member of the public who intends to occupy or rent the property for residential purposes shall disclose the estimated cost, as established by the appropriate water and sewer authority, of any deferred water and sewer charges for which the purchaser may become liable.

(3) (i) In Prince George’s County, a contract for the initial sale of residential real property for which there are deferred private water and sewer assessments recorded by a covenant or declaration deferring costs for water and sewer improvements for which the purchaser may be liable shall contain a disclosure that includes:

- assessments;
1. The existence of the deferred private water and sewer assessments;
 2. The amount of the annual assessment;
 3. The approximate number of payments remaining on the assessment;
 4. The amount remaining on the assessment, including interest;
 5. The name and address of the person or entity most recently responsible for collection of the assessment;
 6. The interest rate on the assessment;
 7. The estimated payoff amount of the assessment; and
 8. A statement that payoff of the assessment is allowed without prepayment penalty.

(ii) A person or entity establishing water and sewer costs for the initial sale of residential real property may not amortize costs that are passed on to a purchaser by imposing a deferred water and sewer charge for a period longer than 20 years after the date of the initial sale.

(4) If the appropriate water and sewer authority has not established a schedule of charges for the water and sewer project that benefits [the] **RESIDENTIAL REAL** property or if a local jurisdiction has adopted a plan to benefit [the] **RESIDENTIAL REAL** property in the future, the contract [of] **FOR THE INITIAL sale OF THE RESIDENTIAL REAL PROPERTY** shall disclose that fact.

(5) (I) THIS PARAGRAPH DOES NOT APPLY IN A COUNTY THAT HAS ADOPTED A DISCLOSURE REQUIREMENT THAT IS SUBSTANTIALLY SIMILAR TO THE DISCLOSURE REQUIREMENT IN SUBPARAGRAPH (II) OF THIS PARAGRAPH.

(II) A CONTRACT FOR THE RESALE OF RESIDENTIAL REAL PROPERTY THAT IS SERVED BY PUBLIC WATER OR WASTEWATER FACILITIES FOR WHICH DEFERRED WATER AND SEWER CHARGES HAVE BEEN ESTABLISHED BY A RECORDED COVENANT OR DECLARATION SHALL CONTAIN A NOTICE IN SUBSTANTIALLY THE FOLLOWING FORM:

**“NOTICE REQUIRED BY MARYLAND LAW REGARDING
DEFERRED WATER AND SEWER CHARGES**

THIS PROPERTY IS SUBJECT TO A FEE OR ASSESSMENT THAT PURPORTS TO COVER OR DEFRAY THE COST OF INSTALLING OR MAINTAINING DURING CONSTRUCTION ALL OR PART OF THE PUBLIC WATER OR WASTEWATER FACILITIES CONSTRUCTED BY THE DEVELOPER. THIS FEE OR ASSESSMENT IS \$____, PAYABLE ANNUALLY IN (__ MONTH__) UNTIL (__ DATE__) TO (__ NAME AND ADDRESS__) (HEREAFTER CALLED “LIENHOLDER”).

THERE MAY BE A RIGHT OF PREPAYMENT OR A DISCOUNT FOR EARLY PREPAYMENT, WHICH MAY BE ASCERTAINED BY CONTACTING THE LIENHOLDER. THIS FEE OR ASSESSMENT IS A CONTRACTUAL OBLIGATION BETWEEN THE LIENHOLDER AND EACH OWNER OF THIS PROPERTY, AND IS NOT IN ANY WAY A FEE OR ASSESSMENT IMPOSED BY THE COUNTY IN WHICH THE PROPERTY IS LOCATED.”.

(b) (1) Violation of subsection (a)(2) or (4) of this section entitles the initial purchaser to recover from the seller:

(i) Two times the amount of deferred charges the purchaser would be obligated to pay during the 5 years of payments following the sale;

(ii) No amount greater than actually paid thereafter; and

(iii) Any deposit money actually paid by the purchaser that was lost as a result of a violation of subsection (a)(2) or (4) of this section.

(2) Violation of subsection (a)(3) of this section entitles the purchaser to:

(i) Recover from the seller the total amount of deferred charges the purchaser will be obligated to pay following the sale;

(ii) Recover from the seller any money actually paid by the purchaser on the deferred charge that was lost as a result of a violation of subsection (a)(3) of this section; or

(iii) If the violation is discovered before settlement, rescind the real estate contract without penalty.

(3) (1) VIOLATION OF SUBSECTION (A)(5) OF THIS SECTION ENTITLES THE PURCHASER:

1. IF THE VIOLATION IS DISCOVERED BEFORE SETTLEMENT, TO RESCIND IN WRITING THE SALES CONTRACT WITHOUT PENALTY OR LIABILITY;

2. ON RESCISSION, TO THE FULL RETURN OF ANY DEPOSITS MADE ON ACCOUNT OF THE SALES CONTRACT; AND

3. AFTER SETTLEMENT, TO PAYMENT FROM THE SELLER FOR THE FULL AMOUNT OF ANY ~~OPEN LIEN~~ FEE OR ASSESSMENT NOT DISCLOSED, UNLESS THE SELLER WAS NEVER CHARGED A FEE OR ASSESSMENT TO DEFRAY THE COSTS OF PUBLIC WATER OR WASTEWATER FACILITIES BY THE DEVELOPER, A SUCCESSOR OF THE DEVELOPER, OR A SUBSEQUENT ASSIGNEE.

(II) THE PURCHASER'S RIGHT TO RESCIND UNDER THIS PARAGRAPH SHALL TERMINATE 5 DAYS AFTER THE SELLER PROVIDES A WRITTEN NOTICE IN ACCORDANCE WITH SUBSECTION (A)(5) OF THIS SECTION.

(III) IF ANY DEPOSITS ARE HELD IN TRUST BY A LICENSED REAL ESTATE BROKER, THE RETURN OF THE DEPOSITS TO A PURCHASER UNDER THIS PARAGRAPH SHALL COMPLY WITH THE PROCEDURES UNDER § 17-505 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2016.

Approved by the Governor, May 19, 2016.