

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 989

(Delegate Holmes)

Environment and Transportation

Judicial Proceedings

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

This bill requires 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 specified notice. The bill establishes that a violation of the disclosure requirement entitles a purchaser to specified recourse. The bill also clarifies that a specified disclosure requirement about a schedule of charges for a water and sewer project in a contract for the sale of property applies to a contract for the *initial sale of residential real property*.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances. The Office of the Attorney General, Consumer Protection Division, can handle the bill's requirements with existing resources, assuming 50 or fewer new complaints are generated by the bill.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: If the violation of the bill's notice requirement for the resale of residential real property is discovered before settlement, the purchaser is entitled to rescind, in writing, the sales contract without penalty or liability. On rescission, the violation entitles the purchaser to the full return of any deposits made under the sales contract. If the violation

is discovered after settlement, the purchaser is entitled to payment, from the seller, for the full amount of any fee or assessment not disclosed during the sale, unless the seller was never charged a fee or assessment by the developer, a successor of the developer, or a subsequent assignee.

The bill's notice requirement does not apply in a county that has adopted a substantially similar disclosure requirement.

The purchaser's right to rescind expires five days after the seller provides a written notice of the deferred water and sewer charges. If any deposits are held in trust by a licensed real estate broker, the return of the deposits to a purchaser must comply with specified procedures.

Current Law: Generally, 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 is required to 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.

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 for which the purchaser may be liable must include disclosures of (1) the existence of the deferred assessments; (2) the amount of the annual assessment; (3) the approximate number of payments remaining; (4) the dollar amount remaining, including interest; (5) the name and address of the person or entity most recently responsible for collection; (6) the interest rate; (7) the estimated payoff amount; and (8) a statement that payoff of the assessment is allowed without prepayment penalty.

The Prince George's County Code (Section 2-162(g)) and the Anne Arundel County Code (Article 17, § 13-5-111(c)) both require substantially similar disclosures.

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 initial sale.

Statewide, if the water and sewer authority has not established a schedule of charges for the water and sewer project, or if a local jurisdiction has adopted a plan to benefit the property in the future, this information must be disclosed in the contract.

A violation of the requirement to include notice in the contract for the initial sale of residential real property to a member of the public, or the requirement to disclose that the water and sewer authority has not established a schedule of charges for a water and sewer

project, or a local jurisdiction has adopted a plan to benefit the property in the future entitles the initial purchaser to specified damages.

A violation of the disclosure requirement in Prince George's County entitles the purchaser to (1) recover from the seller the total amount of deferred charges the purchaser will be obligated to pay following the sale; (2) recover from the seller any money actually paid by the purchaser on the deferred charge that was lost as a result of a violation; or (3) if the violation is discovered before settlement, rescind the contract without penalty.

Background: Chapter 685 of 2012 created the Task Force to Study Rates and Charges in the Washington Suburban Sanitary District to, among other things, study the process that developers follow in charging for the construction of and connection to water and sewer facilities and make recommendations on standards for the construction of and connection to water and sewer facilities. In December 2013, the task force published its findings and recommendations.

Chapter 441 of 2014 subsequently addressed 6 of the task force's 13 recommendations based on several key findings. These included (1) requiring a contract for the initial sale of residential real property in Prince George's County to include specified disclosures relating to deferred water and sewer assessments; (2) prohibiting a person or entity that is establishing water and sewer costs for the initial sale of residential real property from amortizing costs passed on to a purchaser by imposing a deferred water and sewer charge for more than 20 years after the date of the initial sale; (3) for existing single-family residential real property in Prince George's County, requiring a person or entity that imposes a deferred water and sewer charge to provide the property owner with a bill including specified disclosures; and (4) specifying that the balance owed on a deferred water and sewer assessment may be redeemed at the present value of the assessment.

Chapter 441 also required Prince George's County to study specified issues relating to deferred water and sewer charges and report its preliminary findings to the Prince George's County Senators and the House Delegation by December 1, 2014, and report its final findings by December 1, 2015. As of March 11, 2016, neither report has been submitted, nor has the county responded to requests for information about the status of the reports.

Additional Information

Prior Introductions: None.

Cross File: SB 815 (Senator Muse) - Judicial Proceedings.

Information Source(s): Anne Arundel and Prince George's counties; Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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Analysis by: Nathan W. McCurdy

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