

HB0040/113524/1

BY: Environment and Transportation Committee

AMENDMENTS TO HOUSE BILL 40
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “**and Terrasa**” and substitute “**Terrasa, Foley, Hartman, Healey, Holmes, Jalisi, Lehman, Lierman, and Prettyman**”; strike beginning with “making” in line 6 down through “agreement” in line 8 and substitute “making unenforceable a certain contract unless the contract contains certain notice; requiring a board to make certain disclosures to the council of unit owners prior to signing a certain agreement; prohibiting a certain provision from prohibiting certain disclosure by the board to the council of unit owners; requiring a unit owner to include certain statements under certain circumstances in a certificate and a certain notice prior to the resale of a unit”; in line 12, after “11–109.1” insert “, 11–126(a).”; in the same line, strike “and”; in the same line, after “11–134.1” insert “, and 11–135(a)(4)(ix) and (x) and (g)(1)”; and after line 14, insert:

“BY adding to

Article - Real Property

Section 11–135(a)(4)(xi)

Annotated Code of Maryland

(2015 Replacement Volume and 2021 Supplement)”.

AMENDMENT NO. 2

On page 2, after line 24, insert:

“11–126.

(a) A contract for the initial sale of a unit to a member of the public is not enforceable by the vendor unless:

(1) The purchaser is given on or before the time a contract is entered into between the vendor and the purchaser, a current public offering statement as

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amended and registered with the Secretary of State containing all of the information set forth in subsection (b) of this section; and

(2) The contract of sale contains, in conspicuous type, a notice of:

(i) The purchaser's right to receive a public offering statement and his rescission rights under this section; and

(ii) 1. The warranties provided by § 11–131 of this title; AND

2. WHETHER THE COUNCIL OF UNIT OWNERS HAS ENTERED INTO ANY AGREEMENT THAT SETTLES OR RELEASES THE COUNCIL OF UNIT OWNERS' CLAIMS RELATED TO COMMON ELEMENT WARRANTIES UNDER § 11–131 OF THIS TITLE."

On page 3, strike beginning with "EXCEPT" in line 16 down through "UNENFORCEABLE" in line 20 and substitute "(I) A BOARD OF DIRECTORS SHALL DISCLOSE TO THE COUNCIL OF UNIT OWNERS ANY AGREEMENT BY THE BOARD OF DIRECTORS FOR THE PURPOSE OF SETTLING A DISPUTED COMMON ELEMENT WARRANTY CLAIM UNDER § 11–131 OF THIS TITLE AT LEAST 21 DAYS BEFORE THE EXECUTION OF THE AGREEMENT.

(II) A NONDISCLOSURE PROVISION IN AN AGREEMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT PROHIBIT DISCLOSURE BY THE BOARD OF DIRECTORS TO THE COUNCIL OF UNIT OWNERS";

and after line 28, insert:

"11–135.

(a) Except as provided in subsection (b) of this section, a contract for the resale of a unit by a unit owner other than a developer is not enforceable unless the contract of sale contains in conspicuous type a notice in the form specified in subsection (g)(1) of

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this section, and the unit owner furnishes to the purchaser not later than 15 days prior to closing:

(4) A certificate containing:

(ix) A statement as to whether the council of unit owners has actual knowledge of any violation of the health or building codes with respect to the common elements of the condominium; [and]

(x) A description of any recreational or other facilities which are to be used by the unit owners or maintained by them or the council of unit owners, and a statement as to whether or not they are to be a part of the common elements; AND

(XI) 1. A STATEMENT AS TO WHETHER THE COUNCIL OF UNIT OWNERS HAS ENTERED INTO ANY AGREEMENT THAT SETTLES OR RELEASES THE COUNCIL OF UNIT OWNERS' CLAIMS RELATED TO COMMON ELEMENT WARRANTIES UNDER § 11-131 OF THIS TITLE; AND

2. A STATEMENT AS TO WHETHER THE BOARD OF DIRECTORS HAS DISCLOSED TO THE COUNCIL OF UNIT OWNERS IN ACCORDANCE WITH § 11-134.1(C)(2) OF THIS TITLE, THE BOARD'S INTENTION TO ENTER INTO AN AGREEMENT FOR THE PURPOSE OF SETTLING A DISPUTED COMMON ELEMENT WARRANTY CLAIM UNDER § 11-131 OF THIS TITLE;

(g) (1) A notice given as required by subsection (a) of this section shall be sufficient for the purposes of this section if it is in substantially the following form:

“NOTICE

The seller is required by law to furnish to you not later than 15 days prior to closing certain information concerning the condominium which is described in § 11-135 of the Maryland Condominium Act. This information must include at least the following:

- (i) A copy of the declaration (other than the plats);
- (ii) A copy of the bylaws;

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(iii) A copy of the rules and regulations of the condominium;

(iv) A certificate containing:

1. A statement disclosing the effect on the proposed conveyance of any right of first refusal or other restraint on the free alienability of the unit, other than any restraint created by the unit owner;

2. A statement of the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner;

3. A statement of any other fees payable by the unit owners to the council of unit owners;

4. A statement of any capital expenditures approved by the council of unit owners or its authorized designee planned at the time of the conveyance which are not reflected in the current operating budget included in the certificate;

5. The most recently prepared balance sheet and income and expense statement, if any, of the condominium;

6. The current operating budget of the condominium, including details concerning the amount of the reserve fund for repair and replacement and its intended use, or a statement that there is no reserve fund;

7. A statement of any judgments against the condominium and the existence of any pending suits to which the council of unit owners is a party;

8. A statement generally describing any insurance policies provided for the benefit of the unit owners, a notice that the policies are available for inspection stating the location at which they are available, and a notice that the terms of the policy prevail over the general description;

9. A statement as to whether the council of unit owners has knowledge that any alteration or improvement to the unit or to the limited common

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elements assigned to the unit violates any provision of the declaration, bylaws, or rules or regulations;

10. A statement as to whether the council of unit owners has knowledge of any violation of the health or building codes with respect to the unit, the limited common elements assigned to the unit, or any other portion of the condominium;

11. A statement of the remaining term of any leasehold estate affecting the condominium and the provisions governing any extension or renewal of it; [and]

12. A description of any recreational or other facilities which are to be used by the unit owners or maintained by them or the council of unit owners, and a statement as to whether or not they are to be a part of the common elements; and

13. A. A STATEMENT AS TO WHETHER THE COUNCIL OF UNIT OWNERS HAS ENTERED INTO ANY AGREEMENT THAT SETTLES OR RELEASES THE COUNCIL OF UNIT OWNERS' CLAIMS RELATED TO COMMON ELEMENT WARRANTIES UNDER § 11-131 OF THIS TITLE; AND

B. A STATEMENT AS TO WHETHER THE BOARD OF DIRECTORS HAS DISCLOSED TO THE COUNCIL OF UNIT OWNERS IN ACCORDANCE WITH § 11-134.1(C)(2) OF THIS TITLE, THE BOARD'S INTENTION TO ENTER INTO AN AGREEMENT FOR THE PURPOSE OF SETTling A DISPUTED COMMON ELEMENT WARRANTY CLAIM UNDER § 11-131 OF THIS TITLE; AND

(v) A statement by the unit owner as to whether the unit owner has knowledge:

1. That any alteration to the unit or to the limited common elements assigned to the unit violates any provision of the declaration, bylaws, or rules and regulations.

2. Of any violation of the health or building codes with respect to the unit or the limited common elements assigned to the unit.

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3. That the unit is subject to an extended lease under § 11-137 of this title or under local law, and if so, a copy of the lease must be provided.

You will have the right to cancel this contract without penalty, at any time within 7 days following delivery to you of all of this information. However, once the sale is closed, your right to cancel the contract is terminated.”.”.