

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 1291

(Delegate McIntosh, *et al.*)

Environmental Matters

Residential Home Sales - Disclosure of Utility Consumption

This bill requires a listing for the sale of a single-family residential property to include copies of specified utility bills or utility cost and usage history for the previous 12 months. The bill also requires a vendor (seller) to submit specified utility consumption information to the Maryland Association of Realtors (MAR) and to update that information every six months. Before signing a sales contract, a seller must provide a purchaser with utility consumption information for the 12-month period preceding the date of sale. The bill applies to single-family residential property improved by four or fewer dwelling units and does not apply to the initial sale of a residential property that has never been occupied.

The bill only applies prospectively and does not apply to any listing for the sale of single-family residential property posted before January 1, 2011.

The bill takes effect January 1, 2011.

Fiscal Summary

State Effect: None. The bill does not affect State finances or operations.

Local Effect: None. The bill does not affect local finances or operations.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: In a sales listing of a single-family residence, a seller must include information on how to access a fact sheet published online by MAR that provides information on home energy efficiency improvements and home energy audits. The bill defines a “home energy audit” as an energy efficiency evaluation that includes any test or diagnostic measurement that the Maryland Department of the Environment determines is necessary to:

- ensure that energy efficiency of residential property is accurately measured; and
- identify steps that can be taken to improve the energy efficiency of residential property.

The bill requires MAR to publish the utility usage information submitted by sellers on the Multiple Listing Service web site or a comparable web site accessible to the public. In the event the seller did not occupy the property for 12 months prior to the sale date, the seller must provide utility consumption information for the portion of the 12-month period that the property was occupied.

Current Law: Prior to the sale of single-family residential real property improved by four or fewer dwelling units, the seller must complete and deliver to each purchaser either a written residential property disclosure statement or a written disclaimer statement on a form provided by the State Real Estate Commission. The residential property disclaimer statement must:

- disclose any latent defects of which the seller has actual knowledge that a purchaser would not reasonably be expected to ascertain by a careful visual inspection and that would pose a direct threat to the health or safety of a purchaser or occupant; and
- state that, except for the disclosed latent defects, the seller makes no representations or warranties as to the condition of the property or any improvements, and that the purchaser is receiving the property “as is” with all defects that may exist, except as otherwise provided in the sales contract.

If a seller elects to complete and deliver to each purchaser a written residential property disclosure statement, the seller’s disclosure form must contain a notice to prospective buyers and sellers that the parties may wish to obtain professional advice concerning an inspection of the property. Additionally, the form must notify a prospective buyer that the written disclosure statement is not a substitute for an independent home inspection and that the prospective buyer may wish to obtain an independent inspection.

The form must also include notices to prospective purchasers that (1) the items contained in the disclosure statement are the seller's representations and are not the representations of the real estate broker and salesperson, if any; and (2) that the disclosure statement is not a warranty by the seller as to the condition of the property or other conditions of which the seller has no actual knowledge. The disclosure form must include a list of defects, including latent defects, or information of which the seller has actual knowledge regarding:

- water and sewer systems, including the source of household water, water treatment systems, and sprinkler systems;
- insulation;
- structural systems, including the roof, walls, floors, foundation, and any basement;
- plumbing, electrical, heating, and air conditioning systems;
- infestation of wood-destroying insects;
- land use matters;
- hazardous or regulated materials, including asbestos, lead-based paint, radon, underground storage tanks, and licensed landfills;
- any other material defects of which the seller has actual knowledge;
- whether the smoke detectors will provide an alarm in the event of a power outage; and
- if the property relies on fossil fuel for heat, ventilation, hot water, or the operation of a clothes dryer, whether a carbon monoxide alarm is installed.

Background: According to the Maryland Energy Administration (MEA), Alaska, Colorado, Rhode Island, and Florida allow for the voluntary disclosure of a Home Energy Rater Score (HERS) on their Multiple Listings Services. Florida has created a database of HERS-rated homes in the state to enable prospective buyers to search for the HERS rating of a specific address. MEA advises that Nevada, Kansas, and the cities of Austin, Texas and Berkeley, California have various residential energy disclosure requirements which range from requiring residential property energy audits to energy efficiency upgrades that must be made prior to the sale of a property.

Additional Information

Prior Introductions: None.

Cross File: SB 952 is designated as a cross file, but it is not identical.

Information Source(s): Maryland Energy Administration, Office of the Attorney General (Consumer Protection Divisions), Judiciary (Administrative Office of the Courts), Department of Legislative Services

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ncs/kdm

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