

Chapter 817

(House Bill 34)

AN ACT concerning

Real Property – Homeowners Associations – Resale of Lot – Inspection Fees

FOR the purpose of authorizing a homeowners association to charge a certain maximum fee for an inspection of a lot owner's lot under certain circumstances; and generally relating to inspection fees and homeowners associations.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11B–106
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

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

Article – Real Property

11B–106.

(a) A contract for the resale of a lot within a development, or for the initial sale of a lot within a development containing 12 or fewer lots, to a member of the public who intends to occupy or rent the lot for residential purposes, is not enforceable by the vendor unless:

(1) The purchaser is given, on or before entering into the contract for the sale of such lot, or within 20 calendar days of entering into the contract, the disclosures set forth in subsection (b) of this section;

(2) The purchaser is given any changes in mandatory fees and payments exceeding 10 percent of the amount previously stated to exist and any other substantial and material amendment to the disclosures after they become known to the vendor; and

(3) The contract of sale contains a notice in conspicuous type, which shall include bold and underscored type, in a form substantially the same as the following:

“This sale is subject to the requirements of the Maryland Homeowners Association Act (the “Act”). The Act requires that the seller disclose to you at or before the time the contract is entered into, or within 20 calendar days of entering into the contract, certain information concerning the development in which the lot you are purchasing is located. The content of the information to be disclosed is set forth in § 11B–106(b) of the Act (the “MHAA information”) as follows:

(The notice shall include at this point the text of § 11B–106(b) in its entirety).

If you have not received all of the MHAA information 5 calendar days or more before entering into the contract, you have 5 calendar days to cancel this contract after receiving all of the MHAA information. You must cancel the contract in writing, but you do not have to state a reason. The seller must also provide you with notice of any changes in mandatory fees exceeding 10% of the amount previously stated to exist and copies of any other substantial and material amendment to the information provided to you. You have 3 calendar days to cancel this contract after receiving notice of any changes in mandatory fees, or copies of any other substantial and material amendment to the MHAA information which adversely affects you. If you do cancel the contract you will be entitled to a refund of any deposit you made on account of the contract. However, unless you return the MHAA information to the seller when you cancel the contract, the seller may keep out of your deposit the cost of reproducing the MHAA information, or \$100, whichever amount is less.

By purchasing a lot within this development, you will automatically be subject to various rights, responsibilities, and obligations, including the obligation to pay certain assessments to the homeowners association within the development. The lot you are purchasing may have restrictions on:

- (1) Architectural changes, design, color, landscaping, or appearance;
- (2) Occupancy density;
- (3) Kind, number, or use of vehicles;
- (4) Renting, leasing, mortgaging, or conveying property;
- (5) Commercial activity; or
- (6) Other matters.

You should review the MHAA information carefully to ascertain your rights, responsibilities, and obligations within the development.”

(b) The vendor shall provide the purchaser the following information in writing:

- (1) A statement as to whether the lot is located within a development;
- (2)
 - (i) The current monthly fees or assessments imposed by the homeowners association upon the lot;
 - (ii) The total amount of fees, assessments, and other charges imposed by the homeowners association upon the lot during the prior fiscal year of the homeowners association; and

(iii) A statement of whether any of the fees, assessments, or other charges against the lot are delinquent;

(3) The name, address, and telephone number of the management agent of the homeowners association, or other officer or agent authorized by the homeowners association to provide to members of the public, information regarding the homeowners association and the development, or a statement that no agent or officer is presently so authorized by the homeowners association;

(4) A statement as to whether the owner has actual knowledge of:

(i) The existence of any unsatisfied judgments or pending lawsuits against the homeowners association; and

(ii) Any pending claims, covenant violations actions, or notices of default against the lot; and

(5) A copy of:

(i) The articles of incorporation, the declaration, and all recorded covenants and restrictions of the primary development, and of other related developments to the extent reasonably available, to which the purchaser shall become obligated on becoming an owner of the lot, including a statement that these obligations are enforceable against an owner's tenants, if applicable; and

(ii) The bylaws and rules of the primary development, and of other related developments to the extent reasonably available, to which the purchaser shall become obligated on becoming an owner of the lot, including a statement that these obligations are enforceable against an owner and the owner's tenants, if applicable.

(c) (1) Except as provided in paragraph [(3)] (4) of this subsection, within 20 days after a written request by a lot owner OTHER THAN A DECLARANT and receipt of a reasonable fee, not to exceed the cost to the homeowners association, if any, up to a maximum of \$250, the homeowners association, the management agent of the homeowners association, or any other authorized officer or agent of the homeowners association, shall provide the information listed under subsection (b) of this section.

(2) **IN ADDITION TO THE FEE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE HOMEOWNERS ASSOCIATION IS ENTITLED TO A REASONABLE FEE NOT TO EXCEED ~~\$100~~ \$50 FOR AN INSPECTION OF THE LOT OWNER'S LOT IF ~~REQUIRED~~ THE INSPECTION IS REQUIRED BY THE GOVERNING DOCUMENTS OF THE HOMEOWNERS ASSOCIATION.**

(3) In addition to the [fee] FEES under [paragraph (1)] PARAGRAPHS (1) AND (2) of this subsection, the homeowners association is entitled to a reasonable fee:

(i) Not to exceed \$50 for delivery of the information within 14 days after the request for the information; and

(ii) Not to exceed \$100 for delivery of the information within 7 days after the request for the information.

~~[(3)]~~ (4) (i) The Department of Housing and Community Development shall adjust the maximum fee authorized under paragraph (1) of this subsection every 2 years, beginning on October 1, 2018, to reflect any aggregate increase in the Consumer Price Index for All Urban Consumers (CPI-U) for Washington-Baltimore, or any successor index, for the previous 2 years.

(ii) The Department of Housing and Community Development shall maintain on its Web site a list of the maximum fees authorized under paragraph (1) of this subsection as adjusted every 2 years in accordance with subparagraph (i) of this paragraph.

(d) (1) Within 30 calendar days of any resale transfer of a lot within a development, the transferor shall notify the homeowners association for the primary development of the transfer.

(2) The notification shall include, to the extent reasonably available, the name and address of the transferee, the name and forwarding address of the transferor, the date of transfer, the name and address of any mortgagee, and the proportionate amount of any outstanding homeowners association fee or assessment assumed by each of the parties to the transaction.

(e) The requirements of subsection (b) of this section shall be deemed to have been fulfilled if the information required to be disclosed is provided to the purchaser in writing in a clear and concise manner. The disclosures may be summarized or produced in any collection of documents, including plats, the declaration, or the organizational documents of the homeowners association, provided those documents effectively convey the required information to the purchaser.

(f) In satisfying the requirements of subsection (b) of this section, the vendor shall be entitled to rely upon the disclosures contained in the depository after June 30, 1989.

(g) The provisions of subsections (a), (b), (e), and (f) of this section do not apply to the sale of a lot in an action to foreclose a mortgage or deed of trust.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 27, 2017.