## **SENATE BILL 670**

N1 SB 250/16 – JPR 7lr0954 CF HB 676

By: **Senators Kelley, Benson, King, McFadden, and Rosapepe** Introduced and read first time: February 3, 2017 Assigned to: Judicial Proceedings

### A BILL ENTITLED

### 1 AN ACT concerning

# 2 Condominiums – Unenforceability of Certain Provisions of Governing 3 Documents

4 FOR the purpose of making unenforceable a provision of a declaration, a bylaw, a contract  $\mathbf{5}$ for the initial sale of a unit, or any other instrument made by a developer or vendor 6 in accordance with certain provisions of law relating to certain claims that shortens 7 the statute of limitations applicable to the claim, waives the application of a certain 8 rule, requires a unit owner or the council of unit owners to assert a certain claim 9 within a certain period of time under certain circumstances, or operates to prevent a unit owner or the council of unit owners from asserting a certain claim within a 1011 certain period of time: defining a certain term; providing for the application of this 12Act; and generally relating to warranty claims for condominiums.

### 13 BY adding to

- 14 Article Real Property
- 15 Section 11–134.1
- 16 Annotated Code of Maryland
- 17 (2015 Replacement Volume and 2016 Supplement)

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

- 20 Article Real Property
- 21 **11–134.1.**

22 (A) IN THIS SECTION, "VENDOR" HAS THE MEANING STATED IN § 10–201 OF 23 THIS ARTICLE.

24 (B) THIS SECTION DOES NOT APPLY TO:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) A UNIT THAT IS OCCUPIED AND USED SOLELY FOR 2 NONRESIDENTIAL PURPOSES;

3 (2) AN AGREEMENT OR OTHER INSTRUMENT ENTERED INTO BY A 4 DEVELOPER OR VENDOR AND A COUNCIL OF UNIT OWNERS FOR THE PURPOSE OF 5 SETTLING A DISPUTED CLAIM AFTER THE DATE ON WHICH THE UNIT OWNERS, 6 OTHER THAN THE DEVELOPER AND ITS AFFILIATES, FIRST ELECT A CONTROLLING 7 MAJORITY OF THE MEMBERS OF THE BOARD OF DIRECTORS FOR THE COUNCIL OF 8 UNIT OWNERS; OR

9 (3) AN AGREEMENT OR OTHER INSTRUMENT ENTERED INTO BY A 10 DEVELOPER OR VENDOR AND A UNIT OWNER FOR THE PURPOSE OF SETTLING A 11 DISPUTED CLAIM AFTER THE DATE THE UNIT IS CONVEYED TO THE PURCHASER OF 12 THE UNIT.

(C) (1) ANY PROVISION OF A DECLARATION, A BYLAW, A CONTRACT FOR
THE INITIAL SALE OF A UNIT TO A MEMBER OF THE PUBLIC, OR ANY OTHER
INSTRUMENT MADE BY A DEVELOPER OR VENDOR IN ACCORDANCE WITH THIS TITLE
SHALL BE UNENFORCEABLE IF THE PROVISION:

17(I)SHORTENS THE STATUTE OF LIMITATIONS APPLICABLE TO18ANY CLAIM;

19(II)WAIVES THE APPLICATION OF THE "DISCOVERY RULE" OR20OTHER ACCRUAL DATE APPLICABLE TO A CLAIM;

(III) REQUIRES A UNIT OWNER OR THE COUNCIL OF UNIT
 OWNERS TO ASSERT A CLAIM SUBJECT TO ARBITRATION WITHIN A PERIOD OF TIME
 THAT IS SHORTER THAN THE STATUTE OF LIMITATIONS APPLICABLE TO THE CLAIM;
 OR

(IV) OPERATES TO PREVENT A UNIT OWNER OR THE COUNCIL OF
UNIT OWNERS FROM FILING A LAWSUIT, INITIATING ARBITRATION PROCEEDINGS
FOR A CLAIM SUBJECT TO ARBITRATION, OR OTHERWISE ASSERTING A CLAIM
WITHIN THE STATUTE OF LIMITATIONS APPLICABLE TO THE CLAIM.

29 (2) PARAGRAPH (1) OF THIS SUBSECTION APPLIES ONLY TO A 30 PROVISION RELATING TO ANY RIGHT OF A UNIT OWNER OR COUNCIL OF UNIT 31 OWNERS TO BRING A CLAIM UNDER APPLICABLE LAW ALLEGING THE FAILURE TO 32 COMPLY WITH:

33 (I) APPLICABLE BUILDING CODES;

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1 **(II)** PLANS AND SPECIFICATIONS APPROVED BY A COUNTY OR  $\mathbf{2}$ **MUNICIPALITY;** 3 MANUFACTURER'S INSTALLATION INSTRUCTIONS; OR (III) (IV) WARRANTY PROVISIONS UNDER § 10–203 OF THIS ARTICLE 4  $\mathbf{5}$ AND § 11–131 OF THIS TITLE. SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to 6 7apply only prospectively and may not be applied or interpreted to have any effect on or 8 application to: 9 any provision of a declaration or bylaws of a condominium recorded in (1)the land records of the county where the property is located before the effective date of this 10 11 Act: or 12(2)any other instrument executed before the effective date of this Act. SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect 1314October 1, 2017.