

**CITY OF BALTIMORE
COUNCIL BILL 08-0042
(First Reader)**

Introduced by: Councilmembers Kraft, Henry, Cole, Curran, Branch, Middleton, Clarke, Welch,
Reisinger, D’Adamo, Conaway, Spector

Introduced and read first time: February 4, 2008

Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Board of Municipal and Zoning
Appeals, Planning Commission, Department of Housing and Community Development,
Department of Finance, Commission for Historical and Architectural Preservation

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Residential Property – Required Disclosures on Sale or Lease**

3 FOR the purpose of requiring certain disclosures in the sale or lease of certain properties;
4 defining certain terms; increasing certain penalties; imposing certain other penalties;
5 correcting, clarifying, and conforming certain language; and generally relating to the sale or
6 lease of residential property.

7 BY repealing and reordaining, with amendments

8 Article 2 - Consumer Protections

9 Subtitle 14, to be under the amended subtitle designation,

10 “Subtitle 14. Real Estate Practices – Sales of Residential Properties”

11 Baltimore City Code

12 (Edition 2000)

13 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
14 Laws of Baltimore City read as follows:

15 **Baltimore City Code**

16 **Article 2. Consumer Protections**

17 **Subtitle 14. Real Estate Practices – [Single-family Dwellings]**

18 **SALES OR LEASE OF RESIDENTIAL PROPERTIES**

19 ***PART I. GENERAL PROVISIONS***

20 **§ 14-1. DEFINITIONS.**

21 (A) *IN GENERAL.*

22 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 (B) *CONTRACT OF SALE.*

2 (1) *IN GENERAL.*

3 “CONTRACT OF SALE” MEANS ANY AGREEMENT OR WRITTEN INSTRUMENT THAT
4 PROVIDES FOR THE TRANSFER OF TITLE TO ANY PROPERTY FROM ONE PERSON TO
5 ANOTHER.

6 (2) *INCLUSIONS.*

7 “CONTRACT OF SALE” INCLUDES ANY:

8 (I) LAND INSTALLMENT CONTRACT;

9 (II) CONDITIONAL CONTRACT OF SALE;

10 (III) LEASE WITH AN OPTION TO PURCHASE;

11 (IV) LEASE BY WHICH THE LESSEE MAY ACQUIRE TITLE AFTER A STIPULATED
12 NUMBER OF PAYMENTS OR AFTER A STIPULATED PERIOD OF TIME; OR

13 (V) SIMILAR WRITTEN INSTRUMENT.

14 (C) *INCLUDES; INCLUDING.*

15 “INCLUDES” OR “INCLUDING” MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF
16 LIMITATION.

17 (D) *PERSON.*

18 (1) *IN GENERAL.*

19 “PERSON” MEANS:

20 (I) AN INDIVIDUAL;

21 (II) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, LIMITED LIABILITY
22 COMPANY, OR OTHER ENTITY OF ANY KIND; AND

23 (III) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY,
24 OR REPRESENTATIVE OF ANY KIND.

25 (2) *INCLUSIONS.*

26 “PERSON” INCLUDES, EXCEPT AS USED IN § 14-7 {“PENALTIES”} AND § 14-11
27 {“PENALTIES”} OF THIS SUBTITLE, A GOVERNMENTAL ENTITY OR AN
28 INSTRUMENTALITY OR UNIT OF A GOVERNMENTAL ENTITY.

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1 (E) *RESIDENTIAL PROPERTY*.

2 “RESIDENTIAL PROPERTY” MEANS ANY PROPERTY THAT:

3 (1) IS ZONED IN WHOLE OR IN PART FOR RESIDENTIAL USE;

4 (2) IS OR WAS LAST OCCUPIED IN WHOLE OR IN PART AS A RESIDENCE; OR

5 (3) THE SELLER KNOWS OR HAS REASON TO BELIEVE THAT THE PROSPECTIVE BUYER
6 INTENDS TO USE IT IN WHOLE OR IN PART FOR RESIDENTIAL USE.

7 **§ 14-2. MANDATORY, PROHIBITORY, AND PERMISSIVE TERMS.**

8 (A) *MANDATORY TERMS*.

9 “MUST” AND “SHALL” ARE EACH MANDATORY TERMS USED TO EXPRESS A REQUIREMENT
10 OR TO IMPOSE A DUTY.

11 (B) *PROHIBITORY TERMS*.

12 “MUST NOT”, “MAY NOT”, AND “NO ... MAY” ARE EACH MANDATORY NEGATIVE TERMS
13 USED TO ESTABLISH A PROHIBITION.

14 (C) *PERMISSIVE TERMS*.

15 “MAY” IS PERMISSIVE.

16 **§ 14-3. SCOPE.**

17 THE DISCLOSURES REQUIRED BY THIS TITLE ARE IN ADDITION TO AND NOT IN SUBSTITUTION OF
18 ANY OTHER DISCLOSURE REQUIRED BY LAW, INCLUDING THOSE CONTAINED IN:

19 (1) CITY ZONING CODE, TITLE 2, SUBTITLE 5 {“TRANSFER CERTIFICATES”}.

20 (2) CITY ARTICLE 7, § 5-9 {“NOTICE [OF FLOOD HAZARD AND VARIANCE] ON DEED”}.

21 (3) ARTICLE 13, SUBTITLE 6 {“TENANT’S RIGHT OF FIRST REFUSAL”}.

22 (4) ARTICLE 13, § 9-2 {“NOTICE [OF FLOOD PLAIN] TO PROSPECTIVE TENANT”}.

23 **§§ 14-4 AND 14-5. {RESERVED}**

24 ***PART II. SINGLE-FAMILY DWELLINGS***

25 **§ 14-6. [§ 14-1.] Disclosure of [zoning] limitation REQUIRED.**

26 No person[, firm, or corporation] may advertise, through any medium, the sale or lease of
27 any property that, under the CITY’S Zoning OR BUILDING [Code] CODES [of Baltimore City],
28 ANY RENEWAL PLAN, OR ANY OTHER LAW, REGULATION, OR COVENANT, is restricted in its
29 use and occupancy to 1 family, without clearly including in the advertisement a statement to
30 that effect.

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§ 14-7. [§ 14-2.] Penalties.

Any person[, firm, or corporation] who violates any provision of § 14-6 OF this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than [\$50] \$500 for each offense.

§§ 14-8 AND 14-9. {RESERVED}

PART III. USE AND OTHER RESTRICTIONS

§ 14-10. DISCLOSURES REQUIRED.

(A) *IN GENERAL.*

THE SELLER OF ANY RESIDENTIAL PROPERTY MUST DISCLOSE IN WRITING TO THE PROSPECTIVE BUYER, BEFORE THE EXECUTION OF ANY CONTRACT OF SALE, THE FOLLOWING INFORMATION.

(B) *ZONING STATUS.*

(1) THE SELLER MUST DISCLOSE:

- (i) THE ZONING DISTRICT AND, IF ANY, SUBDISTRICT WITHIN WHICH THE PROPERTY LIES; AND
- (ii) THE SCOPE AND TENOR OF THE LATEST USE PERMIT ISSUED BY THE ZONING ADMINISTRATOR FOR THE PROPERTY.

(2) THE SELLER MUST ALSO DISCLOSE:

- (i) WHETHER THE PROPERTY LIES WITHIN AN OVERLAY DISTRICT OR A PLANNED UNIT DEVELOPMENT; AND
- (ii) IF SO, THE SUBSTANCE OF ALL USE, SIZE, REHABILITATION, MAINTENANCE, AND OTHER RESTRICTIONS, CONTROLS, REGULATIONS, OR STANDARDS THEREBY IMPOSED ON THE PROPERTY.

(C) *RENEWAL AREA.*

THE SELLER MUST DISCLOSE:

(1) WHETHER THE PROPERTY LIES WITHIN A RENEWAL AREA; AND

(2) IF SO:

- (i) THE SUBSTANCE OF ALL USE, SIZE, REHABILITATION, MAINTENANCE, AND OTHER RESTRICTIONS, CONTROLS, REGULATIONS, OR STANDARDS THEREBY IMPOSED ON THE PROPERTY; AND
- (ii) WHETHER THE PROPERTY IS DESIGNATED BY THE RENEWAL PLAN FOR POSSIBLE ACQUISITION.

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1 (D) *HISTORIC, ARCHITECTURAL PRESERVATION.*

2 THE SELLER MUST DISCLOSE:

3 (1) WHETHER THE PROPERTY IS ON A HISTORICAL OR ARCHITECTURAL LANDMARK
4 LIST OR SPECIAL LIST OR LIES WITHIN A HISTORICAL OR ARCHITECTURAL
5 DISTRICT; AND

6 (2) IF SO, THE SUBSTANCE OF ALL USE, SIZE, REHABILITATION, MAINTENANCE, AND
7 OTHER RESTRICTIONS, CONTROLS, REGULATIONS, OR STANDARDS THEREBY
8 IMPOSED ON THE PROPERTY.

9 (E) *COVENANTS.*

10 THE SELLER MUST DISCLOSE:

11 (1) WHETHER THE PROPERTY IS SUBJECT TO ANY RECORDED COVENANTS THAT AFFECT
12 THE USE OR ENJOYMENT OF THE PROPERTY; AND

13 (2) IF SO, THE SUBSTANCE OF ALL USE, SIZE, REHABILITATION, MAINTENANCE, AND
14 OTHER RESTRICTIONS, CONTROLS, REGULATIONS, OR STANDARDS THEREBY
15 IMPOSED ON THE PROPERTY.

16 **§ 14-11. PENALTIES.**

17 ANY PERSON WHO VIOLATES ANY PROVISION OF § 14-10 OF THIS SUBTITLE IS GUILTY OF A
18 MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO IMPRISONMENT FOR NOT MORE THAN 30
19 DAYS OR TO A FINE OF NOT MORE THAN \$1,000 OR TO BOTH IMPRISONMENT AND FINE FOR
20 EACH OFFENSE.

21 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
22 are not law and may not be considered to have been enacted as a part of this or any prior
23 Ordinance.

24 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
25 after the date it is enacted.