

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 178

(Delegate Krimm)

Environment and Transportation

Judicial Proceedings

Real Property – Required Notices for Contracts of Sale – Zones of Dewatering
Influence

This bill requires a contract of sale for property located within Baltimore, Carroll, Frederick, or Washington counties to include notice regarding the advisability of contacting the Maryland Department of the Environment (MDE) to determine if the subject property is within a “zone of dewatering influence” and that specified remedies are available for a property impacted by dewatering. The bill also establishes contractual rights for purchasers that do not receive the required notice. MDE must develop and publish on its website a searchable map of zones of dewatering influence as identified by MDE under existing statutory provisions.

Fiscal Summary

State Effect: MDE can meet the bill’s requirements using existing budgeted resources. Revenues are not affected.

Local Effect: The bill does not materially affect local finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: A purchaser that receives the required notice on or before entering the contract of sale does not have the right to rescind the contract based on information received from the vendor related to the notice.

However, if a purchaser does not receive the required notice on or before entering into a contract of sale, on written notice to the vendor or the vendor's agent, the purchaser has an unconditional right to rescind the contract within specified timeframes. Upon rescinding the contract, the purchaser is entitled to the immediate return of any deposits made in accordance with the contract. The return of any deposits held in trust by a licensed real estate broker to a purchaser must comply with procedures established in § 17-505 of the Business Occupations and Professions Article.

The bill defines "zone of dewatering influence" as the area around a surface mine in karst terrain designated by MDE under specified statutory provisions. Because zones of dewatering influence are only required for water appropriation permittees located in karst terrain in Baltimore, Carroll, Frederick, and Washington counties, the bill's provisions are only applicable in these jurisdictions.

Current Law/Background:

Zone of Dewatering Influence

If a surface mining permittee (quarry mine operator) is issued a water appropriation permit to dewater a pit located in karst terrain (basically limestone) in Baltimore, Carroll, Frederick, and Washington counties, MDE must establish a zone of dewatering influence around the surface mine as a condition of the permittee's surface mining permit. Dewatering is an activity where groundwater and surface water is removed from a mine to provide workably dry conditions in the mine.

The purpose of a zone of dewatering influence is to provide relief for a property owner within the zone who experiences a sinkhole or water supply failure. When a water supply failure occurs, the quarry operator is presumed to be the cause of a water supply loss and must replace that water supply. When a sinkhole occurs, the quarry operator must repair any sinkhole damage within the zone unless the operator can prove that it did not cause the sinkhole. These remedies are set out in the Environment Article and COMAR.

Karst terrain is an irregular topography caused by a solution of limestone and other carbonate rock. Karst terrain is typically categorized by closed depressions, sinkholes, caverns, solution cavities, and underground channels that may capture surface streams. Surface mine dewatering in karst terrain can interfere with nearby water supply wells.

Real Estate Broker Trust Accounts

Generally, if a real estate broker receives trust money, the broker must deposit the trust money into an account meeting specified requirements within seven days of the acceptance of a contract of sale by both parties. The broker must maintain the trust money in an

authorized account until (1) the real estate transaction for which the trust money was entrusted is consummated or terminated; (2) the broker receives proper written instructions from the owner and beneficial owner directing withdrawal or other disposition of the money; (3) on an interpleader filed by the broker, a court orders a different disposition; or (4) the owner or beneficial owner of the trust money fails to complete the real estate transaction and the broker distributes the trust money in accordance with the terms of the real estate contract which established the trust.

If the broker must distribute the funds because of a failure by the owner or beneficial owner to complete the real estate transaction, the broker must distribute the funds to the person who, in the good faith opinion of the real estate broker, is entitled to receive the trust money in accordance with the terms of the real estate contract. Statutory provisions also set forth notice requirements and procedures if an owner or beneficial owner wishes to protest the distribution.

Additional Information

Prior Introductions: None.

Designated Cross File: None..

Information Source(s): Carroll, Frederick, and Washington counties; Judiciary (Administrative Office of the Courts); Maryland Department of the Environment; Department of Legislative Services

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