

HOUSE BILL 465

N1

71r2796
CF SB 511

By: **Delegate James**

Introduced and read first time: February 6, 2007

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2007

CHAPTER _____

1 AN ACT concerning

2 **Real Property - Sale of Property Encumbered by a Conservation Easements**
3 **Notification of Buyers Easement**

4 FOR the purpose of ~~requiring a seller of real property to provide copies of any~~
5 ~~conservation easements encumbering the property to the buyer within a certain~~
6 ~~time; requiring a contract for the sale of real property encumbered by a~~
7 ~~conservation easement~~ establishing that a purchaser has the right to rescind a
8 contract for the sale of property encumbered by a conservation easement if the
9 seller fails to give the purchaser a copy of certain conservation easements
10 within a certain time and the contract of sale fails to contain a certain notice
11 under certain circumstances; requiring the ~~buyer~~ purchaser of certain real
12 property to provide certain notice to the owner of a conservation easement;
13 providing that the seller and ~~buyer~~ purchaser are entitled to rely on a
14 conservation easement recorded in the land records in satisfying certain
15 requirements; ~~providing for certain exceptions;~~ defining certain terms; and
16 generally relating to the sale of real property encumbered by a conservation
17 easement.

18 BY adding to
19 Article – Real Property
20 Section 10–705

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2003 Replacement Volume and 2006 Supplement)

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

5 **Article – Real Property**

6 **10-705.**

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
8 MEANINGS INDICATED.

9 (2) “CONSERVATION EASEMENT” MEANS AN EASEMENT,
10 COVENANT, RESTRICTION, OR CONDITION ON REAL PROPERTY, INCLUDING AN
11 AMENDMENT TO AN EASEMENT, COVENANT, RESTRICTION, OR CONDITION AS
12 PROVIDED FOR IN § 2-118 OF THIS ARTICLE AND OWNED BY:

13 (I) THE MARYLAND ENVIRONMENTAL TRUST;

14 (II) THE MARYLAND HISTORICAL TRUST;

15 (III) THE MARYLAND AGRICULTURAL LAND PRESERVATION
16 FOUNDATION;

17 (IV) THE MARYLAND DEPARTMENT OF NATURAL
18 RESOURCES; OR

19 (V) A LAND TRUST.

20 (3) “LAND TRUST” MEANS AN ORGANIZATION THAT:

21 (I) IS A QUALIFIED ORGANIZATION UNDER § 170(H)(3) OF
22 THE INTERNAL REVENUE CODE AND REGULATIONS ADOPTED UNDER THAT
23 SECTION; AND

24 (II) HAS EXECUTED A COOPERATIVE AGREEMENT WITH THE
25 MARYLAND ENVIRONMENTAL TRUST.

1 **(B) (1) ~~A CONTRACT FOR THIS SECTION APPLIES TO THE SALE OF~~**
2 **PROPERTY ENCUMBERED BY A CONSERVATION EASEMENT ~~IS NOT~~**
3 **~~ENFORCEABLE BY THE SELLER UNLESS:~~**

4 **(2) THIS SECTION DOES NOT APPLY TO THE SALE OF PROPERTY**
5 **IN AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST.**

6 **(C) A PURCHASER HAS THE RIGHT TO RESCIND A CONTRACT FOR THE**
7 **SALE OF PROPERTY IF:**

8 **(1) ~~THE PURCHASER IS GIVEN~~ THE SELLER FAILS TO GIVE THE**
9 **PURCHASER, ON OR BEFORE ENTERING INTO THE CONTRACT FOR THE SALE OF**
10 **THE PROPERTY, OR WITHIN 20 CALENDAR DAYS AFTER ENTERING INTO THE**
11 **CONTRACT, A COPY OF ALL CONSERVATION EASEMENTS ENCUMBERING THE**
12 **PROPERTY; AND**

13 **(2) THE CONTRACT OF SALE ~~CONTAINS~~ FAILS TO CONTAIN A**
14 **STATEMENT IN CONSPICUOUS TYPE, IN A FORM SUBSTANTIALLY THE SAME AS**
15 **THE FOLLOWING:**

16 **“THIS PROPERTY IS ENCUMBERED BY ONE OR MORE**
17 **CONSERVATION EASEMENTS OR OTHER RESTRICTIONS LIMITING OR AFFECTING**
18 **USES OF THE PROPERTY AND OWNED BY THE MARYLAND ENVIRONMENTAL**
19 **TRUST, THE MARYLAND HISTORICAL TRUST, THE MARYLAND AGRICULTURAL**
20 **LAND PRESERVATION FOUNDATION, THE MARYLAND DEPARTMENT OF**
21 **NATURAL RESOURCES, OR A LAND TRUST (THE “CONSERVATION EASEMENTS”).**
22 **MARYLAND LAW REQUIRES THAT THE SELLER DELIVER TO THE ~~BUYER~~**
23 **PURCHASER COPIES OF ALL CONSERVATION EASEMENTS ON OR BEFORE THE**
24 **DAY THE CONTRACT IS ENTERED INTO, OR WITHIN 20 CALENDAR DAYS AFTER**
25 **ENTERING INTO THE CONTRACT. ~~IF THE BUYER HAS NOT RECEIVED ALL~~**
26 **~~CONSERVATION EASEMENTS AT LEAST 5 CALENDAR DAYS BEFORE ENTERING~~**
27 **~~INTO THE CONTRACT, THE BUYER HAS 5 CALENDAR DAYS TO CANCEL THE~~**
28 **~~CONTRACT AFTER RECEIVING ALL OF THE CONSERVATION EASEMENTS. THE~~**
29 **~~BUYER MUST CANCEL THE CONTRACT IN WRITING. THE BUYER IS NOT~~**
30 **~~REQUIRED TO STATE A REASON FOR CANCELLATION. THE ~~BUYER~~ PURCHASER~~**
31 **SHOULD REVIEW ALL CONSERVATION EASEMENTS CAREFULLY TO ASCERTAIN**
32 **THE ~~BUYER’S~~ PURCHASER’S RIGHTS, RESPONSIBILITIES, AND OBLIGATIONS**
33 **UNDER EACH CONSERVATION EASEMENT, INCLUDING ANY REQUIREMENT THAT**
34 **AFTER THE ~~TRANSFER~~ SALE THE ~~BUYER~~ PURCHASER MUST INFORM THE OWNER**

1 OF THE CONSERVATION EASEMENT OF THE ~~TRANSFER~~ SALE OF THE
2 PROPERTY.”.

3 ~~(C)~~ (D) (1) WITHIN 30 CALENDAR DAYS AFTER A ~~TRANSFER~~ SALE OF
4 PROPERTY ENCUMBERED BY A CONSERVATION EASEMENT, THE PURCHASER
5 SHALL NOTIFY THE OWNER OF A CONSERVATION EASEMENT OF THE ~~TRANSFER~~
6 SALE.

7 (2) THE NOTIFICATION SHALL INCLUDE, TO THE EXTENT
8 REASONABLY AVAILABLE:

- 9 (I) THE NAME AND ADDRESS OF THE PURCHASER;
- 10 (II) THE NAME AND FORWARDING ADDRESS OF THE SELLER;
- 11 AND
- 12 (III) THE DATE OF THE ~~TRANSFER~~ SALE.

13 ~~(D)~~ (E) IN SATISFYING THE REQUIREMENTS OF SUBSECTIONS ~~(B) AND (C)~~
14 (C) AND (D) OF THIS SECTION, THE SELLER AND PURCHASER SHALL BE
15 ENTITLED TO RELY ON THE CONSERVATION EASEMENT RECORDED IN THE
16 LAND RECORDS OF THE COUNTY WHERE THE PROPERTY IS LOCATED.

17 ~~(E) THE PROVISIONS OF SUBSECTIONS (B) AND (C) OF THIS SECTION DO~~
18 ~~NOT APPLY TO THE SALE OF PROPERTY IN AN ACTION TO FORECLOSE A~~
19 ~~MORTGAGE OR DEED OF TRUST.~~

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.