

HOUSE BILL 989

N1

8lr2507

By: **Delegate James**

Introduced and read first time: February 7, 2008

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Conservation Easements – Disclosure**

3 FOR the purpose of requiring the seller of real property encumbered by a conservation
4 easement to deliver certain information to each purchaser on or before entering
5 into a contract for the sale of the property; altering the form of a certain notice
6 required to be delivered to each purchaser; establishing that a purchaser who
7 receives certain information on or before entering into a contract of sale does not
8 have the right to rescind the contract; altering the circumstances under which a
9 purchaser has a right to rescind a contract of sale; establishing that a purchaser
10 has the right to immediate return of certain deposits on rescission of a contract
11 of sale; requiring that notice of rescission be made in a certain manner and
12 within a certain time; altering the contents of a certain notification a purchaser
13 of real property encumbered by a conservation easement is required to give to
14 the owner of the conservation easement; and generally relating to the sale of
15 real property encumbered by a conservation easement.

16 BY repealing and reenacting, with amendments,
17 Article – Real Property
18 Section 10–705
19 Annotated Code of Maryland
20 (2003 Replacement Volume and 2007 Supplement)

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

23 **Article – Real Property**

24 10–705.

25 (a) (1) In this section the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) "Conservation easement" means an easement, covenant,
 2 restriction, or condition on real property, including an amendment to an easement,
 3 covenant, restriction, or condition as provided for in § 2-118 of this article and owned
 4 by:

5 (i) The Maryland Environmental Trust;

6 (ii) The Maryland Historical Trust;

7 (iii) The Maryland Agricultural Land Preservation Foundation;

8 (iv) The Maryland Department of Natural Resources; or

9 (v) A land trust.

10 (3) "Land trust" means an organization that:

11 (i) Is a qualified organization under § 170(h)(3) of the Internal
 12 Revenue Code and regulations adopted under that section; and

13 (ii) Has executed a cooperative agreement with the Maryland
 14 Environmental Trust.

15 (b) (1) This section applies to the sale of property encumbered by a
 16 conservation easement.

17 (2) This section does not apply to the sale of property in an action to
 18 foreclose a mortgage or deed of trust.

19 (c) [A purchaser has the right to rescind a contract for the sale of property if:

20 (1) The seller fails to give the purchaser, on or before entering into the
 21 contract for the sale of the property, or within 20 calendar days after entering into the
 22 contract, a copy of all conservation easements encumbering the property; and

23 (2) The contract of sale fails to contain a statement in conspicuous
 24 type, in a form substantially the same as the following:] **THE SELLER OF REAL**
 25 **PROPERTY ENCUMBERED BY A CONSERVATION EASEMENT SHALL, ON OR**
 26 **BEFORE ENTERING INTO A CONTRACT FOR THE SALE OF THE PROPERTY,**
 27 **DELIVER TO EACH PURCHASER:**

28 (1) **THE NOTICE PROVIDED IN SUBSECTION (D) OF THIS SECTION;**
 29 **AND**

30 (2) **A COPY OF ALL CONSERVATION EASEMENTS ENCUMBERING**
 31 **THE PROPERTY.**

1 **(D) THE NOTICE REQUIRED UNDER SUBSECTION (C)(1) OF THIS**
2 **SECTION SHALL BE IN A FORM SUBSTANTIALLY THE SAME AS THE FOLLOWING:**

3 “This property is encumbered by one or more conservation easements or other
4 restrictions limiting or affecting uses of the property and owned by the Maryland
5 Environmental Trust, the Maryland Historical Trust, the Maryland Agricultural Land
6 Preservation Foundation, the Maryland Department of Natural Resources, or a land
7 trust (the “conservation easements”). Maryland law requires that the seller deliver to
8 the purchaser copies of all conservation easements on or before the day the contract is
9 entered into[, or within 20 calendar days after entering into the contract]. The
10 purchaser should review all conservation easements carefully to ascertain the
11 purchaser’s rights, responsibilities, and obligations under each conservation easement,
12 including any requirement that after the sale the purchaser must inform the owner of
13 the conservation easement of the sale of the property.

14 **A PURCHASER WHO RECEIVES THIS NOTICE AND COPIES OF THE**
15 **EASEMENTS ON OR BEFORE ENTERING INTO A CONTRACT OF SALE DOES NOT**
16 **HAVE THE RIGHT TO RESCIND THE CONTRACT BASED ON THE INFORMATION. A**
17 **PURCHASER WHO DOES NOT RECEIVE THE INFORMATION ON OR BEFORE**
18 **ENTERING INTO A CONTRACT OF SALE HAS THE UNCONDITIONAL RIGHT, ON**
19 **WRITTEN NOTICE TO THE SELLER OR THE SELLER’S AGENT, TO RESCIND THE**
20 **CONTRACT AT ANY TIME BEFORE RECEIPT OF THE INFORMATION OR WITHIN 5**
21 **DAYS AFTER RECEIPT OF THE INFORMATION, AND TO THE IMMEDIATE RETURN**
22 **OF ANY DEPOSITS MADE IN ACCORDANCE WITH THE CONTRACT.**

23 **WITHIN 30 CALENDAR DAYS AFTER THE TRANSFER OF PROPERTY**
24 **ENCUMBERED BY A CONSERVATION EASEMENT, THE PURCHASER SHALL NOTIFY**
25 **THE OWNER OF THE CONSERVATION EASEMENT OF THE TRANSFER. THE**
26 **NOTIFICATION SHALL INCLUDE THE NAME AND ADDRESS OF THE PURCHASER,**
27 **THE NAME OF THE SELLER, THE ADDRESS OF THE PROPERTY, AND THE DATE OF**
28 **THE SALE.”.**

29 **(E) (1) A PURCHASER WHO RECEIVES THE NOTICE AND COPIES OF**
30 **THE EASEMENTS UNDER SUBSECTION (C) OF THIS SECTION ON OR BEFORE**
31 **ENTERING INTO A CONTRACT OF SALE DOES NOT HAVE THE RIGHT TO RESCIND**
32 **THE CONTRACT.**

33 **(2) A PURCHASER WHO DOES NOT RECEIVE THE NOTICE AND**
34 **COPIES OF THE EASEMENTS UNDER SUBSECTION (C) OF THIS SECTION ON OR**
35 **BEFORE ENTERING INTO A CONTRACT OF SALE HAS THE UNCONDITIONAL**
36 **RIGHT, ON WRITTEN NOTICE TO THE SELLER OR THE SELLER’S AGENT, TO**
37 **RESCIND THE CONTRACT AT ANY TIME BEFORE RECEIPT OF THE INFORMATION**
38 **OR WITHIN 5 DAYS AFTER RECEIPT OF THE INFORMATION, AND TO THE**
39 **IMMEDIATE RETURN OF ANY DEPOSITS MADE IN ACCORDANCE WITH THE**
40 **CONTRACT.**

1 [(d)] **(F)** (1) Within 30 calendar days after a [sale] **TRANSFER** of
2 property encumbered by a conservation easement, the purchaser shall notify the
3 owner of a conservation easement of the [sale] **TRANSFER**.

4 (2) The notification shall include, to the extent reasonably available:

5 (i) The name and address of the purchaser;

6 (ii) The name [and forwarding address] of the seller; [and]

7 (iii) **THE ADDRESS OF THE PROPERTY; AND**

8 **(IV)** The date of the sale.

9 [(e)] **(G)** In satisfying the requirements of [subsections] **SUBSECTION (c)**
10 [and (d)] of this section, the seller and purchaser shall be entitled to rely on the
11 conservation easement recorded in the land records of the county where the property
12 is located.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2008.