

Department of Legislative Services  
Maryland General Assembly  
2008 Session

FISCAL AND POLICY NOTE

House Bill 989 (Delegate James)  
Environmental Matters

---

**Real Property - Conservation Easements - Disclosure**

---

This bill requires a seller of real property encumbered by a conservation easement to deliver to the purchaser • specific notice of the easement; and • a copy of all conservation easements encumbering the property. The bill modifies the purchaser's right of rescission of the sale contract with regard to conservation easement disclosures.

---

**Fiscal Summary**

**State Effect:** The bill would not directly affect State finances or operations.

**Local Effect:** The bill would not directly affect local finances or operations.

**Small Business Effect:** Potential minimal.

---

**Analysis**

**Bill Summary:** Under the bill, a purchaser who receives the required notice and copies of easements on or before entering into a contract of sale for the property does not have the right to rescind the contract. A purchaser who does not receive this information on or before entering into such a contract has the unconditional right, on written notice to the seller, to • rescind the contract at any time before receipt of the information or within five days after receipt of the information; and • immediate return of any deposits made in accordance with the contract.

The bill requires the purchaser to notify the owner of a conservation easement of the transfer of property within 30 days after the transfer of property so encumbered. This

notification is required to include, to the extent reasonably available • the name and address of the purchaser; • the name of the seller; • the address of the property; and • the date of the sale.

The notice required to be provided by the seller under the bill has to contain a description of the bill's provisions.

**Current Law:** Under current State law, a purchaser has a right to rescind a contract for the sale of real property encumbered by a conservation easement if • the seller fails to give, on or before entering into the contract of sale, or within 20 days afterward, a copy of all conservation easements encumbering the property; and • the contract of sale fails to contain a statement with specified information about the conservation easement and the purchaser's rights and responsibilities. Within 30 calendar days after the property is sold, the purchaser must give notice of the sale, including specified information, to the owner of the conservation easement. In satisfying these requirements, the seller and purchaser are entitled to rely on the conservation easement recorded in the land records. These requirements do not apply to a property sale in an action to foreclose a mortgage or deed of trust.

A conservation easement is defined by State law as an easement, covenant, restriction, or condition on real property owned by • the Maryland Environmental Trust; • the Maryland Historical Trust; • the Maryland Agricultural Land Preservation Foundation; • the Maryland Department of Natural Resources; or • a land trust qualified under the Internal Revenue Code or in a cooperative agreement with the Maryland Environmental Trust.

**Background:** Generally, conservation easements place restrictions on the servient state (the land subject to the easement) that prohibit the landowner from taking specified action with the land (*e.g.*, construction of buildings, cutting down trees, etc.). Conservation easements are entitled to be recorded in the land records, and, in order to bind a subsequent purchaser, the easement must be recorded.

---

## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Labor, Licensing, and Regulation; Department of Legislative Services

**Fiscal Note History:** First Reader - March 12, 2008  
ncs/jr

---

Analysis by: Alexander M. Rzasa

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510