

# HOUSE BILL 754

N1

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By: **Delegates Stein, Boteler, V. Clagett, Glenn, Hucker, James, Lafferty, and Weir**

Introduced and read first time: February 11, 2009

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of requiring a vendor of real property encumbered by one or more  
4 conservation easements to deliver to each purchaser a certain notice and copies  
5 of the conservation easements under certain circumstances; altering the form of  
6 the notice required to be delivered by a vendor to a purchaser under certain  
7 circumstances; altering the right of a purchaser to rescind a sales contract for  
8 property encumbered by a conservation easement under certain circumstances;  
9 prohibiting a purchaser who receives a certain notice and copies of conservation  
10 easements from rescinding the sales contract under certain circumstances;  
11 altering the contents of the notification a purchaser of real property encumbered  
12 by a conservation easement is required to give to the owner of the conservation  
13 easement under certain circumstances; altering a certain definition; making  
14 stylistic changes; and generally relating to the disclosure of conservation  
15 easements.

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 2008 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.

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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] **CONDITION**, as provided for in § 2–118 of this  
4 article [and] **THAT IS:**

5           **(I)** [owned] **OWNED** by:

6           [(i)] **1.** The Maryland Environmental Trust;

7           [(ii)] **2.** The Maryland Historical Trust;

8           [(iii)] **3.** The Maryland Agricultural Land Preservation  
9 Foundation;

10          [(iv)] **4.** The Maryland Department of Natural Resources;

11                               **5. A COUNTY OR MUNICIPAL CORPORATION AND IS**  
12 **FUNDED BY THE MARYLAND DEPARTMENT OF NATURAL RESOURCES, THE**  
13 **RURAL LEGACY PROGRAM, OR A LOCAL AGRICULTURAL PRESERVATION**  
14 **PROGRAM; or**

15          [(v)] **6.** A land trust; **OR**

16                               **(II) REQUIRED BY A PERMIT ISSUED BY THE DEPARTMENT**  
17 **OF THE ENVIRONMENT.**

18          (3) “Land trust” means an organization that:

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

21                               (ii) Has executed a cooperative agreement with the Maryland  
22 Environmental Trust.

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

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

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

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

1           (2) The contract of sale fails to contain a statement in conspicuous  
2 type, in a form substantially the same as the following:] **A VENDOR OF REAL**  
3 **PROPERTY ENCUMBERED BY ONE OR MORE CONSERVATION EASEMENTS SHALL,**  
4 **ON OR BEFORE ENTERING INTO A CONTRACT FOR THE SALE OF THE PROPERTY,**  
5 **DELIVER TO EACH PURCHASER:**

6           (1) **THE NOTICE DESCRIBED IN SUBSECTION (D) OF THIS**  
7 **SECTION; AND**

8           (2) **A COPY OF ALL CONSERVATION EASEMENTS ENCUMBERING**  
9 **THE PROPERTY.**

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

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

23           **(E) (1) A PURCHASER WHO RECEIVES THE NOTICE AND COPIES OF**  
24 **THE EASEMENTS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION ON OR**  
25 **BEFORE ENTERING INTO A CONTRACT OF SALE DOES NOT HAVE THE RIGHT TO**  
26 **RESCIND THE CONTRACT OF SALE BASED ON THE INFORMATION RECEIVED**  
27 **FROM THE VENDOR.**

28           **(2) A PURCHASER WHO DOES NOT RECEIVE THE NOTICE AND**  
29 **COPIES OF THE EASEMENTS REQUIRED UNDER SUBSECTION (C) OF THIS**  
30 **SECTION ON OR BEFORE ENTERING INTO A CONTRACT OF SALE, ON WRITTEN**  
31 **NOTICE TO THE VENDOR OR THE VENDOR’S AGENT:**

32           **(I) HAS THE UNCONDITIONAL RIGHT TO RESCIND THE**  
33 **CONTRACT AT ANY TIME BEFORE, OR WITHIN 5 DAYS AFTER, RECEIPT OF THE**  
34 **NOTICE AND COPIES OF THE EASEMENTS; AND**

35           **(II) IS ENTITLED TO THE IMMEDIATE RETURN OF ANY**  
36 **DEPOSITS MADE IN ACCORDANCE WITH THE CONTRACT.**

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

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] **VENDOR**;  
7 [and]

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

9                    (IV)   The date of the sale.

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

14            SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 2009.