

SENATE BILL 1027

N1

9lr3398
CF HB 754

By: **Senator Dyson**

Introduced and read first time: March 5, 2009

Assigned to: Rules

Re-referred to: Judicial Proceedings, March 11, 2009

Committee Report: Favorable

Senate action: Adopted

Read second time: April 5, 2009

CHAPTER _____

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:

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 **Article – Real Property**

2 10–705.

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

4 (2) “Conservation easement” means an easement, covenant,
5 restriction, or condition on real property, including an amendment to an easement,
6 covenant, restriction, or [condition] **CONDITION**, as provided for in § 2–118 of this
7 article [and] **THAT IS:**

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

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

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

11 [(iii)] **3.** The Maryland Agricultural Land Preservation
12 Foundation;

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

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

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

19 (II) **REQUIRED BY A PERMIT ISSUED BY THE DEPARTMENT**
20 **OF THE ENVIRONMENT.**

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

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

24 (ii) Has executed a cooperative agreement with the Maryland
25 Environmental Trust.

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

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

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

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

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

10 (1) **THE NOTICE DESCRIBED IN SUBSECTION (D) OF THIS
11 SECTION; AND**

12 (2) **A COPY OF ALL CONSERVATION EASEMENTS ENCUMBERING
13 THE PROPERTY.**

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

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

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

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

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

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

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

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

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

11 (ii) The name [and forwarding address] of the [seller] **VENDOR**;
 12 [and]

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

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

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

19 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect
 20 October 1, 2009.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.