

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 1027

(Senator Dyson)

Judicial Proceedings

Environmental Matters

Real Property - Conservation Easements - Disclosure

This bill requires a vendor of real property encumbered by a conservation easement to deliver to the purchaser a specified notice and a copy of all conservation easements encumbering the property before entering into a contract for the sale of the property. The bill modifies a vendor's right to rescind the sale contract with regard to conservation easement disclosures.

Fiscal Summary

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

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

Small Business Effect: Minimal.

Analysis

Bill Summary: A "conservation easement" is an easement, covenant, restriction, or condition on real property owned by the Maryland Environmental Trust (MET); the Maryland Historical Trust (MHT); the Maryland Agricultural Land Preservation Foundation (MALPF); the Department of Natural Resources (DNR); a county or municipal corporation and is funded by DNR, the Rural Legacy Program, or a local agricultural preservation program; a land trust; or required by a permit issued by the Maryland Department of the Environment (MDE).

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 based on the information received from the vendor. 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 vendor, to rescind the contract at any time before receipt of the information or within five days after receipt of the information. The purchaser is also entitled to the 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 vendor; the address of the property; and the date of the sale.

Current Law: A “conservation easement” is an easement, covenant, restriction, or condition on real property owned by MET, MHT, MALPF, DNR, or a land trust. A “land trust” is an organization that is qualified under the Internal Revenue Code and has a cooperative agreement with MET.

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 (1) 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 (2) 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.

Background: A conservation easement is a voluntary agreement that allows a landowner to limit the type or amount of development on their property while retaining private ownership of the land. The primary purpose of a conservation easement is to protect land from certain forms of development or use. 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: The House Environmental Matters Committee held a hearing on HB 989 of 2008, a similar bill, but no further action was taken.

Cross File: HB 754 (Delegate Stein, *et al.*) - Environmental Matters.

Information Source(s): Allegany and Harford counties, City of Havre de Grace, Office of the Attorney General (Consumer Protection Division), Department of Natural Resources, Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - March 12, 2009
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