



# Maryland

## Department of the Environment

Larry Hogan, Governor  
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary  
Horacio Tablada, Deputy Secretary

January 31, 2020

The Honorable Kumar P. Barve, Chair  
House Environment and Transportation Committee  
House Office Building, Room 251  
Annapolis, MD 21401

### **Re: House Bill 178 – Real Property – Required Notices for Contracts of Sale – Zones of Dewatering Influence**

Dear Chairman Barve and Members of the Committee:

The Maryland Department of the Environment (MDE) has reviewed House Bill 178, entitled *Real Property – Required Notices for Contracts of Sale – Zones of Dewatering Influence*, and would like to provide some information concerning the proposed legislation.

Current law requires MDE to establish a zone of dewatering influence (ZOI) in a surface mining permit if the permittee is issued a water appropriation permit to dewater a pit in karst terrain located within Baltimore, Carroll, Frederick, or Washington Counties. Section 15-813 of the Environment Article outlines the responsibilities of a surface mining permittee when a water supply fails or a sudden land subsidence (sinkhole) occurs within the established ZOI. The bill would require a vendor of a real property located in a ZOI to provide a notification to the purchaser on or before entering a contract of sale of the real property. The notification would disclose that the property is located within a ZOI, inform the purchaser they should review all information concerning the rights and remedies of a real property owner within a ZOI, and include a copy of § 15-813 of the Environment Article and COMAR 26.21.02. A purchaser who receives the notice on or before entering into a contract would be prohibited from rescinding the contract based on the information received from the vendor. A purchaser that does not receive the information from the vendor would have the right to rescind the contract at any time before or within five days after receiving the notification and to receive any deposits made in accordance with the contract.

In 1991, the Maryland General Assembly passed the Surface Mining Dewatering Act (Act) to protect landlords in karst terrain from certain damages caused by dewatering or the lowering of groundwater as a result of pumping groundwater out of surface mines. Prior to the Act, there were no explicit legal protections for property owners adversely affected by a surface mine permittee's dewatering activities. Section 15-813 of the Environment Article and COMAR 26.21.02 outlines the requirements for a permittee with a designated ZOI and the actions that must be taken if dewatering results in a sinkhole or water supply failure. If a water supply fails as a result of declining groundwater levels, the permittee is required to permanently replace, at no expense to the property owner, the water supply within 45 days of becoming aware of the failure. MDE may not require a permittee to replace water supplies if the permittee demonstrates by clear and convincing evidence that the proximate cause of the water supply failure was not the result of dewatering activities by the

The Honorable Kumar P. Barve, Chair

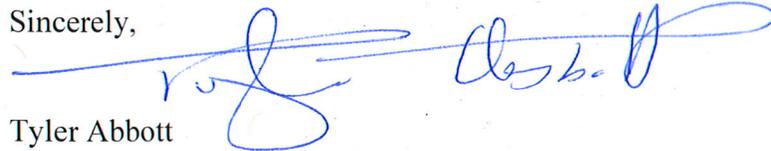
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permittee. Additionally, if a property is damaged as a result of a sinkhole, the permittee must pay monetary compensation to the affected property owner or repair any property damage upon a determination by MDE that the dewatering was the proximate cause of the sinkhole. Compensation provided under the law does not apply to improvements made to real property within the ZOI after the ZOI is established.

Many of the current ZOIs were established for surface mine permits that were active prior to the passage of the Act in 1991. While property owners within a ZOI are notified at the time the ZOI is established, those properties may have since been sold to new owners. Since the establishment of a ZOI is dependent upon certain geographical and hydrological characteristics of the area surrounding a surface mine with a karst terrain, not all real properties proximate to a surface mine are located within its ZOI. For these reasons, it may not always be obvious to a vendor or purchaser of real property that the property is located in a ZOI. Since inclusion in a ZOI has implications for a property owner's rights in cases of water supply failure or a sinkhole, it is important for an owner or prospective purchaser to be aware of the ZOI.

Thank you for your consideration. We will continue to monitor House Bill 178 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by e-mail at [tyler.abbott@maryland.gov](mailto:tyler.abbott@maryland.gov).

Sincerely,



Tyler Abbott

cc: The Honorable Carol L. Krimm  
Ms. Kaley Laleker, Director, Land and Materials Administration