



Senate Bill 485 – Residential Property – Sales Contracts - Disclosures

Position: Support with Amendment

Maryland REALTORS® support SB 485 with an important amendment to conform the legislation to other disclosure legislation passed by the Maryland General Assembly.

SB 485 seeks to ensure that homebuyers receive information about locations on the National Priorities List (so called Superfund sites). Superfund sites are contaminated with hazardous waste. Federal law, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), authorizes EPA to clean these sites and helps fund the cleanup. EPA also maintains the Superfund Enterprise Management System (EMS) which is a repository of information on these sites and is accessible online.

The REALTOR® amendment make two notable changes. First, it would make the disclosure a buyer notice rather than the responsibility of the seller to disclose this information. If a property is impacted by a Superfund site, existing Maryland law already requires the owner of the property to specifically disclose that fact to the buyer under Maryland's Property Condition Disclosure Law.

The REALTOR® amendment requires the base real estate contract to contain a buyer notice about the EMS so buyers can explore nearby Superfund sites for themselves. As drafted, the legislation only requires the disclosure of sites within a half mile (which can be hard for a seller to determine). The REALTOR® amendment would allow a buyer to view any sites regardless of their distance from the property and regardless of whether the site has been determined to be actionable. The vast majority of sites listed on the EMS in Maryland are not designated Superfund sites.

The second major change in the amendment is to ensure that if the information about EMS is not given to the buyer before the buyer enters into a contract with a seller that the buyer would have right to rescind five days after receiving the information about EMS.

The Legislature has passed other legislation that follows the model outlined in the REALTOR® amendment and with these changes, the Maryland REALTORS® support SB 485.

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**SB 485 – Residential Property – Sales Contracts - Disclosures
REALTOR® Amendment**

AMENDMENT #1

On page 1, strike lines 15 through line 21 and substitute:

§ 10-713. SUPERFUND SITE DISCLOSURE

“SUPERFUND ENTERPRISE MANAGEMENT SYSTEM” DEFINED

(A) IN THIS SECTION, “SUPERFUND ENTERPRISE MANAGEMENT SYSTEM” MEANS THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY’S SUPERFUND ENTERPRISE MANAGEMENT SYSTEM

APPLICATION OF SECTION

(B) THIS SECTION APPLIES ONLY TO THE SALE OF RESIDENTIAL REAL PROPERTY.

NOTICE

(C) A CONTRACT FOR THE SALE OF REAL PROPERTY SHALL INCLUDE, THE FOLLOWING BUYER NOTICE IN THE CONTRACT:

“NOTICE ON SUPERFUND HAZARDOUS WASTE SITES

A PURCHASER OF REAL PROPERTY IS ADVISED TO ACCESS THE WEBSITE OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY’S SUPERFUND ENTERPRISE MANAGEMENT SYSTEM TO DETERMINE IF A SUPERFUND HAZARDOUS WASTE SITE IS LOCATED NEAR THE PROPERTY.”.

RIGHTS OF RESCISSION

(D)(1) A PURCHASER THAT RECEIVES THE NOTICE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION ON OR BEFORE ENTERING INTO A CONTRACT OF SALE DOES NOT HAVE THE RIGHT TO RESCIND THE CONTRACT OF SALE BASED ON THE INFORMATION RECEIVED FROM THE VENDOR UNDER SUBSECTION (C) OF THIS SECTION.

(2)(I) A PURCHASER THAT DOES NOT RECEIVE THE NOTICE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION ON OR BEFORE ENTERING INTO A CONTRACT OF SALE, ON WRITTEN NOTICE TO THE VENDOR OR THE VENDOR'S AGENT:

- 1. HAS THE UNCONDITIONAL RIGHT TO RESCIND THE CONTRACT AT ANY TIME BEFORE, OR WITHIN 5 DAYS AFTER, RECEIPT OF THE NOTICE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION; AND**
- 2. IS ENTITLED TO THE IMMEDIATE RETURN OF ANY DEPOSITS MADE IN ACCORDANCE WITH THE CONTRACT.**

(II) THE RETURN OF ANY DEPOSITS HELD IN TRUST BY A LICENSED REAL ESTATE BROKER TO A PURCHASER UNDER SUBPARAGRAPH (I)2 OF THIS PARAGRAPH SHALL COMPLY WITH THE PROCEDURES SET FORTH IN § 17-505 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.