

Chapter 592

(House Bill 399)

AN ACT concerning

Real Property – Required Notices for Contracts of Sale – Zones of Dewatering Influence

FOR the purpose of requiring the Department of the Environment to develop and publish a certain map on the Department’s website; requiring a contract for the sale of real property located in Baltimore County, Carroll County, Frederick County, or Washington County to include a certain notice about property located in a zone of dewatering influence; establishing that a purchaser of real property that does not receive the notice required under this Act has a certain right to rescind a contract for the sale of the property and for the return of certain deposits under certain circumstances; requiring the return of certain deposits to comply with certain law; requiring a contract for the sale of property to comply with certain provisions of this Act; defining a certain term; providing for the application of this Act; and generally relating to required notice in the sale of real property located in a zone of dewatering influence.

BY repealing and reenacting, with amendments,
Article – Environment
Section 15–813
Annotated Code of Maryland
(2014 Replacement Volume and 2020 Supplement)

BY adding to
Article – Real Property
Section 10–711 and 14–117(e)(23)
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 14–117(e)(21) and (22)
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Environment

15–813.

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

(2) “Dewater” or “dewatering” means to pump water out of a pit.

(3) “Karst terrain” means an irregular topography that is:

(i) Caused by a solution of limestone and other carbonate rock; and

(ii) Characterized by closed depressions, sinkholes, caverns, solution cavities, and underground channels that, partially or completely, may capture surface streams.

(4) “Lineaments” means the surface manifestation of cracks, fissures, fractures, and zones of weakness that, generally, are observable on aerial photographs as straight or nearly straight lines.

(b) (1) If a permittee is issued a water appropriation permit under § 5–502 of this article to dewater a pit located in karst terrain in Baltimore, Carroll, Frederick, and Washington counties, the Department shall establish, as a condition of the permittee’s surface mining permit under § 15–810 of this subtitle, a zone of dewatering influence around the surface mine.

(2) The areal extent of the zone of dewatering influence shall be based, as appropriate, on local topography, watersheds, aquifer limits, and other hydrogeologic factors, including the occurrence of natural fractures, cracks, crevices, lineaments, igneous dikes, changes in rock type, and variations in the water-bearing characteristics of formations.

(3) THE DEPARTMENT SHALL DEVELOP AND PUBLISH ON ITS WEBSITE FOR USE BY THE PUBLIC A SEARCHABLE MAP OF ZONES OF DEWATERING INFLUENCE ESTABLISHED BY THE DEPARTMENT UNDER THIS SUBSECTION.

(c) (1) Within the zone of dewatering influence established under subsection (b)(1) of this section, the permittee shall:

(i) Replace, at no expense to the owner of real property that is affected by the surface mine dewatering, a water supply that fails as a result of declining ground water levels;

(ii) On discovery of a sudden subsidence of the surface of the land, immediately implement appropriate safety measures to protect public health and safety; and

(iii) On a determination by the Department of proximate cause after the permittee has received proper notice and an opportunity to respond and provide

information, pay monetary compensation to the affected property owner or repair any property damage caused as a result of the sudden subsidence of the surface of the land.

(2) A permittee shall permanently replace a water supply under paragraph (1)(i) of this subsection within 45 days of the date on which the permittee knew of the water supply failure.

(d) (1) An individual domestic water supply within a zone of dewatering influence that is no longer capable of yielding water because of declining water levels shall be considered to be replaced adequately by a permittee if the permittee provides for the affected property owner a new or retrofitted well that is capable of meeting the minimum yield requirements established in regulations adopted by the Department of the Environment during the period of pit dewatering.

(2) A municipal, industrial, commercial, institutional, or farming water supply within a zone of dewatering influence that is no longer capable of yielding water because of declining water levels shall be considered to be replaced adequately by a permittee if the permittee provides for the affected property owner a new or retrofitted well or other alternative water supply that is capable of yielding water equal to the volume used or needed by the property owner before the disruption of water supply.

(e) (1) Real or personal property within the zone of dewatering influence in karst terrain in Baltimore, Carroll, Frederick, and Washington counties found by the Department to have been damaged as a result of sudden land surface subsidence shall be considered to be repaired adequately by a permittee if the permittee returns the damaged property to its condition before the subsidence of the surface of the land.

(2) If the damaged real or personal property is not capable of being restored to its pre-subsidence condition, the permittee shall compensate the owner of the real or personal property monetarily by the difference of the fair market value of the property as the property would exist but for the sudden land subsidence, and the fair market value of the property as a result of the damage.

(3) Notwithstanding the other provisions of this subsection, the permittee and the property owner may agree on monetary compensation or other mitigation in lieu of restoration.

(f) (1) The Department may not require a permittee to replace water supplies, as provided in this section, if the permittee demonstrates to the Department by clear and convincing evidence that the proximate cause of the loss of water supply is not the result of pit dewatering.

(2) The permittee may seek reimbursement for the cost of a water supply replacement from the owner of real property that is affected by the surface mine dewatering if after the permittee replaces the water supply it is determined that the permittee's dewatering activity is not the proximate cause of the water supply failure.

(g) (1) The Department shall provide opportunity for a contested case hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(2) This subsection may not be construed to stay the requirement to permanently replace a water supply or implement appropriate safety measures in accordance with subsection (c) of this section.

(h) The Department shall adopt regulations to establish an administrative process to expedite the resolution of water supply loss or property damage claims arising under this section.

(i) Compensation, restoration, or mitigation provided by this section does not apply to:

(1) Improvements that are made to real property within an established zone of dewatering influence following a final decision by the Department to issue a surface mining permit; or

(2) Improvements that are made to real property following the establishment of a zone of dewatering influence as a condition of an existing surface mine permit.

Article – Real Property

10–711.

(A) IN THIS SECTION, “ZONE OF DEWATERING INFLUENCE” MEANS THE AREA AROUND A SURFACE MINE IN KARST TERRAIN DESIGNATED BY THE DEPARTMENT OF THE ENVIRONMENT UNDER § 15–813 OF THE ENVIRONMENT ARTICLE.

(B) THIS SECTION APPLIES ONLY TO THE SALE OF A PROPERTY LOCATED WITHIN BALTIMORE COUNTY, CARROLL COUNTY, FREDERICK COUNTY, AND WASHINGTON COUNTY.

(C) A CONTRACT FOR THE SALE OF REAL PROPERTY SHALL INCLUDE, IN CONSPICUOUS, BOLD, AND UNDERScoreD TYPE, THE FOLLOWING BUYER NOTICE IN THE CONTRACT:

“NOTICE ON ZONES OF DEWATERING INFLUENCE

A PURCHASER OF REAL PROPERTY LOCATED IN BALTIMORE COUNTY, CARROLL COUNTY, FREDERICK COUNTY, OR WASHINGTON COUNTY IS ADVISED TO CONTACT

THE MARYLAND DEPARTMENT OF THE ENVIRONMENT TO DETERMINE WHETHER THE REAL PROPERTY FOR PURCHASE IS LOCATED WITHIN A ZONE OF DEWATERING INFLUENCE. MARYLAND LAW PROVIDES CERTAIN REMEDIES FOR PROPERTY IMPACTED BY DEWATERING.”.

(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.

14-117.

(e) A contract of sale shall also comply with the following provisions, if applicable:

(21) Section 13-504 of the Tax – Property Article (notice of liability for agricultural land transfer tax in Washington County); [and]

(22) Section 6-824 of the Environment Article (disclosure pertaining to obligations to perform risk reduction); AND

(23) SECTION 10-711 OF THIS ARTICLE (NOTICE ON ZONES OF DEWATERING INFLUENCE).

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.