

HOUSE BILL 178

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By: **Delegate Krimm**

Introduced and read first time: January 15, 2020

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of requiring a vendor of real property located in a certain zone of
5 dewatering influence to deliver to each purchaser, on or before a certain time, a
6 certain notice and certain legal provisions; establishing that a purchaser of real
7 property located in a certain zone of dewatering influence has a certain right to
8 rescind a contract for the sale of the property under certain circumstances; providing
9 that certain requirements of this Act may be deemed fulfilled under certain
10 circumstances; defining a certain term; providing for the application of this Act; and
11 generally relating to required notice in the sale of real property located in a zone of
12 dewatering influence.

13 BY repealing and reenacting, without amendments,
14 Article – Environment
15 Section 15–813
16 Annotated Code of Maryland
17 (2014 Replacement Volume and 2019 Supplement)

18 BY adding to
19 Article – Real Property
20 Section 10–711
21 Annotated Code of Maryland
22 (2015 Replacement Volume and 2019 Supplement)

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

25 **Article – Environment**

26 15–813.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(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.

(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

1 supply failure.

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

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

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

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

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

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

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

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

37 (2) This subsection may not be construed to stay the requirement to
38 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 A ZONE OF DEWATERING INFLUENCE.

(C) A VENDOR OF REAL PROPERTY THAT IS LOCATED WITHIN A ZONE OF DEWATERING INFLUENCE SHALL, ON OR BEFORE ENTERING INTO A CONTRACT FOR THE SALE OF THE PROPERTY, DELIVER TO EACH PURCHASER:

(1) IN CONSPICUOUS, BOLD, AND UNDERSCORED TYPE, A STATEMENT OF NOTICE THAT IS SUBSTANTIALLY THE SAME AS THE FOLLOWING:

“NOTICE REQUIRED BY MARYLAND LAW

THE PROPERTY THAT IS THE SUBJECT OF THIS CONTRACT IS LOCATED WITHIN A ZONE OF DEWATERING INFLUENCE DESIGNATED BY THE MARYLAND DEPARTMENT OF THE ENVIRONMENT. STATE LAW REQUIRES THAT THE SELLER DISCLOSE TO YOU AT OR BEFORE THE TIME THE CONTRACT IS ENTERED INTO CERTAIN INFORMATION CONCERNING THE PROPERTY YOU ARE PURCHASING. THE CONTENT OF THE INFORMATION TO BE DISCLOSED IS SET FORTH IN § 10–711 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND AND INCLUDES THE RIGHTS

1 AND REMEDIES OF AN OWNER OF REAL PROPERTY LOCATED WITHIN A ZONE OF
2 DEWATERING INFLUENCE UNDER § 15–813 OF THE ENVIRONMENT ARTICLE OF THE
3 ANNOTATED CODE OF MARYLAND. THE PURCHASER SHOULD CAREFULLY REVIEW
4 ALL INFORMATION RELATED TO A ZONE OF DEWATERING INFLUENCE, INCLUDING
5 LIMITATIONS ON REMEDIES FOR IMPROVEMENTS MADE TO REAL PROPERTY WITHIN
6 AN ESTABLISHED ZONE OF DEWATERING INFLUENCE.”;

7 (2) A COPY OF § 15–813 OF THE ENVIRONMENT ARTICLE; AND

8 (3) A COPY OF TITLE 26, SUBTITLE 21, CHAPTER 2 OF THE CODE OF
9 MARYLAND REGULATIONS.

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

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

19 (I) HAS THE UNCONDITIONAL RIGHT TO RESCIND THE
20 CONTRACT AT ANY TIME BEFORE, OR WITHIN 5 DAYS AFTER, RECEIPT OF THE
21 DOCUMENTS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION; AND

22 (II) IS ENTITLED TO THE IMMEDIATE RETURN OF ANY DEPOSITS
23 MADE IN ACCORDANCE WITH THE CONTRACT.

24 (E) THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION SHALL BE
25 DEEMED FULFILLED IF THE INFORMATION REQUIRED TO BE PROVIDED TO THE
26 PURCHASER IS DONE SO IN WRITING, IN A CLEAR AND CONCISE MANNER.

27 (F) THE STATEMENT REQUIRED UNDER SUBSECTION (C)(1) OF THIS
28 SECTION MAY BE PROVIDED TO THE PURCHASER BY THE INCLUSION OF THE
29 STATEMENT AS A CLAUSE IN THE CONTRACT FOR THE SALE OF THE PROPERTY.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2020.