

HOUSE BILL 178

N1

01r0809

By: **Delegate Krimm**

Introduced and read first time: January 15, 2020

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2020

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of requiring the Department of the Environment to develop and publish
5 a certain map on the Department's website; requiring a ~~vendor~~ contract for the sale
6 of real property located in ~~a certain zone of dewatering influence to deliver to each~~
7 ~~purchaser, on or before a certain time, a certain notice and certain legal provisions~~
8 Baltimore County, Carroll County, Frederick County, or Washington County to
9 include a certain notice about property located in a zone of dewatering influence;
10 establishing that a purchaser of real property ~~located in a certain zone of dewatering~~
11 ~~influence~~ that does not receive the notice required under this Act has a certain right
12 to rescind a contract for the sale of the property and for the return of certain deposits
13 under certain circumstances; ~~providing that certain requirements of this Act may be~~
14 ~~deemed fulfilled under certain circumstances;~~ requiring the return of certain
15 deposits to comply with certain law; requiring a contract for the sale of property to
16 comply with certain provisions of this Act; defining a certain term; providing for the
17 application of this Act; and generally relating to required notice in the sale of real
18 property located in a zone of dewatering influence.

19 ~~BY repealing and reenacting, without amendments,~~
20 ~~Article – Environment~~
21 ~~Section 15-813~~
22 ~~Annotated Code of Maryland~~
23 ~~(2014 Replacement Volume and 2019 Supplement)~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



BY repealing and reenacting, without amendments,

Article – Environment

Section 15–813(a) and (c) through (i)

Annotated Code of Maryland

(2014 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section 15–813(b)

Annotated Code of Maryland

(2014 Replacement Volume and 2019 Supplement)

BY adding to

Article – Real Property

Section 10–711 and 14–117(e)(23)

Annotated Code of Maryland

(2015 Replacement Volume and 2019 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 2019 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

1 or other alternative water supply that is capable of yielding water equal to the volume used
2 or needed by the property owner before the disruption of water supply.

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

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

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

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

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

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

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

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

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

34 (1) Improvements that are made to real property within an established
35 zone of dewatering influence following a final decision by the Department to issue a surface
36 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~~ BALTIMORE COUNTY, CARROLL COUNTY, FREDERICK COUNTY, AND WASHINGTON COUNTY.

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

~~(2) A COPY OF § 15-813 OF THE ENVIRONMENT ARTICLE; AND~~

~~(3) A COPY OF TITLE 26, SUBTITLE 21, CHAPTER 2 OF THE CODE OF MARYLAND REGULATIONS~~ CONTRACT FOR THE SALE OF REAL PROPERTY SHALL

1 INCLUDE, IN CONSPICUOUS, BOLD, AND UNDERSCORED TYPE, THE FOLLOWING
2 BUYER NOTICE IN THE CONTRACT:

3 “NOTICE ON ZONES OF DEWATERING INFLUENCE”

4 A PURCHASER OF REAL PROPERTY LOCATED IN BALTIMORE COUNTY, CARROLL
5 COUNTY, FREDERICK COUNTY, OR WASHINGTON COUNTY IS ADVISED TO CONTACT
6 THE MARYLAND DEPARTMENT OF THE ENVIRONMENT TO DETERMINE WHETHER
7 THE REAL PROPERTY FOR PURCHASE IS LOCATED WITHIN A ZONE OF DEWATERING
8 INFLUENCE. MARYLAND LAW PROVIDES CERTAIN REMEDIES FOR PROPERTY
9 IMPACTED BY DEWATERING.

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

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

19 ~~(H)~~ 1. HAS THE UNCONDITIONAL RIGHT TO RESCIND THE
20 CONTRACT AT ANY TIME BEFORE, OR WITHIN 5 DAYS AFTER, RECEIPT OF THE
21 ~~DOCUMENTS~~ NOTICE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION; AND

22 ~~(H)~~ 2. IS ENTITLED TO THE IMMEDIATE RETURN OF ANY
23 DEPOSITS MADE IN ACCORDANCE WITH THE CONTRACT.

24 (II) THE RETURN OF ANY DEPOSITS HELD IN TRUST BY A
25 LICENSED REAL ESTATE BROKER TO A PURCHASER UNDER SUBPARAGRAPH (I)1 OF
26 THIS PARAGRAPH SHALL COMPLY WITH THE PROCEDURES SET FORTH IN § 17-505
27 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

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

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

1 14-117.

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

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

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.