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HOUSE . . . . . No. 310

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act providing information to real estate buyers..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 184 of the General Laws is herby amended by inserting after section 17D the following new section:

Section 17E (a) Neither the transferor nor any listing or selling agent shall be liable for any error, inaccuracy, or omission of any information delivered pursuant to this section if the error, inaccuracy, or omission was not within the personal knowledge of the transferor or the listing or selling agent, and was based on information timely provided by public agencies or by other persons providing information as specified in subsection (c) that is required to be disclosed pursuant to this section, and ordinary care was exercised in obtaining and transmitting the information.

(b) The delivery of any information required to be disclosed by this section to a prospective transferee by a public agency or other person providing information required to be disclosed pursuant to this section shall be deemed to comply with the requirements of this section and shall relieve the transferor or any listing or selling agent of any further duty under this section with respect to that item of information.

15 (c) The delivery of a report or opinion prepared by an environmental reporting expert
16 dealing with matters within the scope of the professional's expertise shall be sufficient
17 compliance for application of the exemption provided by subsection (a) if the information is
18 provided to the prospective transferee pursuant to a request therefore, whether written or oral. In
19 responding to that request, an expert may indicate, in writing, an understanding that the
20 information provided will be used in fulfilling the requirements of this section and, if so, shall
21 indicate the required disclosures, or parts thereof, to which the information being furnished is
22 applicable. Where that statement is furnished, the expert shall not be responsible for any items
23 of information, or parts thereof, other than those expressly set forth in the statement.

24 In responding to the request, the expert shall determine whether the property is located
25 within a one-half mile radius of any of the following environmental hazard sites:

26 (A) A Leaking Underground Storage Tank, as listed on the database of the Massachusetts
27 Department of Environmental Protection.

28 (B) A Leaking Aboveground Tank, as listed on the database of the Massachusetts
29 Department of Environmental Protection.

30 (C) A Landfill, as listed on the database of the Massachusetts Department of
31 Environmental Protection.

32 (D) An EPA Final Superfund Site (NPL), as listed on the database of the United States
33 Environmental Protection Agency.

34 (E) An EPA Proposed Superfund Site (CERCLIS), as listed on the database of the United
35 States Environmental Protection Agency.

36 (F) A Hazardous Waste Treatment, Storage and Disposal Site (RCRA Info), as listed on
37 the database of the United States Environmental Protection Agency.

38 (G) A State Hazardous Waste Site (SHWS), as listed on the database of the
39 Massachusetts Department of Environmental Protection.

40 (H) An Emergency Response Notification System (ERNS) site, as listed on the database
41 of the National Response Center, United States Coast Guard.

42 (I) A Center for Disease Control Environmental Health Assessment, as listed on the
43 database of the Center for Disease Control.

44 (J) An Active Department of Defense site, as listed on the database of the United States
45 Department of Defense.

46 (K) A Former Department of Defense Site, as listed on the database of the United States
47 Department of Defense.

48 (L) An Historic Commercial or Industrial site that whose past activities were likely to
49 have caused significant contamination.

50 (4) If the property is within a one-half mile radius of any of the sites listed in paragraph
51 (3), the report shall contain the following notice:

52 "NOTICE OF ENVIRONMENTAL HAZARD SITE

53 This property is presently located within a one-half mile radius of an environmental
54 hazard site. For that reason, you may wish to investigate the information about the site further
55 by contacting the agency responsible for the maintenance and cleanup of this site, consider what

56 factors, if any, are associated with the property's proximity to an environmental hazard site, and

57 determine whether the information you receive is acceptable to you before you purchase."