

SENATE No. 168

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:

1 SECTION 1. Chapter 184 of the General Laws is hereby amended by inserting after
2 section 17D the following new section: - Section 17E (a) Neither the transferor nor any listing
3 or selling agent shall be liable for any error, inaccuracy, or omission of any information
4 delivered pursuant to this section if the error, inaccuracy, or omission was not within the
5 personal knowledge of the transferor or the listing or selling agent, and was based on information
6 timely provided by public agencies or by other persons providing information as specified in
7 subsection (c) that is required to be disclosed pursuant to this section, and ordinary care was
8 exercised in obtaining and transmitting the information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

51 "NOTICE OF ENVIRONMENTAL HAZARD SITE

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

- 55 factors, if any, are associated with the property's proximity to an environmental hazard site, and
- 56 determine whether the information you receive is acceptable to you before you purchase.”