

SENATE NO. 201

AN ACT 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 section 17D
2 the following new section: -

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

10 (b) The delivery of any information required to be disclosed by this section to a prospective
11 transferee by a public agency or other person providing information required to be disclosed
12 pursuant to this section shall be deemed to comply with the requirements of this section and

13 shall relieve the transferor or any listing or selling agent of any further duty under this section
14 with respect to that item of information.

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

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

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

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

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

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

50 (4) If the property is within a one-half mile radius of any of the sites listed in paragraph (3), the
51 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
55 further by contacting the agency responsible for the maintenance and cleanup of this
56 site, consider what factors, if any, are associated with the property's proximity to an
57 environmental hazard site, and determine whether the information you receive is
58 acceptable to you before you purchase."

