

SENATE No. 168

The Commonwealth of Massachusetts

PRESENTED BY:

Michael W. Morrissey

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act providing information to real estate buyers.

PETITION OF:

NAME:

Michael W. Morrissey

DISTRICT/ADDRESS:

Norfolk and Plymouth

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S00201 OF 2007-2008.]

The Commonwealth of Massachusetts

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

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

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

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

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

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

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

49 (4) If the property is within a one-half mile radius of any of the sites listed in paragraph (3), the
50 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 hazard
53 site. For that reason, you may wish to investigate the information about the site further by
54 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.”