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H.616

Introduced by Representatives Eastman of Orwell, Burditt of West Rutland,
Smith of Morristown, and Zagar of Barnard

Referred to Committee on

Date:

Subject: Real property; conveyance; dams; notice

Statement of purpose of bill as introduced: This bill proposes to require the
owner of property on which a dam is located to notify a prospective buyer of
the presence of the dam. It also proposes to require the buyer to notify the
Department of Environmental Conservation and the municipality or
municipalities where the dam is located when the property is transferred.

An act relating to requiring notice when conveying property on which a
dam is located

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 27 V.S.A. § 310 is added to read:

§ 310. PRESENCE OF DAM; NOTICE

(a)(1) As used in this section, “dam” means any artificial barrier, including
its appurtenant works, that is capable of impounding water, other liquids, or
accumulated sediments and that is:

(A) located on a perennial stream; or

1 (B) capable of impounding 500,000 cubic feet or more of water or
2 liquids regardless of location.

3 (2) “Dam” includes artificial barriers that previously were capable of
4 impounding water or other liquids but that have not been properly removed or
5 mitigated.

6 (3) “Dam” shall not mean:

7 (A) barriers or structures created by beaver or any other wild animal
8 as that terms is defined in 10 V.S.A. § 4001;

9 (B) a highway culvert if its invert at the natural bed of a surface water
10 has adequate discharge capacity and does not impound water under normal
11 circumstances;

12 (C) an artificial barrier at a stormwater detention basin, which is
13 regulated by the Agency of Natural Resources under 10 V.S.A. chapter 47,
14 except for a stormwater retention basin that is 10 feet or more in height or that
15 has a stormwater retention basin with a maximum storage of six acre-feet or
16 greater;

17 (D) municipal underground or elevated tanks to store water;

18 (E) an agricultural waste storage facility regulated by the Agency of
19 Agriculture, Food and Markets under 6 V.S.A. chapter 215; or

20 (F) any other structure identified by the Department of
21 Environmental Conservation by rule.

1 (b) Prior to the time a purchase and sale agreement is executed for property
2 where a dam is located, the seller of the property shall provide the prospective
3 buyer or transferee with written notice of the presence of the dam.

4 (c) No later than the date of transfer of the property, the buyer or transferee
5 shall send written notification of the property transfer to the Department of
6 Environmental Conservation and shall file all dam registrations required under
7 10 V.S.A. chapter 43 or rules adopted under that chapter in the records of the
8 town or towns where the dam is located. A town clerk shall index and record
9 dam registrations in the land records pursuant to 24 V.S.A. §§ 1154 and 1161.

10 (d) Written notice required under subsections (b) and (c) of this section
11 shall be on forms provided by the Department of Environmental Conservation
12 and shall include the following:

13 (1) the name, mailing address, and telephone number of the seller and
14 buyer or transferee;

15 (2) a complete narrative description of the dam and its appurtenant
16 works;

17 (3) the specific location of the dam;

18 (4) the hazard classification of the dam, if known; and

19 (5) a reference to the requirements of 10 V.S.A. chapter 43.

20 (e) Failure to provide notice required by this section shall not affect
21 marketability of title.

- 1 (f) Any person who fails to provide notice under this section shall be:
2 (1) assessed a civil penalty of not more than \$1,000.00; and
3 (2) liable for all costs associated with the permitting and registration of
4 the dam.

5 Sec. 2. EFFECTIVE DATE

- 6 This act shall take effect on July 1, 2016.