

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 570

(Senator West)

Judicial Proceedings

Environment and Transportation

Real Property - Notice of Easements, Covenants, Restrictions, and Conditions -
Recordation

This bill allows for a specified notice to be recorded in applicable land records, and indexed in a specified manner, if a recorded easement, covenant, restriction, or condition has been granted, devised, dedicated, reserved, donated to, or otherwise affects an interest in real property.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill establishes that, if an easement, covenant, restriction, or condition has been granted, devised, dedicated, reserved, donated to, or otherwise affects an interest in real property, a notice of the easement, covenant, restriction, or condition *may* be recorded in the land records of the county in which the property interest is located. If recorded, the notice must:

- state, if known, the name and current address of the current holder of the easement, covenant, restriction, or condition and any neighborhood association relevant to the easement, covenant, restriction, or condition;

- contain a statement that the easement, covenant, restriction, or condition is still in effect, as of the date of the notice;
- contain recording information for (1) the easement, covenant, restriction, or condition and (2) any associated amendment or corrective document; and
- state, as of the date of the notice, the name of the fee simple owner of the land encumbered by the easement, covenant, restriction, or condition, and if applicable and known (1) the owner of any recorded leasehold estate or holder of any other real property interest in land encumbered by the easement, covenant, restriction, or condition and (2) any neighborhood association relevant to the land encumbered by the easement, covenant, restriction, or condition.

The notice also must be indexed among the land records under the name of (1) the holder of the easement, covenant, restriction, or condition and (2) the fee simple owner of the land encumbered by the easement, covenant, restriction, or condition, as specified in the notice, and other persons and entities, as specified, if applicable and known.

Failure to record a notice in accordance with the requirements of the bill, however, does not (1) impair the rights or interests of the holder of an easement, covenant, restriction, or condition or (2) waive, release, or otherwise affect the obligations of any person holding a real property interest burdened by the easement, covenant, restriction, or condition.

Current Law/Background: Chapter 127 of 2019 established similar provisions for easements, covenants, restrictions, or conditions that have been granted, devised, dedicated, reserved, or donated to the Maryland Agricultural Land Preservation Foundation, the Maryland Historical Trust, the Maryland Environmental Trust (MET), a land trust that has executed a cooperative agreement with MET, a county, or the Department of Natural Resources.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Anne Arundel, Charles, Frederick, and Montgomery counties; Maryland Association of Counties; Judiciary (Administrative Office of the Courts); Maryland Department of Agriculture; Department of Natural Resources; Maryland Department of Planning; State Department of Assessments and Taxation; Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2020

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Third Reader - March 16, 2020

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