

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 1077

(Delegate Forbes, *et al.*)

Environment and Transportation

Judicial Proceedings

Real Property - Deletion of Unlawful Ownership Restrictions - Exemption From
Fees and Surcharges

This bill permanently exempts from specified fees and surcharges the recordation of a restrictive covenant modification or an amendment to the common area deeds or other declarations of a homeowners association (HOA) if the recordation is to modify or delete, in accordance with statutory provisions, a covenant or restriction that restricts ownership based on race, religious belief, or national origin. The bill also repeals a reference to a statutory deadline by which governing bodies of HOAs were required to delete related recorded covenants or restrictions.

Fiscal Summary

State Effect: Any potential decrease in general and special fund revenues is not anticipated to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially impact the finances or operations of the circuit courts.

Small Business Effect: Minimal.

Analysis

Current Law/Background: As established under Chapter 636 of 2018, an “unlawfully restrictive covenant” is any recorded covenant or restriction that restricts ownership based on race, religious belief, or national origin. A person may execute and record a restrictive covenant modification to an unlawfully restrictive covenant in accordance with statutory provisions if the person holds an ownership interest in property that the person believes is subject to the unlawfully restrictive covenant or is a nonprofit entity that meets specified

requirements. Statutory provisions set forth additional requirements for restrictive covenant modifications.

Chapter 636 of 2018 also required the governing body of an HOA to delete any recorded covenant or restriction that restricts ownership based on race, religious belief, or national origin from the common area deeds or other declarations of property in the development. This requirement was to be met by September 30, 2019. In addition, Chapter 636 (1) authorized the governing body of an HOA to delete a recorded covenant or restriction that restricted ownership as specified above without approval of the lot owners; (2) required the governing body of an HOA to record in the appropriate jurisdiction an amendment to the *common area* deeds or other declarations that include the recorded covenant or restriction, as specified; and (3) required, beginning October 1, 2019, and within 180 days after receiving a written request from a lot owner, a governing body of an HOA to delete a recorded covenant or restriction that restricts ownership as specified above from the common area deeds or other declarations of property in the development.

In addition to specified fees for the recordation of a land record, the clerk's office of the circuit court in each county and Baltimore City imposes a surcharge on each recordable instrument that is recorded among the jurisdiction's land records. The surcharges are deposited in the Circuit Court Real Property Records Improvement Fund. Among other things, the fund supports all personnel and operating costs within the land records offices of the clerks of the circuit court. Chapter 636 prohibited the collection of specified surcharges or fees for the recordation of a restrictive covenant modification or for the recordation of an amendment to the common area deeds or other declarations of an HOA; this provision expired September 30, 2019.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 1056 (Senator Sydnor) - Judicial Proceedings.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2020
rh/jkb Third Reader - March 17, 2020

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