

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 335

(Senator King)

Judicial Proceedings

Environment and Transportation

Real Property - Unlawfully Restrictive Covenants - Modification by Counties or Municipalities

This bill authorizes a county or municipality to execute and record a restrictive covenant modification to an unlawfully restrictive covenant if the subject property is within the boundaries of the county or municipality and specified notice requirements are satisfied. A person with an ownership interest in the property may decline to have the modification executed and recorded by notifying the county or municipality within 30 days after the date of the required notice.

Fiscal Summary

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

Local Effect: Any operational or fiscal impact for local governments is anticipated to be minimal and absorbable within existing budgeted resources.

Small Business Effect: None.

Analysis

Bill Summary: A county or municipality may execute and record a restrictive covenant modification to an unlawfully restrictive covenant if (1) the property the county or municipality believes is subject to an unlawfully restrictive covenant is within the boundaries of the county or municipality and (2) at least 30 days before executing and recording the restrictive covenant modification, the county or municipality provides written notice of its intent to all persons with an ownership interest in the property.

The notice must (1) be sent by first-class mail and (2) provide information on how a person with an ownership interest in the property may decline to have the restrictive covenant modification executed and recorded by the county or municipality.

Current Law: An unlawfully restrictive covenant is any recorded covenant or restriction that restricts ownership based on race, religious belief, or national origin. A person holding an ownership interest in property that the person believes is subject to an unlawfully restrictive covenant or a nonprofit entity required to enforce covenants within a defined residential neighborhood may execute and record a modification to an unlawfully restrictive covenant. The modification must (1) consist of a complete copy of the original instrument with the language of the unlawfully restrictive covenant stricken and (2) be accompanied by a complete restrictive covenant modification intake sheet (on a form provided by the Administrative Office of the Courts, as specified).

The clerk of the circuit court must submit the modification and a copy of the original instrument to the county attorney, who must review the documentation and return it to the clerk with a determination on its appropriateness. The clerk of the circuit court is prohibited from recording the modification unless it is deemed appropriate. Once recorded, the restrictions contained in the modification are the only restrictions based on the original instrument that apply to the property (subject to all covenants, conditions, and restrictions that were recorded after the recording of the original instrument), and terms and conditions have the same effective date as the original instrument. If an unauthorized modification is recorded, the person who executed it is responsible for any subsequent liability. Neither the clerk of the circuit court nor the county may incur any liability, as specified under existing statutory provisions.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 182 (Delegate Reznik, *et al.*) - Environment and Transportation.

Information Source(s): Anne Arundel and Montgomery counties; City of Annapolis; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - February 5, 2023
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