

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 733

(Senator Garagiola, *et al.*)

Education, Health, and Environmental Affairs

Health and Government Operations

Homeland Security - Protection of Building Records

This emergency bill expands the circumstances under which a custodian may deny inspection of public records relating to public security to include records of public facilities and privately owned or operated buildings, structures, or facilities. The bill prohibits a custodian from denying inspection of a public record of a privately owned or operated building, structure, or facility that has been subjected to a catastrophic event. The bill also prohibits denying inspection of a public record relating to an inspection or citation issued concerning a privately owned or operated building, structure, or facility.

Fiscal Summary

State Effect: Any change in State activities would not materially affect State finances.

Local Effect: Any change in local government activities would not materially affect local government finances.

Small Business Effect: Potential minimal.

Analysis

Current Law: Generally a custodian of a public record must permit inspection of the record at a reasonable time. However, unless otherwise provided, if a custodian believes that inspection of a part of a public record by an applicant would be contrary to the public interest, the custodian may deny inspection to the applicant of that part of the record.

Under the public interest exception to the disclosure requirements, a custodian of a public record may deny inspection of public records that are: (1) response procedures or plans

prepared to prevent or respond to emergency situations under specified circumstances; (2) specified building plans, blueprints, schematic drawings, diagrams, operational manuals, or records of bridges, tunnels, emergency response facilities or structures, buildings where hazardous materials are stored, arenas, stadia, and waste and water systems; (3) records of other buildings or structures operated by the State or any of its political subdivisions under specified circumstances if the disclosure would reveal specified security-related information; or (4) specified records prepared to prevent or respond to emergency situations at medical facilities, storage facilities, or laboratories established, maintained, or regulated by the State or any of its political subdivisions.

The custodian may deny inspection of a part of such a public record only to the extent that the inspection would: (1) jeopardize the security of a structure owned or operated by the State or any of its political subdivisions; (2) facilitate the planning of a terrorist attack; or (3) endanger the life or physical safety of an individual.

Background: Under the State's public records disclosure laws, a public record is any documentary material that is made by a unit or instrumentality of the State government or of a political subdivision, or received by the unit or instrumentality in connection with the transaction of public business.

Chapter 3 of 2002, enacted in response to possible terrorist threats, established the above mentioned public interest exceptions to the disclosure requirements.

Additional Information

Prior Introductions: None.

Cross File: HB 1082 (Delegate V. Clagett) – Health and Government Operations.

Information Source(s): Maryland Emergency Management Agency, Department of Legislative Services

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