

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1042

(Delegate Rosenberg, *et al.*)

Environmental Matters

Judicial Proceedings

**Homeowners Associations - Recorded Covenants or Restrictions - Deletion of
Ownership Restrictions Based on Race, Religious Belief, or National Origin**

This bill provides that a homeowner's association (HOA) may delete a recorded covenant or restriction that restricts ownership based on race, religious belief, or national origin from the deed or other declaration of property in a development if at least 85% of the lot owners in the development agree to the deletion. If a deed or other declaration expressly provide for a method of amendment or deletion, an HOA may use either method for deleting such covenants or restrictions. The governing body of an HOA must record the amendment with the clerk of the court in the jurisdiction in which the development is located.

Fiscal Summary

State Effect: None.

Local Effect: The bill could be handled within the existing budgeted resources of the circuit courts.

Small Business Effect: None.

Analysis

Current Law: Racially restrictive covenants in a deed or other instrument used to convey real property are unenforceable by State courts. While such covenants are not illegal per se, their enforcement by State court injunctions would constitute State action in violation of the fourteenth amendment to the U.S. Constitution.

State law prohibits any individual or entity whose business includes engaging in residential real estate transactions from discriminating against any individual in making available a transaction or its terms, because of race, color, religion, sex, disability, marital status, familial status, sexual orientation, or national origin.

An individual who engages in the sale or rental of a single family dwelling is exempted from the State law provisions above, provided that the dwelling is sold without the use of the sales or rental facilities or services of any: (1) real estate broker, agent, or salesman; (2) agent of any real estate broker, agent, or salesman; (3) person in the business of selling or renting dwellings; (4) agent of a person in the business of selling or renting dwellings; or (5) without publicizing, posting, or mailing, after notice, of any advertisement or written notice that violates the prohibition on discrimination against an individual in the course of selling or renting a single family dwelling outlined above.

Additional Information

Prior Introductions: None.

Cross File: SB 692 (Senator Gladden) – Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - February 16, 2004
mh/jr Revised - House Third Reader - March 23, 2004

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