

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1273

(Delegate James, *et al.*)

Environmental Matters

Real Property - Recordation of Deeds - Conservation Easements

This bill requires a deed transferring ownership of property that is encumbered by a conservation or agricultural land preservation easement granted to a State agency, local government, or land trust to: (1) reference the liber and folio where the servient land is granted; (2) contain a description of the grantor and grantee; and (3) contain the date of the reference deed.

Fiscal Summary

State Effect: Assuming that the failure to include the required information on the deed would be a defect in the title and not a requirement that the clerks of the court perform a title search, the bill would not materially affect the finances or operations of the Judiciary.

Local Effect: See above.

Small Business Effect: Minimal.

Analysis

Current Law: Generally, a deed or other instrument that grants an inheritance or freehold estate in land (ownership interest), declaration or limitation of use, or leasehold estate above seven years must be properly executed and recorded in the land records in order to take effect. Any other instrument that affects property, including any subordination agreement establishing priorities between interests in property, may be

recorded. The recording of such an instrument constitutes constructive notice from the date of its recording.

A deed, mortgage, or deed of trust must bear: (1) the certification of an attorney that the instrument has been prepared by an attorney or under an attorney's supervision; or (2) a certification that the instrument was prepared by one of the parties named in the instrument.

A deed granting a right-of-way or other easement to a public utility, public agency, or a department or agency of the State must contain: (1) an accurate and definite description; (2) a reference to the liber and folio where the servient land was granted; and (3) a recitation of the grantors, grantees, and the date of the reference deed.

Background: Generally, easements "run with the land" and bind subsequent purchasers to their terms.

Additional Information

Prior Introductions: None.

Cross File: SB 359 (Senator Dyson, *et al.*) – Judicial Proceedings.

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

Fiscal Note History: First Reader - March 2, 2006
ncs/jr

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