

SENATE BILL 68

N1
SB 75/06 – JPR

71r0914
CF 71r0913

By: **Senators Klausmeier and Mooney**
Introduced and read first time: January 19, 2007
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Radio Communications – Regulation of Amateur Radio Equipment –**
3 **Limitations**

4 FOR the purpose of requiring local zoning authorities to comply with certain federal
5 regulations governing amateur radio service; prohibiting certain homeowners
6 associations from restricting or prohibiting the design, placement, screening,
7 height, or use of certain amateur radio equipment; prohibiting certain
8 homeowners associations from amending certain governing documents under
9 certain circumstances; requiring certain homeowners associations to provide
10 certain written notice to their lot owners within a certain amount of time;
11 defining a certain term; and generally relating to the regulation of amateur
12 radio equipment.

13 BY repealing and reenacting, with amendments,
14 Article 66B – Land Use
15 Section 1.02, 2.13, and 4.01(b)(1)
16 Annotated Code of Maryland
17 (2003 Replacement Volume and 2006 Supplement)

18 BY adding to
19 Article 66B – Land Use
20 Section 4.01(b)(3)
21 Annotated Code of Maryland
22 (2003 Replacement Volume and 2006 Supplement)

23 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Real Property
2 Section 11B–111.5
3 Annotated Code of Maryland
4 (2003 Replacement Volume and 2006 Supplement)

5 Preamble

6 WHEREAS, The Congress of the United States has expressed the need to
7 promote safety of life and protection of property through the use of radio
8 communications and has established a framework for regulation of radio
9 communications; and

10 WHEREAS, The Congress of the United States, in 1994, passed a Senate Joint
11 Resolution to recognize the achievements of, and establish support for, radio amateurs
12 as national policy, and that Resolution became Public Law No. 103–408; and

13 WHEREAS, The Federal Communications Commission has set forth in Title 47,
14 Part 97 of the Code of Federal Regulations that among the basic purposes of the
15 amateur radio service are to provide voluntary, noncommercial radio service,
16 particularly with respect to emergency communications, to continue and extend the
17 amateur’s proven ability to contribute to the advancement of the radio art, to improve
18 the amateur radio service through rules which provide for advancing skills in both the
19 communication and technical phases, to expand the existing reservoir within the
20 amateur radio service of trained operators, technicians, and electronics experts, and to
21 extend the amateur’s unique ability to enhance international goodwill; and

22 WHEREAS, The General Assembly finds that members of the amateur radio
23 service community have provided invaluable emergency radio communication services
24 in the State and across the United States before, during, and after floods, hurricanes,
25 tornadoes, forest fires, earthquakes, blizzards, train accidents, chemical spills, and
26 other disasters; and

27 WHEREAS, The General Assembly finds that members of the amateur radio
28 service community continually train, and promote readiness, for times of emergency
29 and disaster; and

30 WHEREAS, The General Assembly finds that amateur radio service has
31 pioneered space communications since 1961 by launching more than 60 orbital
32 satellites carrying amateur radio; and

33 WHEREAS, The General Assembly finds that amateur radio is recognized in
34 more than 140 nations around the world as a leading medium of people-to-people
35 diplomacy; and

1 [(8)] **(9)** § 11.01 (Transfer of Development Rights);

2 [(9)] **(10)** § 12.01 (Inclusionary Zoning);

3 [(10)] **(11)** Except in Montgomery County or Prince George’s County, §
4 13.01 (Development rights and responsibilities agreements); and

5 [(11)] **(12)** For Baltimore County only, § 14.02.

6 (c) This section supersedes any inconsistent provision of Article 28 of the
7 Code.

8 2.13.

9 (a) Except as provided in subsection (b) of this section, §§ 3.01 through 8.15
10 of this article do not apply in Baltimore City.

11 (b) The following sections of this article apply to Baltimore City:

12 (1) § 1.00(j) (Definition of “sensitive areas”);

13 (2) § 1.01 (Visions);

14 (3) § 1.03 (Charter county – Comprehensive plans);

15 (4) § 4.01(b)(2) (Regulation of bicycle parking);

16 **(5) § 4.01(B)(3) (REGULATION OF AMATEUR RADIO EQUIPMENT);**

17 [(5)] **(6)** § 5.03(d) (Easements for burial sites);

18 [(6)] **(7)** § 7.02 (Civil penalty for zoning violation);

19 [(7)] **(8)** § 10.01 (Adequate Public Facilities Ordinances);

20 [(8)] **(9)** § 11.01 (Transfer of Development Rights);

21 [(9)] **(10)** § 12.01 (Inclusionary Zoning); and

22 [(10)] **(11)** § 13.01 (Development Rights and Responsibilities
23 Agreements).

1 4.01.

2 (b) (1) To promote the health, safety, morals, or general welfare of the
 3 community, a local legislative body may regulate and restrict, for trade, industry,
 4 residences, and other purposes:

5 (i) [The] **SUBJECT TO PARAGRAPH (3) OF THIS**
 6 **SUBSECTION, THE** height, number of stories, and size of buildings and other
 7 structures;

8 (ii) The percentage of a lot that may be occupied;

9 (iii) Off-street parking;

10 (iv) The size of yards, courts, and other open spaces;

11 (v) The density of population; and

12 (vi) The location and use of buildings, signs, structures and land.

13 **(3) IF A LOCAL LEGISLATIVE BODY REGULATES AMATEUR RADIO**
 14 **EQUIPMENT, AS DEFINED IN § 11B-111.5(A) OF THE REAL PROPERTY ARTICLE,**
 15 **THE LOCAL LEGISLATIVE BODY SHALL COMPLY WITH APPLICABLE FEDERAL**
 16 **AMATEUR RADIO SERVICE REGULATIONS CONTAINED IN 47 CFR § 97.15.**

17 **Article - Real Property**

18 **11B-111.5.**

19 **(A) (1) IN THIS SECTION, “AMATEUR RADIO EQUIPMENT” MEANS ANY**
 20 **DEVICE USED TO TRANSMIT OR RECEIVE COMMUNICATIONS ON AN AMATEUR**
 21 **RADIO STATION FREQUENCY.**

22 **(2) “AMATEUR RADIO EQUIPMENT” INCLUDES:**

23 **(I) AN ANTENNA THAT SERVES AN AMATEUR RADIO**
 24 **STATION; AND**

25 **(II) ANY ATTACHMENT OR OTHER STRUCTURE THAT**
 26 **SUPPORTS, ROTATES, FEEDS, STABILIZES, RAISES, LOWERS, ADJUSTS, OR**

1 OTHERWISE CONTRIBUTES TO THE FUNCTIONING OF AN ANTENNA THAT SERVES
2 AN AMATEUR RADIO STATION.

3 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
4 SUBSECTION, THIS SECTION DOES NOT APPLY TO A HOMEOWNERS ASSOCIATION
5 THAT HAS ADOPTED, ON OR BEFORE SEPTEMBER 30, 2007, PROVISIONS
6 ACCORDING TO ITS COVENANTS, DECLARATION, OR GOVERNING DOCUMENTS
7 THAT RESTRICT OR PROHIBIT AMATEUR RADIO EQUIPMENT.

8 (2) A HOMEOWNERS ASSOCIATION EXEMPTED FROM THE
9 APPLICATION OF THIS SECTION MAY NOT AMEND, ON OR AFTER OCTOBER 1,
10 2007, ITS COVENANTS, DECLARATION, OR GOVERNING DOCUMENTS TO
11 FURTHER RESTRICT OR PROHIBIT AMATEUR RADIO EQUIPMENT ON THE
12 PROPERTY OF LOT OWNERS.

13 (C) A RECORDED COVENANT OR RESTRICTION, A PROVISION IN A
14 DECLARATION, OR A PROVISION OF THE GOVERNING DOCUMENTS OF A
15 HOMEOWNERS ASSOCIATION MAY NOT RESTRICT OR PROHIBIT THE DESIGN,
16 PLACEMENT, SCREENING, HEIGHT, OR USE OF AMATEUR RADIO EQUIPMENT ON
17 THE PROPERTY OF LOT OWNERS.

18 (D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A
19 HOMEOWNERS ASSOCIATION SHALL PROVIDE TO ITS LOT OWNERS WRITTEN
20 NOTICE IN A FORM SUBSTANTIALLY THE SAME AS THE FOLLOWING:

21 "IN COMPLIANCE WITH THE MARYLAND HOMEOWNERS ASSOCIATION
22 ACT, THE ASSOCIATION MAY NOT RESTRICT OR PROHIBIT THE DESIGN,
23 PLACEMENT, SCREENING, HEIGHT, OR USE OF AMATEUR RADIO EQUIPMENT ON
24 THE PROPERTY OF LOT OWNERS. THE RESTRICTION OR PROHIBITION OF
25 AMATEUR RADIO EQUIPMENT ON THE PROPERTY OF LOT OWNERS IS SOLELY
26 WITHIN THE JURISDICTION OF THE FEDERAL COMMUNICATIONS COMMISSION
27 AND THE LOCAL GOVERNMENT. THE ASSOCIATION RETAINS THE ABILITY TO
28 RESTRICT OR PROHIBIT AMATEUR RADIO EQUIPMENT ON PROPERTY OWNED BY
29 THE ASSOCIATION."

30 (2) A HOMEOWNERS ASSOCIATION SHALL GIVE THE NOTICE
31 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 30 DAYS AFTER
32 THE INITIAL SALE OF A LOT OR ON OR BEFORE OCTOBER 1, 2008, WHICHEVER
33 IS LATER.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2007.