

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 603

(St. Mary's County Delegation)

Environmental Matters

Education, Health, and Environmental
Affairs

St. Mary's County - Subdivision Regulations - Exemptions

This bill exempts a property deeded before January 1, 1994 with a residence built upon it by January 1, 2007 from St. Mary's County subdivision regulations regarding the construction of either an addition to the residence or an accessory building on the property.

Fiscal Summary

State Effect: None.

Local Effect: Exempting certain properties from St. Mary's County subdivision regulations would not materially impact county finances.

Small Business Effect: Minimal.

Analysis

Current Law: If an owner (or agent) of land located within a subdivision transfers or sells that land to another individual before the plat has been approved by the planning commission and recorded or filed in the county clerk's office, he/she shall be subject to a civil penalty of between \$200 and \$1,000 for each lot or parcel transferred or sold.

The St. Mary's County subdivision ordinance prohibits a person from subdividing land for the purpose of creating a building site without first preparing and recording a final subdivision plat, in accordance with State and local laws and regulations. Divisions of

land exempt from subdivision plat requirements may be established by deed, provided the deed is approved by the county planning director before its recordation. If a parcel created through agricultural division, or any part of it, is developed for nonagricultural use, a subdivision plat must be recorded prior to issuance of a building permit.

No land within the unincorporated portion of St. Mary's County can be subdivided, sold, transferred, or any building erected on it, until a final subdivision plat is approved and recorded in accordance with the St. Mary's County subdivision ordinance. Any person aggrieved by any action of the county planning director or planning commission regarding the subdivision of land may appeal, within 30 days, to the county board of appeals.

Background: Prior to 1990, St. Mary's County did not strictly enforce its subdivision regulations. In 1990, however, the county began enforcing subdivision regulations by denying building permits to properties that had not been legally subdivided. The county amended its subdivision regulations in 1991 by effectively retroactively validating subdivisions created in violation of county regulation. In *Board of County Commissioners of St. Mary's County, et al. v. Potomac River Association of St. Mary's County, Inc., et al.* (113 Md. App. 580), the Court of Special Appeals affirmed (in part) a 1994 St. Mary's County circuit court ruling that invalidated this ordinance because it is preempted by Article 66B.

St. Mary's County advises that if a property owner whose land was not properly subdivided wants to build an addition to his/her residence or place an accessory structure on the land, he/she must first subdivide the land properly, which could cost thousands of dollars. The county estimates that the bill would exempt approximately 1,100 properties from this requirement.

An accessory structure is a building, such as a shed or outbuilding like a detached garage, whose use is incidental to that of the main structure on the property.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Planning, St. Mary's County, Department of Legislative Services

Fiscal Note History: First Reader - February 27, 2007
ncs/hlb

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