

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 994

(Delegate Boteler, *et al.*)

Environmental Matters

Radio Communications - Regulation of Amateur Radio Equipment - Limitations

This bill requires local zoning authorities to comply with federal regulations governing amateur radio service and prohibits homeowners associations from restricting the design, placement, screening, height, or use of specified amateur radio equipment.

Fiscal Summary

State Effect: The bill would not directly affect State finances or operations.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires a local legislative body that regulates amateur radio equipment to comply with specified federal regulations governing the regulation of the equipment. The bill prohibits a homeowners association, under the Maryland Homeowners Association Act, from restricting or prohibiting the design, placement, screening, height, or use of amateur radio equipment on the property of lot owners through the means of a recorded covenant or restriction, a provision in a declaration, or a provision in the governing documents. The prohibition does not apply to a homeowners association that has adopted restrictions on or before September 30, 2008, in its covenants, declaration, or governing documents. An exempted homeowners association may not amend its covenants, declaration, or governing documents to further restrict or prohibit amateur radio equipment on lot owner property on or after October 1, 2008. The

bill also requires a homeowners association to give lot owners notice of the bill's restrictions on or before the later of either 30 days after the initial sale of a lot or October 1, 2009.

Current Law: The State does not currently restrict the regulation of amateur radio equipment by a local government or a homeowners association.

Under federal law, regulation of radio broadcasting, including the placement of amateur radio equipment is regulated by the Federal Communications Commission (FCC). By regulation (Title 47, Part 97.15), FCC has prohibited state and local regulations of a radio station antenna structure from precluding amateur service communications. Rather, any state or local regulation must reasonably accommodate these communications and must constitute the minimum practicable regulation in order to accomplish the state or local authority's legitimate purpose in adopting a regulation. The FCC regulations do not restrict a homeowners association from adopting restrictions on amateur radio equipment.

The Maryland Homeowners Association Act restricts a homeowners association's ability to regulate specified signs related to elections. Federal law restricts a homeowners association's ability to regulate the placement of satellite antennas and the display of the American flag.

Background: Chapter 469 of 2005 established the Task Force on Common Ownership Communities. The full task force met 10 times during 2006 and conducted five public hearings, at which public comments were solicited. In addition, subcommittees comprising task force members met several times. At the request of the Judicial Proceedings Committee, one of the topics discussed by the task force was whether the General Assembly should restrict a common ownership community's ability to regulate amateur radio equipment and antennas. The task force recommended that the General Assembly defer to Congress to determine whether to restrict a common ownership community's ability to regulate the placement or use of amateur radio equipment.

Amateur radio operators in all areas of the world communicate with each other directly or through ad hoc relay systems and amateur satellites. Generally, an amateur operator must have an FCC license in the United States. FCC issues six license operator classes, each authorizing varying levels of privileges. The class for which each licensee is qualified is determined by the degree of skill and knowledge in operating a station that the licensee demonstrates during an examination.

Additional Information

Prior Introductions: Nearly identical bills were introduced in 2007 and 2006. SB 68 of 2007 received an unfavorable report from the Senate Judicial Proceedings Committee. In 2006, SB 75 received an unfavorable report from Judicial Proceedings, and HB 296 was withdrawn.

Cross File: SB 80 (Senator Klausmeier, *et al.*) – Judicial Proceedings.

Information Source(s): Prince George's County, City of Salisbury, Town of Leonardtown, Department of Legislative Services

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mll/jr

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