

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 686 (Delegate Rosenberg)
Economic Matters and Environmental Matters

Condominiums - Rules and Regulations - Smoking

This bill amends the Clean Indoor Air Act to clarify that nothing in the Act may be construed to preempt a council of unit owners of a condominium or other comparable body delegated in the bylaws of a condominium from enacting and enforcing more stringent rules or regulations to reduce involuntary exposure to environmental tobacco smoke. For condominiums established on or after October 1, 2008, the bill amends the Maryland Condominium Act to state that the council of unit owners of a condominium may adopt rules or regulations that are at least as stringent as the provisions of the Clean Indoor Air Act to regulate the smoking of tobacco products in the condominium.

Fiscal Summary

State Effect: The bill would not directly affect State finances or operations. If the Attorney General's Office receives fewer than 50 complaints per year stemming from the bill, the additional workload could be handled with existing resources.

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

Small Business Effect: Potential minimal.

Analysis

Current Law: State law does not specifically regulate the authority of a condominium's governing body to create and enforce rules regarding indoor tobacco smoking. Under the Maryland Condominium Act, a council of unit owners of a condominium or a comparable body designed in the bylaws of a condominium may adopt rules for the condominium if specific statutory requirements for notice, meetings, and voting are met.

According to State law, notice must be provided to unit owners prior to adoption of a rule by the council of unit owners, allowing unit owners to submit written comments and attend an open meeting to discuss the rule. The vote on the proposed rule is final upon a majority vote of those present and voting of the governing body, unless • within 15 days after the vote, to adopt the proposed rule, 15% of the council of unit owners sign and file a petition with the body that voted to adopt the proposed rule, calling for a special meeting; • a quorum of the council of unit owners attends the meeting; and • at the meeting, 50% of the unit owners present and voting disapprove the proposed rule, and the unit owners voting to disapprove the proposed rule are more than 33% of the total votes in the condominium.

Each unit owner or tenant may request an individual exception to a rule adopted while the individual was the unit owner or tenant of the condominium. The request for an individual exception must be • written; • filed with the body that voted to adopt the proposed rule; and • filed within 30 days after the effective date of the rule.

Background: The Clean Indoor Air Act of 2007 mandated that beginning on February 1, 2008, individuals in the State may not smoke in • an indoor area open to the public; • an indoor place where public meetings are held; • a government-owned or operated means of mass transportation, including buses, vans, trains, taxicabs, and limousines; or • an indoor place of employment.

This smoking ban does not apply to • private homes and residences, unless they are being used by a person licensed or registered to provide child or day care; and • private vehicles, unless they are being used for the public transportation of children, or as part of health care or day care transportation.

The ban also does not apply to hotel or motel rooms rented to one or more guests as long as the total percentage of hotel or motel rooms being used as a smoking room does not exceed 25%. It does not apply to a retail tobacco business or other enterprise in which the primary activity is the retail sale of tobacco products and accessories, or to any facility of a manufacturer, importer, wholesaler, or distributor of tobacco products. The ban does not apply to a research or educational laboratory for the purpose of conducting scientific research into the health effects of tobacco smoke.

The Act repealed existing State-permitted smoking areas, such as enclosed rooms in restaurants, or combinations of bars and separate enclosed rooms.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

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