

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE

Senate Bill 147 (Senator Kelley)
 Judicial Proceedings

Real Property - Common Ownership Community Ombudsman

This bill establishes the Common Ownership Community Ombudsman in the Department of Labor, Licensing, and Regulation (DLLR).

Fiscal Summary

State Effect: Special fund expenditures increase by approximately \$392,100 in FY 2010 to carry out the duties of the office of the ombudsman. Out-years reflect annualization and inflation. Special fund revenues also increase; however, the amount of the increase cannot be accurately estimated.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
SF Revenue	-	-	-	-	-
SF Expenditure	\$392,100	\$441,100	\$452,400	\$472,100	\$492,800
Net Effect	(\$392,100)	(\$441,100)	(\$452,400)	(\$472,100)	(\$492,800)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

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

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The ombudsman is appointed by the Secretary of Labor, Licensing, and Regulation, with the approval of the Governor and the advice and consent of the Senate. The ombudsman serves at the pleasure of the Secretary and must be qualified to perform the duties of the office. The ombudsman may employ a staff.

The ombudsman must develop an education program for residents of common ownership communities (condominiums, cooperative housing corporations, and homeowners associations) and an education program for common ownership governing bodies. The ombudsman also is required to resolve complaints from common ownership community residents, maintain a list of trained mediators and arbitrators for referrals, maintain a collection of common ownership community documents for use as a model, and submit an annual report containing specified information to the Secretary and the General Assembly.

Common ownership communities must register annually with the ombudsman on a form provided by the ombudsman that includes specified information. A common ownership community is exempt from registration if the community is required to register under a system operated by a county or municipal corporation and that registration system offers substantially similar services.

The ombudsman is required to charge a fee for each registration, of up to \$1 for each unit in a condominium, member in a cooperative housing corporation, or lot in a development with a homeowners association. Revenue from the fee is deposited into a special fund, named the Common Ownership Community Ombudsman Fund, the purpose of which is to pay the costs for the ombudsman. The Office of Legislative Audits is required to audit the accounts and transactions of the fund.

Current Law: State law does not designate a statewide office to offer these services. In Montgomery County, however, common ownership communities are required to register with the Commission on Common Ownership Communities, a 15-member volunteer body. The county's Office of Consumer Protection, together with the commission, must:

- prepare and distribute specified educational materials about common ownership communities;
- maintain a master roster of common ownership communities;
- develop an information and referral system for county services related to common ownership communities;
- maintain a collection of common ownership community documents to use as a model and for reference;
- provide technical assistance to common ownership community governing bodies;
- develop and maintain a manual for common ownership communities and government agencies;
- develop and maintain an operations manual to serve as a guide for common ownership community leadership;

- advise common ownership communities and professional association managers of applicable statutory and regulatory changes;
- operate a dispute resolution process; and
- assist the commission in carrying out its duties.

The commission is required to:

- adopt rules and procedures;
- keep a record of its activities;
- cooperate with the local, State, and federal government agencies in matters concerning the commission's jurisdiction;
- examine, by specified means, conditions in common ownership communities that may result in unmet needs; and
- advise county residents, the county council, the county executive, and others on matters involving common ownership communities.

Common ownership communities in Montgomery County are required to pay a registration fee to pay costs associated with the commission.

Common ownership communities are not required to register with the Montgomery County commission if they are located in the following municipal corporations: Chevy Chase Village, the Town of Chevy Chase, Gaithersburg, Garrett Park, Kensington, Laytonsville, Poolesville, Rockville, Somerset, and Washington Grove.

Background: Chapter 469 of 2005 established the Task Force on Common Ownership Communities. The full task force met 10 times during 2006 and conducted 5 public hearings, at which public comments were solicited. In addition, subcommittees comprising task force members met several times. The task force made several recommendations on various topics, including that local governments should be required to consider establishing alternative dispute resolution services, including the use of ombudsman programs. The task force reported that ombudsman offices should be established at the county or regional level to function as a first point of contact to receive and resolve complaints between conflicting parties.

Montgomery County advises that its Commission on Common Ownership Communities has an annual budget of slightly over \$317,000 in fiscal 2009. The county's consumer protection division has two full-time employees devoted to the work of the commission. The division reports that several work-years of other employees are also devoted to the commission's work. Commission members are volunteers and do much of the commission's work. Montgomery County currently charges \$2.25 per unit in fees to

offset the commission's expenses. Montgomery County staff reports that a fee increase to \$2.75 per unit per year may be implemented in fiscal 2010.

State Revenues: The bill authorizes a fee of up to \$1 for each condominium unit, development lot, and cooperative housing corporation member. The total number of these paying units cannot be accurately estimated. *For illustrative purposes only*, if there were 350,000 units and each paid the maximum fee of \$1 each year, special fund revenues increase by \$350,000 annually.

The Secretary of State advises that there are 2,283 condominiums in Maryland. The State Department of Assessments and Taxation (SDAT) advises that there are 196,384 condominium accounts, which should represent the number of condominium units. Of the total number of condominium accounts, SDAT reports that 59,596 are in Montgomery County. The number of Montgomery County condominium units that are subject to registration because they are located in a municipal corporation is unknown. SDAT estimates that there are at least 33 cooperative housing corporations in the State but does not track the number of lots subject to homeowners associations or the number of memberships in cooperative housing corporations.

State Expenditures: The bill creates a new office in DLLR with responsibilities comparable to those currently performed in Montgomery County but for at least double the number of condominium units. Thus, Legislative Services assumes resource needs for the new office are at least double those in place in Montgomery County. Accordingly, special fund expenditures increase by an estimated \$392,099 in fiscal 2010, which accounts for the bill's October 1, 2009 effective date. This estimate reflects the cost of hiring one administrator, one administrative assistant, two administrative officers, and one half-time assistant Attorney General to process and investigate inquiries, develop materials, and perform other functions. It includes salaries, fringe benefits, one-time start-up costs, programming for an online registration system, and other ongoing operating expenses.

Positions	4.5
Salaries and Fringe Benefits	\$227,040
Computer System Programming	65,000
Other Operating Expenses	<u>100,059</u>
Total FY 2010 State Expenditures	\$392,099

Future year expenditures reflect full salaries with 4.4% annual increases and 3% employee turnover and 1% annual increases in ongoing operating expenses.

Additional Information

Prior Introductions: HB 999 of 2007 received an unfavorable report from the House Environmental Matters Committee. SB 288, its cross file, received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: HB 263 (Delegate Braveboy) - Environmental Matters.

Information Source(s): State Department of Assessments and Taxation; Secretary of State; Department of Labor, Licensing, and Regulation; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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