

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 500 (Delegate Kramer, *et al.*)
Environment and Transportation

**Rental Units, Condominiums, and Homeowners Associations - Smoking
Restrictions**

This bill allows a written residential lease to include a restriction or prohibition on smoking tobacco products within the dwelling unit or elsewhere on the premises. The bill further allows the bylaws or rules of a condominium to contain a restriction or prohibition on smoking tobacco products within the units or in the common elements. In addition, a homeowners association (HOA) may include in its declarations, bylaws, rules, or recorded covenants and restrictions a restriction or prohibition on the smoking of tobacco products within a multi-unit dwelling or in the common areas. “Multi-unit dwelling” means a town house, a row house, or any other individually owned dwelling unit that shares a common wall, floor, or ceiling with another individually owned dwelling unit.

Fiscal Summary

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

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

Small Business Effect: Minimal.

Analysis

Current Law: State law does not specify the authority of common ownership communities (in this case, condominiums and HOAs) or landlords to limit the smoking of tobacco products by contract, deed, or other written instrument.

Pursuant to the Clean Indoor Air Act of 2007 (CIAA), except as otherwise specified, a person may not smoke in (1) an indoor area open to the public; (2) an indoor place in which meetings are open to the public; (3) a government-owned or -operated means of mass

transportation; (4) an indoor place of employment; (5) a private home used by a licensed child care provider; or (6) a private vehicle used for public transportation of children or as part of health care or day care transportation. The prohibition includes bars, clubs, restaurants, pubs, taverns, retail establishments, theaters, concert halls, athletic facilities, financial service institutions, government buildings, educational institutions, museums, and libraries. However, the prohibition does not apply to (1) private homes or residences; (2) private vehicles; (3) a hotel or motel room as long as the total percent of rooms so used does not exceed 25%; (4) specified tobacco facilities and retail businesses; or (5) a laboratory for the purpose of conducting scientific research into the health effects of tobacco smoke. CIAA defines “smoking” as the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco.

Background: According to the U.S. Census Bureau, approximately 34.1% of housing in the State was renter occupied in 2015. The Secretary of State reports that, in 2016, there were 2,859 condominium regimes registered with the State. Additionally, the State Department of Assessments and Taxation, which maintains assessment records based on class of property, reports that there are 222,664 condominium units. The Foundation for Community Association Research estimated that there were 6,600 community associations in the State in 2015.

According to the thirty-second Surgeon General’s report, *The Health Consequences of Smoking – 50 Years of Progress*, smoking rates among teens and adults are less than half what they were in 1964. However, 42 million American adults and 3 million middle and high school students continue to smoke. According to the U.S. Centers for Disease Control and Prevention (CDC), the proportion of households with smoke-free home rules increased from 43% in 1992-1993 to 77.6% in 2006-2007. However, in multi-unit housing facilities, as much as 60% of airflow can come from other units. As a result, according to CDC, nearly 50% of multi-unit housing residents report that they have experienced secondhand smoke infiltration in their units.

Additional Information

Prior Introductions: HB 664 of 2014 received an unfavorable report from the House Environmental Matters Committee.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Secretary of State; State Department of Assessments and Taxation; U.S. Census Bureau; U.S. Centers for Disease Control and Prevention; U.S. Surgeon General; Foundation for Community Association Research; Department of Legislative Services

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