

# HOUSE BILL 163

P3

EMERGENCY BILL  
(PRE-FILED)

2lr0356  
CF SB 373

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By: **Delegate Carr**

Requested: July 29, 2021

Introduced and read first time: January 12, 2022

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 15, 2022

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Information Act – Required Denials – Sociological Information and**  
3 **Distribution Lists**

4 FOR the purpose of prohibiting a definition of “sociological information” adopted in rules or  
5 regulations by an official custodian for certain purposes from including a certain  
6 notice or a list of the recipients of a certain notice; requiring a custodian to deny  
7 inspection under the Public Information Act of only a certain part of a certain  
8 distribution list, rather than the full distribution list; requiring a custodian to allow  
9 the inspection of a certain notice or a list of recipients of a certain notice under  
10 certain circumstances; requiring a custodian to provide certain information to a  
11 certain person inspecting a certain list under certain circumstances; requiring a  
12 certain notice to include certain instructions; prohibiting a person who receives a  
13 certain election from including certain information on a certain list inspected under  
14 this Act; defining “distribution list” to exclude a certain list of recipients; and  
15 generally relating to required denials under the Public Information Act.

16 BY repealing and reenacting, with amendments,  
17 Article – General Provisions  
18 Section 4–330 and 4–341  
19 Annotated Code of Maryland  
20 (2019 Replacement Volume and 2021 Supplement)

21 BY repealing and reenacting, ~~without~~ with amendments,  
22 Article – Real Property

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 12–111  
2 Annotated Code of Maryland  
3 (2015 Replacement Volume and 2021 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
5 That the Laws of Maryland read as follows:

6 **Article – General Provisions**

7 4–330.

8 (A) If the official custodian has adopted rules or regulations that define  
9 [sociological information], **SUBJECT TO SUBSECTION (B) OF THIS SECTION,**  
10 **“SOCIOLOGICAL INFORMATION”** for purposes of this section, a custodian shall deny  
11 inspection of the part of a public record that contains sociological information, in accordance  
12 with the rules or regulations.

13 (B) **A DEFINITION OF “SOCIOLOGICAL INFORMATION” ADOPTED UNDER**  
14 **SUBSECTION (A) OF THIS SECTION MAY NOT INCLUDE A NOTICE, OR A LIST OF THE**  
15 **RECIPIENTS OF A NOTICE, GIVEN UNDER § 12–111 OF THE REAL PROPERTY**  
16 **ARTICLE.**

17 4–341.

18 (a) (1) In this section[, “governmental”] **THE FOLLOWING WORDS HAVE THE**  
19 **MEANINGS INDICATED.**

20 (2) **“DISTRIBUTION LIST” DOES NOT INCLUDE A LIST OF RECIPIENTS**  
21 **WHO HAVE RECEIVED A NOTICE UNDER § 12–111 OF THE REAL PROPERTY ARTICLE.**

22 (3) **“GOVERNMENTAL entity”** means a unit or an instrumentality of the  
23 State or of a political subdivision.

24 (b) A custodian shall deny inspection of **THE PART OF** a distribution list and a  
25 request to be added to a distribution list that identifies a physical address, an e–mail  
26 address, or a telephone number of an individual that is used by a governmental entity or  
27 an elected official for the sole purpose of:

28 (1) periodically sending news about the official activities of the  
29 governmental entity or elected official; or

30 (2) sending informational notices or emergency alerts.

31 (C) **A SUBJECT TO § 12–111(H) OF THE REAL PROPERTY ARTICLE, A**  
32 **CUSTODIAN SHALL ALLOW THE INSPECTION OF A NOTICE, OR A LIST OF THE**

1 RECIPIENTS OF A NOTICE, GIVEN UNDER § 12-111 OF THE REAL PROPERTY  
2 ARTICLE ONLY ON RECEIPT OF:

3 (1) A WRITTEN APPLICATION; AND

4 (2) A STATEMENT, SIGNED UNDER OATH, THAT THE NOTICE OR LIST  
5 IS NOT INTENDED TO BE USED FOR COMMERCIAL SOLICITATION.

6 (D) THE CUSTODIAN OF A LIST INSPECTED UNDER SUBSECTION (C) OF THIS  
7 SECTION THAT HAS BEEN REDACTED UNDER § 12-111(H) OF THE REAL PROPERTY  
8 ARTICLE SHALL INFORM THE PERSON INSPECTING THE LIST:

9 (1) THAT THE LIST HAS BEEN REDACTED; AND

10 (2) THE NUMBER OF RECIPIENTS WHOSE INFORMATION HAS BEEN  
11 REDACTED FROM THE LIST.

### 12 Article – Real Property

13 12-111.

14 (a) Civil engineers, land surveyors, real estate appraisers, and their assistants  
15 acting on behalf of the State or of any of its instrumentalities or any body politic or corporate  
16 having the power of eminent domain after every real and bona fide effort to notify the owner  
17 or occupant in writing with respect to the proposed entry may:

18 (1) Enter on any private land to make surveys, run lines or levels, or obtain  
19 information relating to the acquisition or future public use of the property or for any  
20 governmental report, undertaking, or improvement;

21 (2) Set stakes, markers, monuments, or other suitable landmarks or  
22 reference points where necessary; and

23 (3) Enter on any private land and perform any function necessary to  
24 appraise the property.

25 (b) If any civil engineer, surveyor, real estate appraiser, or any of their assistants  
26 is refused permission to enter or remain on any private land for the purposes set out in  
27 subsection (a) of this section, the person, the State, its instrumentality, or the body politic  
28 or corporate on whose behalf the person is acting may apply to a law court of the county  
29 where the property, or any part of it, is located for an order directing that the person be  
30 permitted to enter on and remain on the land to the extent necessary to carry out the  
31 purposes authorized by this section.

32 (c) If a civil engineer, surveyor, real estate appraiser, or any of their assistants  
33 enters on any private land under the authority of this section or any court order passed

1 pursuant to it, and damages or destroys any land or personal property on it, the owner of  
2 the property has a cause of action for damages against the civil engineer, surveyor, real  
3 estate appraiser, or assistant and against the State, its instrumentality, or the body politic  
4 or corporate on whose behalf the person inflicting the damage was acting.

5 (d) Any landowner or other person who willfully obliterates, damages, or removes  
6 any stake, marker, monument, or other landmark set by any civil engineer, surveyor, or  
7 real estate appraiser or any of their assistants acting pursuant to this section, except if the  
8 stake, marker, monument, or other landmark interferes with the proper use of the property,  
9 is guilty of a misdemeanor and on conviction shall be fined not more than \$500.

10 (e) Any person who has knowledge of an order issued pursuant to subsection (b)  
11 and who obstructs any civil engineer, surveyor, real estate appraiser, or any of their  
12 assistants acting under the authority of the order may be punished as for contempt of court.

13 (f) In Anne Arundel County, Montgomery County, or Baltimore City, an agent or  
14 employee, or one or more assistants of the jurisdiction, after real and bona fide effort to  
15 notify the occupant or the owner, if the land is unoccupied or if the occupant is not the  
16 owner, may enter on any private land to make test borings and soil tests and obtain  
17 information related to such tests for the purpose of determining the possibility of public use  
18 of the property. If an agent, employee, or assistant is refused permission to enter or remain  
19 on any private land for the purposes set out in this subsection, Anne Arundel County,  
20 Montgomery County, or Baltimore City may apply to a law court of the jurisdiction where  
21 the property or any part of it is located for an order directing that its agent, employee, or  
22 assistant be permitted to enter and remain on the land to the extent necessary to carry out  
23 the purposes authorized by this subsection. The court may require that the applying  
24 jurisdiction post a bond in an amount sufficient to reimburse any person for damages  
25 reasonably estimated to be caused by test borings, soil tests, and related activities. If any  
26 person enters on any private land under the authority of this section or of any court order  
27 passed pursuant to it and damages or destroys any land or personal property on it, the  
28 owner of the property has a cause of action for damages against the jurisdiction that  
29 authorized the entrance. Any person who knows of an order issued under this subsection  
30 and who obstructs any agent, employee, or assistant acting under the authority of the order  
31 may be punished for contempt of court.

32 (g) The State Highway Administration, the Maryland Transit Administration,  
33 and the agents, employees, and consultants of the State Highway Administration and the  
34 Maryland Transit Administration may enter upon private property to conduct  
35 environmental and engineering studies, including soil boring and excavation, necessary to  
36 determine the suitability of the property for use by the administration entering the  
37 property. Entry onto private property for these purposes shall not be undertaken without  
38 prior consent of the property owner. If, after real and bona fide effort, the consent of the  
39 property owner cannot be secured, the administration seeking entry may apply to a law or  
40 equity court where the property or any part of it is located for an order directing that entry  
41 be permitted. "Bona fide effort" shall include either 30 days advance notice in writing by  
42 certified mail return receipt requested to the last known address of the property owner or  
43 posting notice on the property not less than 30 days in advance, and such other

1 requirements as the court may deem appropriate. The administration entering the  
2 property, when removing, displacing, boring, or excavating soil under the provisions of this  
3 section, shall replace the topsoil in a manner which will approach the level of compaction  
4 and contour as when removed. An administration entering private property under the  
5 authority of this subsection shall reimburse the landowner or lessee who is farming the  
6 property for agricultural products destroyed or damaged by the administration's agents,  
7 employees, or consultants and shall be responsible for any other damages that may be  
8 incurred as a result of such entry on private property.

9 **(H) (1) A NOTICE GIVEN UNDER THIS SECTION SHALL INCLUDE**  
10 **INSTRUCTIONS FOR THE RECIPIENT OF THE NOTICE TO OPT OUT OF INCLUSION OF**  
11 **THE RECIPIENT ON A LIST INSPECTED UNDER § 4-341(C) OF THE GENERAL**  
12 **PROVISIONS ARTICLE.**

13 **(2) A PERSON WHO RECEIVES AN ELECTION TO OPT OUT MADE UNDER**  
14 **PARAGRAPH (1) OF THIS SUBSECTION MAY NOT INCLUDE THE RECIPIENT WHO MADE**  
15 **THE ELECTION ON A LIST OF RECIPIENTS OF A NOTICE THAT IS INSPECTED UNDER §**  
16 **4-341(C) OF THE GENERAL PROVISIONS ARTICLE.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
18 measure, is necessary for the immediate preservation of the public health or safety, has  
19 been passed by a yea and nay vote supported by three-fifths of all the members elected to  
20 each of the two Houses of the General Assembly, and shall take effect from the date it is  
21 enacted.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.