

Chapter 348

(House Bill 163)

AN ACT concerning

~~Public Information Act – Required Denials – Sociological Information and Distribution Lists~~
Department of Transportation – Notice of Entry Onto Private Property

FOR the purpose of ~~prohibiting a definition of “sociological information” adopted in rules or regulations by an official custodian for certain purposes from including a certain notice or a list of the recipients of a certain notice; requiring a custodian to deny inspection under the Public Information Act of only a certain part of a certain distribution list, rather than the full distribution list; requiring a custodian to allow the inspection of a certain notice or a list of recipients of a certain notice under certain circumstances; requiring a custodian to provide certain information to a certain person inspecting a certain list under certain circumstances; requiring a certain notice to include certain instructions; prohibiting a person who receives a certain election from including certain information on a certain list inspected under this Act; defining “distribution list” to exclude a certain list of recipients; and generally relating to required denials under the Public Information Act. requiring the State Highway Administration or the Maryland Transit Administration to send a copy of a certain notice to members of the General Assembly under certain circumstances; and generally relating to notices of entry onto private property.~~

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

BY repealing and reenacting, ~~without~~ with amendments,
Article – Real Property
Section 12–111
Annotated Code of Maryland
(2015 Replacement Volume and 2021 Supplement)

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

~~Article – General Provisions~~

~~4–330.~~

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

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

~~4-341.~~

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

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

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

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

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

~~(2) sending informational notices or emergency alerts.~~

~~(c) A SUBJECT TO § 12-111(H) OF THE REAL PROPERTY ARTICLE, A CUSTODIAN SHALL ALLOW THE INSPECTION OF A NOTICE, OR A LIST OF THE RECIPIENTS OF A NOTICE, GIVEN UNDER § 12-111 OF THE REAL PROPERTY ARTICLE ONLY ON RECEIPT OF:~~

~~(1) A WRITTEN APPLICATION; AND~~

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

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

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

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

Article – Real Property

12-111.

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

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

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

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

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

(c) If a civil engineer, surveyor, real estate appraiser, or any of their assistants enters on any private land under the authority of this section or any court order passed pursuant to it, and damages or destroys any land or personal property on it, the owner of the property has a cause of action for damages against the civil engineer, surveyor, real estate appraiser, or assistant and against the State, its instrumentality, or the body politic or corporate on whose behalf the person inflicting the damage was acting.

(d) Any landowner or other person who willfully obliterates, damages, or removes any stake, marker, monument, or other landmark set by any civil engineer, surveyor, or real estate appraiser or any of their assistants acting pursuant to this section, except if the

stake, marker, monument, or other landmark interferes with the proper use of the property, is guilty of a misdemeanor and on conviction shall be fined not more than \$500.

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

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

(g) **(1)** The State Highway Administration, the Maryland Transit Administration, and the agents, employees, and consultants of the State Highway Administration and the Maryland Transit Administration may enter upon private property to conduct environmental and engineering studies, including soil boring and excavation, necessary to determine the suitability of the property for use by the administration entering the property. Entry onto private property for these purposes shall not be undertaken without prior consent of the property owner. If, after real and bona fide effort, the consent of the property owner cannot be secured, the administration seeking entry may apply to a law or equity court where the property or any part of it is located for an order directing that entry be permitted. "Bona fide effort" shall include either 30 days advance notice in writing by certified mail return receipt requested to the last known address of the property owner or posting notice on the property not less than 30 days in advance, and such other requirements as the court may deem appropriate. The administration entering the property, when removing, displacing, boring, or excavating soil under the provisions of this section, shall replace the topsoil in a manner which will approach the level of compaction and contour as when removed. An administration entering private property under the authority of this subsection shall reimburse the landowner or lessee who is farming the property for agricultural products destroyed or damaged by the administration's agents,

employees, or consultants and shall be responsible for any other damages that may be incurred as a result of such entry on private property.

(2) WHEN THE STATE HIGHWAY ADMINISTRATION, THE MARYLAND TRANSIT ADMINISTRATION, OR AN AGENT, AN EMPLOYEE, OR A CONSULTANT OF THE STATE HIGHWAY ADMINISTRATION OR THE MARYLAND TRANSIT ADMINISTRATION GIVES NOTICE TO A PROPERTY OWNER OR POSTS NOTICE TO PROPERTY IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE STATE HIGHWAY ADMINISTRATION OR THE MARYLAND TRANSIT ADMINISTRATION SHALL SEND A COPY OF THE NOTICE TO THE GENERAL ASSEMBLY MEMBERS WHO REPRESENT THE LEGISLATIVE DISTRICT IN WHICH THE PROPERTY IS LOCATED.

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

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

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

Approved by the Governor, May 16, 2022.