



## **Senate Bill 570 - Real Property – Notice of Easements, Covenants, Restrictions, and Conditions – Recordation**

### **Position: Support**

Maryland REALTORS® support SB 570 which permits holders of certain easements, covenants, restrictions, and conditions to record a notice of the property restriction in the land records.

Although title searches are conducted to verify or confirm an owner's rights in their property in order to market it, title searches do not necessarily review the entire history of the property. Few title searches go back longer than 60 years and many title searches only review title changes for the last two owners which could be less than 20 years.

As a result, if an encumbrance was placed on the property outside of the time frame of the title search, the buyer may not discover it. That can be a huge problem for a buyer that just cut down a quarter acre of protected trees and is now facing a five figure fine for violating a forest conservation easement. While title insurance is intended to cover an owner's expenses or damages from an undisclosed item, many policies will also provide a disclaimer stating the policy is "subject to all recorded covenants and easements."

Because of the concern over the lack of notice regarding environmental easements and restrictions, the General Assembly passed legislation last year (SB 25) to allow an easement holder to record a more recent notice in the land records so that it would be picked up by the title search. That notice references back to the original land record covenant or easement so that the title search would give buyer's proper notice. SB 570 is very similar to SB 25 from last year but does not limit the right to provide notice to environmental restrictions.

SB 570 will allow an adjacent property owner who has an easement of any kind to record a notice. The easement might involve the use of their neighbor's driveway, or a farmer's use of their property to use or transit, or a utility. SB 570 will give holders of encumbrances a new tool to protect their right and, more importantly, notify potential buyers of restrictions that may affect their use and enjoyment of the property.

For these reasons, Maryland REALTORS® urges a favorable report of SB 570.

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