

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 373 (Delegate Tarlau, *et al.*)
Environment and Transportation

Real Property - Candidates and Campaign Volunteers - Access to Private Residential Areas

This bill prohibits a person from preventing a candidate, or any campaign volunteer accompanying a candidate, from accessing “private residential areas” for the purpose of campaigning for elected office, registering voters, or distributing campaign materials. Even so, the bill authorizes a person to impose specified limits on candidates or campaign volunteers entering private residential areas, and it authorizes local jurisdictions to enact a penalty for violations.

Fiscal Summary

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

Local Effect: Enforcement of the bill can be handled with existing resources. Potential minimal increase in revenues for local jurisdictions that exercise the authority to impose civil penalties.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Private Residential Area

“Private residential area” is defined as (1) a private road on which two or more dwellings are located or (2) a building containing two or more dwelling units that is generally not

open to the public. This includes apartment buildings, assisted living facilities, common ownership communities, mobile home parks, nursing homes, and school dormitories.

Limitations on Access

A person may deny a candidate or campaign volunteer access to a private residential area if the residential area is not within the election district or precinct served by the office that the candidate is seeking. A person may also deny access to a particular room or dwelling within the private residential area and may require that a candidate or volunteer present identification or make an appointment to gain access. Access to visit residents in a nursing home or assisted living facility may be denied for valid health reasons. Reasonable limitations may be imposed on the time a candidate may visit, the number of volunteers that may accompany a candidate, and on the orderly distribution of campaign materials. Also, candidates or volunteers may be denied access or expelled from a private residential area for good cause.

Civil Penalty

Local jurisdictions are permitted to enact local laws that impose a civil penalty for a violation. The fine may not exceed \$1,000.

Current Law: Under the Maryland Condominium Act, a recorded covenant or restriction, a provision in a declaration, or a provision in the bylaws or rules of a condominium may not restrict or prohibit the display of a candidate's sign or a sign that advertises the support or defeat of any referendum. However, the display of signs in the common areas may be restricted, in accordance with provisions of federal, State, and local law. If a limitation to the time period during which signs may be displayed is not specified by a local law, the limitations may not be more restrictive than 30 days before the primary election, general election, or vote on the proposition and 7 days after the primary election, general election, or vote on the proposition. Similar requirements apply to homeowners associations through the Maryland Homeowners Association Act.

Under the Real Property Article, in Montgomery County only, the owner or governing board of a multifamily residential building, where access to the entrance of individual residential units is restricted by the owner or governing board of the entire building, must designate a public area within the building where, for 60 days immediately prior to each primary and general election, voter information material may be distributed or deposited. Voter information includes campaign literature and voting registration information. The designated public area must be readily accessible to the residents. Voter information material deposited in the designated area must remain available for residents of the building for a period of at least 10 days. If the local board of elections is notified in writing by a

person whose rights were violated, the local board of elections must notify the owner or governing board of the apparent violation, list these requirements, and request compliance.

In Takoma Park, it is unlawful for a person to deny a candidate or campaign volunteers accompanying a candidate access to a multiunit residential facility, with specified exceptions. However, such access is required only for the purposes of campaigning or registering voters and only during the 90-day period preceding the next primary, special, or general election; the hours of access are restricted to between 9:00 a.m. and 9:00 p.m. A candidate has to provide 24-hour notice to the residents. A candidate and any accompanying volunteers must be permitted to leave campaign materials in an orderly fashion. A resident may deny admittance of any person into his or her unit, require reasonable identification, and may deny permission for a valid health reason. A property owner or manager may limit visits to a reasonable number of persons and during reasonable hours, require a prior appointment, or deny admittance or expel a candidate and that candidate's volunteers for good cause. A candidate, resident, owner, or manager of a multiunit residential facility aggrieved by a violation may file a civil action seeking temporary and permanent injunctive relief, as well as any other available legal or equitable remedy.

Background: Similar prohibitions exist in Minnesota. There, it is unlawful for a person, either directly or indirectly, to deny access to an apartment house, dormitory, nursing home, manufactured home park, other multiple unit facility used as a residence, or an area in which two or more single-family dwellings are located on private roadways to a candidate who has (1) organized a campaign committee under applicable federal or state law; (2) filed a specified financial report; or (3) filed an affidavit of candidacy for elected office. A candidate granted access must be allowed to be accompanied by campaign volunteers.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Charles, Frederick, Montgomery, and Somerset counties; Office of the Attorney General; Maryland State Board of Elections; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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Analysis by: Nathan W. McCurdy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510