

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 279

(Senator Hettleman, *et al.*)

Judicial Proceedings

Judiciary

Access to Counsel in Evictions Special Fund - Alteration

This bill alters the funding sources of the Access to Counsel in Evictions Special Fund to include funds received by the Consumer Protection Division (CPD) in the Office of the Attorney General (OAG) from any final settlement, agreement, or judgment related to an investigation or enforcement of the Maryland Consumer Protection Act (MCPA) for an unfair, abusive, or deceptive trade practice regarding residential rental property. The bill excludes from the fund (1) any restitution and (2) OAG's costs to bring the action. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: The bill is not anticipated to significantly affect *overall* State finances, as discussed below.

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

Small Business Effect: None.

Analysis

Current Law:

Access to Counsel in Evictions Special Fund

Chapter 746 of 2021 established the Access to Counsel in Evictions Special Fund, a special, nonlapsing fund that is administered by the Maryland Legal Services Corporation (MLSC). The fund is authorized to be used for specified purposes related to the Access to Counsel

in Evictions Program (also administered by MLSC), which was created to organize and direct services and resources in order to provide individuals meeting certain criteria with access to legal representation in specified judicial or administrative proceedings to evict or terminate a tenancy or housing subsidy.

Maryland Consumer Protection Act

An unfair, abusive, or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind that has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair, abusive, or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

CPD is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

State Fiscal Effect: Because the bill does not directly affect the total amount of funds available to the State under any MCPA final settlement, agreement, or judgment, it is not anticipated to materially affect *overall* State finances. In the absence of the bill, this analysis assumes the monies would be received as special funds within CPD and used to fund OAG activities. Under the bill, the monies are instead directed to another special fund, administered by MLSC. Accordingly, special fund revenues for OAG decrease, potentially significantly, depending on the amount of any final settlement, agreement, or judgment; special fund revenues for MLSC correspondingly increase. Expenditures are not directly affected.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 571 (Delegate Rosenberg) - Judiciary.

Information Source(s): Comptroller's Office; Judiciary (Administrative Office of the Courts); Office of Administrative Hearings; Department of Legislative Services

Fiscal Note History: First Reader - February 8, 2022
fnu2/jkb Third Reader - March 28, 2022
Revised - Amendment(s) - March 28, 2022
Enrolled - April 9, 2022
Revised - Amendment(s) - April 9, 2022

Analysis by: Donavan A. Ham

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