

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 388
Judiciary

(Delegate Smigiel, *et al.*)

Civil Actions - Dismissal or Termination - Limitations

This bill authorizes a party to commence a new civil action if the party's previous civil action was timely filed and was dismissed or terminated in a manner other than by a final judgment on the merits. Such an action must be commenced within the applicable period of limitations, or within one year from the date of dismissal or termination of the original action.

Fiscal Summary

State Effect: Potential increase in expenditures by the Judiciary. The bill would allow some civil actions to be refiled in situations where they would previously have been barred by the statute of limitations. This would increase the workload of the courts, and potentially necessitate the creation of new judgeships and the hiring of new staff. Potential increase in revenue from District Court filing fees.

Local Effect: Potential increase on the workload of the circuit court. This would increase county revenues to the extent of any increase in circuit court filing fees. It would also increase county expenditures for staff, equipment, and operating expenses needed to accommodate any increased workload.

Small Business Effect: Potential increase in the number of cases which small businesses would have to litigate.

Analysis

Current Law: The statute of limitations for most civil actions in Maryland is 3 years from the date of accrual (*e.g.* the date of the injury in tort claims), with exceptions for

certain types of actions such as actions on promissory notes or contracts under seal (12 years), or actions for assault, libel, or slander 1 year).

While dismissal of an action without prejudice is not a final disposition of the case on the merits and does not bar the filing of another action based on the same cause of action, the statute of limitations may be raised as a defense to the second action if it was filed after the statutory period has run.

The “final judgment on the merits” clause in the bill mirrors the Maryland requirements for *res judicata*, or claim preclusion. This common law doctrine is meant to bar relitigation of claims that have already been finally decided. The requirements for *res judicata* in Maryland are: (1) there must be a final judgment on the merits; (2) the claim(s) must be substantially the same as the claim(s) in the prior case; and (3) the parties must be the same or in privity with the parties in the previous case. *Mears v. Town of Oxford*, 762 F.2d 368, 371-72 (4th Cir. 1985).

Additional Information

Prior Introductions: None.

Cross File: SB 309 (Senator Stone) – Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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nas/jr

Analysis by: Nicholas M. Goedert

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