

HOUSE BILL 844

D3

9lr0818
CF 9lr2818

By: **Delegates Ali and Anderson**

Introduced and read first time: February 11, 2009

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Judgment Advances Regulation Act**

3 FOR the purpose of requiring certain judicial oversight of civil judgment advances;
4 defining certain terms; requiring the court to issue an order on an application
5 for a civil judgment advance within a certain time period; and generally relating
6 to certain advances in civil cases.

7 BY adding to

8 Article – Courts and Judicial Proceedings

9 Section 5–1201 through 5–1207 to be under the new subtitle “Subtitle 12. Civil
10 Judgment Advances”

11 Annotated Code of Maryland

12 (2006 Replacement Volume and 2008 Supplement)

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

15 **Article – Courts and Judicial Proceedings**

16 **SUBTITLE 12. CIVIL JUDGMENT ADVANCES.**

17 **5–1201.**

18 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

20 (B) (1) “CIVIL JUDGMENT ADVANCE” MEANS AN ARRANGEMENT IN
21 WHICH, BEFORE THE RESOLUTION OF A CIVIL CASE OR CLAIM, A PERSON PAYS
22 TO A PLAINTIFF OR CLAIMANT SOMETHING OF VALUE TO TRANSFER TO THAT
23 PERSON THE RIGHT TO COLLECT ANY CIVIL JUDGMENT, SETTLEMENT PAYMENT,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 OR OTHER MONETARY RECOVERY THAT THE PLAINTIFF OR CLAIMANT MAY
2 RECEIVE AS A RESULT OF THE CASE OR CLAIM, INCLUDING A SALE,
3 ASSIGNMENT, PLEDGE, HYPOTHECATION, OR OTHER FORM OF ALIENATION OR
4 ENCUMBRANCE MADE BY THE PLAINTIFF OR CLAIMANT FOR CONSIDERATION.

5 (2) "CIVIL JUDGMENT ADVANCE" DOES NOT INCLUDE:

6 (I) ANY JUDGMENT ADVANCE GRANTED BY A DEFENDANT
7 IN A CIVIL CASE OR CLAIM, OR BY THE DEFENDANT'S INSURER, PAID TOWARD
8 UNCONTESTED LIABILITY; OR

9 (II) MEDICAL OR OTHER SERVICES FURNISHED BY A
10 HOSPITAL TO A PATIENT.

11 (C) "CIVIL JUDGMENT ADVANCE AGREEMENT" MEANS THE AGREEMENT
12 PROVIDING FOR A CIVIL JUDGMENT ADVANCE.

13 (D) "CLAIMANT" MEANS A PERSON WHO CLAIMS DAMAGES BUT WHO
14 HAS NOT FILED A CIVIL CASE.

15 (E) "INDEPENDENT PROFESSIONAL ADVICE" MEANS ADVICE OF AN
16 ATTORNEY, CERTIFIED PUBLIC ACCOUNTANT, ACTUARY, OR OTHER LICENSED
17 PROFESSIONAL ADVISER:

18 (1) WHO IS ENGAGED BY A PAYEE TO RENDER ADVICE
19 CONCERNING THE LEGAL, TAX, AND FINANCIAL IMPLICATIONS OF A CIVIL
20 JUDGMENT ADVANCE;

21 (2) WHO IS NOT AFFILIATED WITH OR COMPENSATED BY THE
22 PERSON PAYING THE CIVIL JUDGMENT ADVANCE; AND

23 (3) WHOSE COMPENSATION IS NOT AFFECTED BY WHETHER A
24 CIVIL JUDGMENT ADVANCE OCCURS.

25 (F) "PAYEE" MEANS A PLAINTIFF OR CLAIMANT WHO RECEIVES OR IS
26 ENTITLED TO RECEIVE A CIVIL JUDGMENT ADVANCE UNDER A CIVIL JUDGMENT
27 ADVANCE AGREEMENT.

28 5-1202.

29 (A) A DIRECT OR INDIRECT CIVIL JUDGMENT ADVANCE IS EFFECTIVE
30 AS PROVIDED IN THIS SUBTITLE.

1 **(B) A PERSON MAY NOT MAKE A CIVIL JUDGMENT ADVANCE IN WHICH**
2 **THE PERSON COULD RECEIVE A RETURN ON THE ADVANCE OF MORE THAN 10%**
3 **UNLESS THE ADVANCE IS AUTHORIZED IN AN ORDER OF A COURT BASED ON A**
4 **FINDING THAT:**

5 **(1) THE CIVIL JUDGMENT ADVANCE IS NECESSARY, REASONABLE,**
6 **AND APPROPRIATE;**

7 **(2) THE CIVIL JUDGMENT ADVANCE IS NOT EXPECTED TO**
8 **SUBJECT THE PAYEE OR THE DEPENDENTS OF THE PAYEE TO UNDUE OR**
9 **UNREASONABLE FINANCIAL HARDSHIP IN THE FUTURE; AND**

10 **(3) THE PAYEE RECEIVED INDEPENDENT PROFESSIONAL ADVICE**
11 **REGARDING THE LEGAL, TAX, AND FINANCIAL IMPLICATIONS OF THE CIVIL**
12 **JUDGMENT ADVANCE.**

13 **5-1203.**

14 **(A) THE CIRCUIT COURT THAT HAS JURISDICTION OVER THE PAYEE OR**
15 **THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE ORIGINAL CLAIM**
16 **OCCURRED OR THE CAUSE OF ACTION AROSE SHALL HAVE JURISDICTION OVER**
17 **AN APPLICATION FOR A CIVIL JUDGMENT ADVANCE UNDER § 5-1202 OF THIS**
18 **SUBTITLE.**

19 **(B) AN APPLICANT FOR A CIVIL JUDGMENT ADVANCE SHALL FILE WITH**
20 **THE COURT AND SERVE ON THE PAYEE, AT LEAST 5 DAYS BEFORE THE HEARING**
21 **ON THE APPLICATION, A NOTICE OF THE PROPOSED ADVANCE AND AN**
22 **APPLICATION FOR ITS AUTHORIZATION, INCLUDING:**

23 **(1) A COPY OF THE APPLICATION;**

24 **(2) A COPY OF THE CIVIL JUDGMENT ADVANCE AGREEMENT; AND**

25 **(3) NOTIFICATION:**

26 **(I) OF THE TIME AND PLACE OF THE HEARING; AND**

27 **(II) THAT THE PAYEE IS ENTITLED TO SUPPORT, OPPOSE,**
28 **OR OTHERWISE RESPOND TO THE APPLICATION, IN PERSON OR BY COUNSEL, BY**
29 **SUBMITTING WRITTEN COMMENTS TO THE COURT OR BY PARTICIPATING IN THE**
30 **HEARING.**

31 **5-1204.**

1 **A COURT SHALL ISSUE AN ORDER ON AN APPLICATION FOR A CIVIL**
2 **JUDGMENT ADVANCE WITHIN 10 DAYS AFTER THE APPLICATION IS FILED.**

3 **5-1205.**

4 **IF A CIVIL JUDGMENT ADVANCE HAS BEEN AUTHORIZED UNDER THIS**
5 **SUBTITLE, THE DEFENDANT AND THE DEFENDANT'S INSURER ARE NOT LIABLE**
6 **TO THE PAYEE FOR ANY PAYMENT MADE IN ACCORDANCE WITH THE**
7 **AUTHORIZATION.**

8 **5-1206.**

9 **(A) THE PROVISIONS OF THIS SUBTITLE MAY NOT BE WAIVED.**

10 **(B) NOTHING CONTAINED IN THIS SUBTITLE MAY BE CONSTRUED TO**
11 **AUTHORIZE A CIVIL JUDGMENT ADVANCE IN CONTRAVENTION OF APPLICABLE**
12 **LAW OR TO GIVE EFFECT TO A CIVIL JUDGMENT ADVANCE THAT IS INVALID**
13 **UNDER APPLICABLE LAW.**

14 **5-1207.**

15 **THIS SUBTITLE MAY NOT BE CONSTRUED TO APPLY TO ANY ADVANCE OF**
16 **COSTS MADE BY AN ATTORNEY TO A CLIENT OF THE ATTORNEY IN A CASE IF THE**
17 **ADVANCE IS MADE IN ACCORDANCE WITH THE MARYLAND RULES OF**
18 **PROFESSIONAL CONDUCT.**

19 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
20 **October 1, 2009.**