

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 971

(Delegate Waldstreicher, *et al.*)

Environment and Transportation

Judicial Proceedings

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Statute of Limitations - Residential Leases Signed Under Seal

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This bill clarifies that the time period allowed for the filing of a civil action for the specialty of a residential lease that has been signed under seal is three years. The bill declares that it is the intent of the General Assembly to clarify that an action for rent arrears under any kind of residential lease must be filed in compliance with § 5-101 of the Courts and Judicial Proceedings Article.

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Fiscal Summary

**State Effect:** The bill is procedural in nature and does not materially affect State finances.

**Local Effect:** The bill is procedural in nature and does not materially affect local finances.

**Small Business Effect:** Minimal. The bill clarifies State law and is not expected to materially affect small businesses, as discussed below.

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Analysis

**Current Law:** Pursuant to § 5-101 of the Courts and Judicial Proceedings Article, a civil action must be filed within three years from the date it accrues, unless otherwise provided by State law. State law provides a longer statute of limitations for filing civil actions for specialties, including a promissory note or other instrument under seal; a bond, except a public officer's bond; a judgment; a recognizance; and a contract under seal. With the exception of a specialty taken for the use of the State or a deed of trust, mortgage, or promissory note that has been signed under seal and secures or is secured by owner-occupied residential property, a civil action for a specialty must be filed within

12 years after the cause of action accrues or within 12 years from the date of the death of the last to die of the principal debtor or creditor, whichever is sooner.

*Black's Law Dictionary* defines a "specialty" as (1) "a contract under seal" or (2) "a writing sealed and delivered, containing some agreement," including one "given as a security for the payment of a debt, in which such debt is particularly specified."

In *Tipton v. Partner's Management Co.*, 364 Md. 419 (2001), the Maryland Court of Appeals held that even though a residential lease agreement had the word "seal" printed on it, the agreement was subject to the three-year statute of limitations for simple contracts under § 5-101 of the Courts and Judicial Proceedings Article, not the 12-year statute of limitations for specialty instruments under § 5-102 of the Courts and Judicial Proceedings. However, the court also noted that the 12-year statute of limitations under § 5-102 would apply if the parties agreed to that statute of limitations in the body of the lease.

**Small Business Effect:** Although the bill clarifies existing statute, it is unclear how the clarification under the bill affects situations in which a lease agreement contains a clause subjecting the lease to a 12-year statute of limitations, as mentioned in the *Tipton* opinion. It is also unclear to what extent lease agreements even contain such clauses and to what extent courts honor such clauses. However, to the extent that the bill prohibits the enforcement of such a clause, then the bill may have a potential meaningful impact on small businesses that are unable to sue for arrearages of rent after 3 years have passed since the accrual of the cause of action. However, this analysis assumes that such occurrences are few and far between and that the bill, as a whole, does not have a material impact on small businesses.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), *Black's Law Dictionary*, Department of Legislative Services

**Fiscal Note History:**  
min/kdm

First Reader - February 18, 2016  
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