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SB 213/96 - JPR

1997 Regular Session
7r0357

By: Senators Kelley, Stone, Green, Forehand, Middlebrooks, Van Hollen, Colburn, and Hughes

Introduced and read first time: January 15, 1997
Assigned to: Judicial Proceedings

Committee Report: Favorable
Senate action: Adopted with floor amendments
Read second time: February 26, 1997

CHAPTER ____

1 AN ACT concerning

2 **Lawyers - Clients' Security Trust Fund - Reimbursement of Fund**

3 FOR the purpose of ~~requiring certain persons to reimburse~~ providing that the trustees of
4 the Clients' Security Trust Fund of the Bar of Maryland have a subrogation claim
5 against certain persons for certain amounts after payment of a claim by the Fund;
6 establishing that ~~certain~~ persons against whom the trustees obtain a judgment for
7 reimbursement of a claim paid by the Fund are jointly and severally liable ~~for~~
8 ~~certain claims paid by the Fund~~; authorizing the trustees of the Fund to bring a
9 certain action themselves or by an agent or assignee against certain persons;
10 providing that the trustees are entitled to a judgment under certain circumstances;
11 providing that the Fund is a creditor of certain persons for the purpose of excepting
12 to certain bankruptcy discharges; and generally relating to reimbursement of the
13 Clients' Security Trust Fund of certain claims paid by the Fund.

14 BY adding to

15 Article - Business Occupations and Professions
16 Section 10-312.1
17 Annotated Code of Maryland
18 (1995 Replacement Volume and 1996 Supplement)

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

2

1 **Article - Business Occupations and Professions**

2 10-312.1.

3 (A) AFTER PAYMENT OF A CLAIM BY THE FUND, ~~A PERSON WHOM THE~~
4 ~~TRUSTEES FIND SHALL HAVE A SUBROGATION CLAIM AGAINST A PERSON~~
5 RESPONSIBLE FOR THE ACT OR OMISSION THAT GAVE RISE TO THE CLAIM ~~SHALL~~
6 ~~REIMBURSE THE FUND IN FULL PAID BY THE FUND~~ FOR:

7 (1) THE AMOUNT PAID BY THE FUND; AND

8 (2) INTEREST ON THE AMOUNT PAID BY THE FUND AT AN ANNUAL
9 RATE OF NOT GREATER THAN 10%, AS SET BY THE TRUSTEES.

10 ~~(B) EACH PERSON WHOM THE TRUSTEES FIND RESPONSIBLE FOR THE ACT~~
11 ~~OR OMISSION THAT GAVE RISE TO A CLAIM IS JOINTLY AND SEVERALLY LIABLE FOR~~
12 ~~THE CLAIM.~~

13 ~~(B)~~ (B) IF A PERSON DOES NOT REIMBURSE THE FUND FOR THE AMOUNT
14 OF THE FUND'S SUBROGATION CLAIM AS PROVIDED IN SUBSECTION (A) OF THIS
15 SECTION, THE TRUSTEES MAY BRING AN ACTION AGAINST THE PERSON FOR THE
16 AMOUNT THAT HAS NOT BEEN REIMBURSED. THE TRUSTEES MAY THEMSELVES SUE
17 AS PLAINTIFFS OR MAY AUTHORIZE AN AGENT OR ASSIGNEE TO ACT FOR THEM.

18 ~~(C)~~ (C) THE TRUSTEES SHALL BE ENTITLED TO A JUDGMENT, WHICH SHALL
19 BE COLLECTIBLE AS OTHER JUDGMENTS, FOR THE AMOUNT THAT THE PERSON HAS
20 NOT REIMBURSED THE FUND IF THE TRUSTEES PROVE THAT:

21 (1) PAYMENT WAS MADE BY THE FUND BASED ON AN ACT OR OMISSION
22 FOR WHICH THE PERSON WAS RESPONSIBLE;

23 (2) A PERIOD OF AT LEAST 30 DAYS HAS PASSED SINCE PAYMENT WAS
24 MADE BY THE FUND; AND

25 (3) THE PERSON HAS NOT REIMBURSED THE FUND FOR THE AMOUNT
26 FOR WHICH THE JUDGMENT IS SOUGHT.

27 (D) EACH PERSON AGAINST WHOM THE TRUSTEES OBTAIN A JUDGMENT FOR
28 REIMBURSEMENT OF A CLAIM PAID BY THE FUND SHALL BE JOINTLY AND
29 SEVERALLY LIABLE.

30 (E) FOR THE PURPOSE OF EXCEPTING TO A DISCHARGE OF A PERSON UNDER
31 11 U.S.C. § 523, THE FUND IS A CREDITOR OF THE PERSON FOR THE AMOUNT THAT
32 WAS PAID BY THE FUND BUT THAT HAS NOT BEEN REIMBURSED BY THE PERSON.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 1997.

