

Department of Legislative Services  
Maryland General Assembly

FISCAL NOTE

Revised

House Bill 972 (Chairman, Judiciary Committee. *et al.*)  
(Office of the Attorney General)

Judiciary

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Maryland Medical Assistance Program - State Claims

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This bill provides that the Department of Health and Mental Hygiene's right of subrogation relating to payments made on behalf of Medicaid recipients is not exclusive and is independent of and in addition to any right, remedy, or cause of action available to the State, the Department of Health and Mental Hygiene, any other State agency, a Medicaid recipient, or any other individual.

The bill applies to any case pending or filed on or after the bill's July 1, 1998 effective date and may not be applied to any case for which a final judgment has been rendered and for which appeals, if any, have been exhausted before the bill's effective date.

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Fiscal Summary

**State Effect:** Potential significant increase in general fund revenues. No direct effect on expenditures.

**Local Effect:** None.

**Small Business Effect:** None.

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## Fiscal Analysis

**State Revenues:** The Office of the Attorney General advises that the bill would significantly increase the State's chances of prevailing in its pending lawsuit against tobacco product manufacturers, State of Maryland v. Philip Morris, et al. A Baltimore City Circuit Court judge recently dismissed 9 of the case's 13 counts, reasoning that the Medicaid subrogation statute is the exclusive remedy when the State seeks to recover Medicaid funds paid. The State is not proceeding under the Medicaid subrogation statute in the lawsuit. This bill would establish that subrogation is not the exclusive remedy, which would allow the State to strengthen the lawsuit by rejoining the nine dismissed counts.

The maximum potential recovery from the lawsuit is \$3 billion. The nine dismissed counts sought an additional \$10 billion in punitive damages. Because it is uncertain whether the State will win the case, and if so, how much money would be recovered, the precise impact of this bill on State finances cannot be reliably estimated at this time. The bill is not expected to have a fiscal impact beyond the context of the tobacco litigation.

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**Information Source(s):** Office of the Attorney General, Department of Health and Mental Hygiene, Office of the Comptroller of the Treasury, Department of Legislative Services

**Fiscal Note History:** First Reader - March 9, 1998  
Inc Revised - House Third Reader - April 1, 1998

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