

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 1440 (Delegates Schisler and Arnick)

Economic Matters

Corporations - Investment Companies - Directors

This bill provides that a director of a corporation that is an investment company shall be deemed independent and disinterested when making any determination or taking any action as a director if that director is not an interested person as defined by the Investment Company Act of 1940. This is to be construed retroactively and applied and interpreted to affect only those cases filed on or after January 30, 1998.

Fiscal Summary

State Effect: The bill would not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: See below.

Background: Section 2 of Chapter 397 of 1998 (SB 468) provided that a director of a corporation that is an investment company shall be deemed independent and disinterested when making any determination or taking any action as a director if that director is not an interested person as defined by the Investment Company Act of 1940. Section 3 of that chapter required that Section 2 be construed retroactively and applied and interpreted to affect only those cases filed on or after January 30, 1998. These provisions were codified as Section 2-405.3 of the Corporations and Associations Article.

In *Migdal v. State*, the Court of Appeals held that Sections 2 and 3 of Chapter 397, now

codified as § 2-405.3 of the Corporations and Associations Article, are “unconstitutional, null and void” in violation of Article III, § 29 of the Maryland Constitution, commonly known as the “one-subject rule.”

The Court of Appeals noted that the General Assembly has the power to address the issue again, if it chooses to do so and its rules permit.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Legislative Services

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mld/jr

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