

Department of Legislative Services  
Maryland General Assembly  
2003 Session

**FISCAL AND POLICY NOTE**

Senate Bill 86 (Senator Astle)  
Judicial Proceedings

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**Maryland Condominium Act - Enforcement Action by Unit Owner - Attorney's Fees**

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This bill authorizes a court to award reasonable attorney's fees to the prevailing plaintiff in an action brought by a unit owner against the council of unit owners, board of directors, or developer to enforce the provisions of the Maryland Condominium Act, or the declaration, bylaws, or rules of the condominium.

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**Fiscal Summary**

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

**Local Effect:** None.

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law:** If a unit owner fails to comply with the provisions of the Maryland Condominium Act, the declaration or bylaws of the condominium, or a decision rendered under the statutory dispute settlement mechanism applicable to a condominium, the unit owner may be sued for damages caused by the failure, for injunctive relief, or for both by the council of unit owners or by any other unit owner. The prevailing party in such a proceeding is entitled to an award of attorney's fees as determined by the court. Unless a condominium's declaration or bylaws state otherwise, the statutory dispute mechanism applies.

**Background:** Generally, attorney's fees are not recoverable as damages in a civil action absent a requirement in statute, in a contractual agreement, or under the Maryland Rules. Under the Maryland Rules, a court must find that the conduct of a party in maintaining or defending a proceeding was in bad faith or without substantial justification before the court may require the offending party, the attorney advising the conduct, or both to pay the adverse party's costs, including reasonable attorney's fees.

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### **Additional Information**

**Prior Introductions:** An identical bill, SB 386, was introduced in the 2002 session and received an unfavorable report from the Senate Judicial Proceedings Committee.

**Cross File:** None.

**Information Source(s):** Secretary of State, Department of Legislative Services

**Fiscal Note History:** First Reader - February 3, 2003  
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