

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 608
Judiciary

(Delegate Kelly, *et al.*)

Third Party Claims Against Design Professionals

This bill limits third party claims against design professionals to those situations where the professional specifically assumes, by mutually-negotiated contract, responsibility for safety practices on a construction project; or where the professional actually exercises control over the portion of a premises on which a personal injury or death occurs. A person who is not a party to the contract may not seek damages for personal injury or death against a design professional who contracts to perform professional services on the project, unless the claim is based on negligent design plans and specifications. The term “design professional” includes a professional engineer, construction inspector, architect, land surveyor, interior designer, professional design firm, or landscape architect, who is licensed or authorized by law to render design services.

The bill applies prospectively only and may not be applied to any cause of action arising before the bill’s October 1, 2003 effective date.

Fiscal Summary

State Effect: Minimal. This bill is not expected to have a significant impact on State finances.

Local Effect: Minimal – see above.

Small Business Effect: Limiting third party liability claims against design professionals could lead to lower legal and insurance costs for these professionals. It could also reduce revenue to small firms that file these lawsuits.

Analysis

Current Law: In *Krieger v. J. E. Greiner Co.*, 282 Md. 50 (1977), the Maryland Court of Appeals held that design professionals, in that case an engineer responsible for the overall design and construction of the Francis Scott Key Bridge and an engineering firm that oversaw the inspection of workmanship and materials on the bridge, were not liable to a worker injured on the job, because: (1) the engineers' contracts did not impose a duty on them to supervise construction methods or safety in the bridge's actual construction; and (2) they had not assumed that responsibility.

Background: Design professionals are facing an increasing number of third party liability suits filed by injured construction workers whose injuries are not attributable to the plans, designs, or activities of the design professional, but are rather the responsibility of the contractor or subcontractor who hired the injured workers. Design professionals incur substantial costs in litigating these lawsuits.

Several states, including Alaska, California, Connecticut, Hawaii, Maine, New Jersey, North Dakota, Oregon, South Dakota, and Washington, have either adopted comparable statutes or accomplished the same results in their workers' compensation laws.

State Fiscal Impact: This bill could adversely affect State finances by limiting the State's right to substitute parties or file cross claims against additional parties in these cases. However, it is anticipated that this impact will be minimal, both because such litigation is typically multiparty, and because a design professional can still be sued for negligent preparation of design plans and specifications.

Additional Information

Prior Introductions: None.

Cross File: SB 510 (Senators Haines and Jacobs) – Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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Analysis by: Rita A. Reimer

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

