

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 70

(Senator Greenip)

Judicial Proceedings

Judiciary

District Court - Small Claim Action - Member or Employee of Limited Liability Company

This bill adds a member of a limited liability company (LLC), or an employee designated by a member, to the list of individuals who may appear in court on behalf of a business entity without having been admitted to practice law in Maryland in a small claims action in District Court.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Current Law: Current law generally prohibits an individual from representing clients in court in Maryland without being admitted to the bar. The following individuals are exempt from the bar admission requirement while appearing on behalf of a business entity in a small claims action, as long as the action is not based on an assignment to the entity of another's claim:

- an officer of a corporation or an employee designated by an officer;

- a partner in a business operated as a partnership or an employee designated by a partner; or
- an employee designated by the owner of a business operated as a sole proprietorship.

A designated employee appearing on behalf of the business entity:

- may not be assigned on a full-time basis to appear on the entity's behalf;
- must provide the court with a power of attorney sworn to by the employer that certifies that the employee is an authorized agent of the business entity and may bind the entity on matters pending before the court; and
- may not be an individual who is disbarred or suspended as a lawyer in any state.

The business entity may not contract with, hire, or employ another business entity to provide appearance services under these provisions.

A small claims action is a civil action for money in which the amount claimed does not exceed \$5,000 exclusive of interest, costs, and attorney's fees. These actions are filed in District Court.

Background: LLCs are hybrids of corporations and partnerships that combine benefits of each. They shield owners from personal liability, as do corporations. However, like partnerships, profits pass directly to the owners without taxation of the entity itself.

The first LLC was established in the United States in 1977. All 50 states now recognize some form of LLC and allow their formation.

Small Business Effect: The bill may make it easier for LLC's that are small businesses to litigate (both prosecute and defend) small claims actions, resulting in potential litigation and liability savings as well as potentially greater collections for fees owed.

Additional Information

Prior Introductions: SB 4 of 2003, as introduced, included similar provisions and also provisions addressing small claims jurisdiction. The LLC provisions were deleted by the

House of Delegates prior to the bill's enactment as Chapter 54 of 2003. HB 855 of 2001 received an unfavorable report from the House Judiciary Committee.

Cross File: None.

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

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ncs/jr

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