

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1166

(Delegate Lee, *et al.*)

Judiciary

Judicial Proceedings

Bar Admission Requirements - Exemption - Representation Before Boards or
Commissions on Common Ownership Communities

This bill exempts from the requirement of admission to the Bar of Maryland a director or an officer of a common ownership community while representing the common ownership community in a dispute, hearing, or other matter before a board or commission established to oversee a homeowners association, residential condominium, or cooperative housing corporation.

Fiscal Summary

State Effect: None. Exempting persons from the requirement of admission to the Bar of Maryland would not affect governmental finances.

Local Effect: None – see above.

Small Business Effect: Minimal. Potential reduction in expenditures for small businesses that no longer need to retain counsel for disputes before a board or commission established to oversee a homeowners association, residential condominium, or cooperative housing corporation.

Analysis

Current Law: Current law generally prohibits an individual from representing clients in court in Maryland without being admitted to the Bar of Maryland. The following individuals are exempt from the bar admission requirement:

- a person representing a landlord in a summary ejectment proceeding;

- a law student practicing in a clinical program or an employee of a nonprofit organization representing a tenant in a summary ejectment proceeding;
- an insurance company while defending an insured through staff counsel;
- 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 appearing on behalf of a business entity in a small claims action; or
- an individual authorized by a county employee to represent the employee during a county's grievance procedure.

Background: Community associations are governed by local, State, and federal law. State statutes regulate association governance and procedures, including the Maryland Condominium Act, the Maryland Homeowners' Association Act, and the Maryland Cooperative Housing Corporation Act. Generally, disputes that arise between owners and the community associations are governed by the procedures of the bylaws of the association and the courts.

Chapter 44 of 2003 authorized Charles County to establish a Homeowners' Association Commission with the authority to hear and resolve disputes between a homeowners' association and a homeowner regarding the enforcement of the recorded covenants or restrictions of the homeowners' association.

The Montgomery County Commission on Common Ownership Communities, established in 1995, provides similar services for homeowners and homeowners' associations in Montgomery County. Disputes before the Montgomery County commission typically involve architecture and landscaping, trash removal, and similar violations of rules of a community association.

Until recently, a property manager business under contract with a community association would typically have one of its employees appear on any matter before the commission. However, as a result of an opinion issued in March 2003 by the County Attorney for Montgomery County, community associations may not be represented by an individual who is not admitted to the Bar. As a result, a community association must retain counsel at considerable expense in relatively minor disputes.

Additional Information

Prior Introductions: HB 1571 of 2005, a similar bill, was re-referred to the House Judiciary Committee, but was later withdrawn.

Cross File: None.

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

Fiscal Note History: First Reader - February 24, 2006
ncs/jr Revised - House Third Reader - March 22, 2006
Revised - Enrolled Bill - April 19, 2006

Analysis by: Amy A. Devadas

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