

Department of Legislative Services  
Maryland General Assembly  
2006 Session

FISCAL AND POLICY NOTE

House Bill 999  
Judiciary

(Delegate Simmons)

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Business Occupations and Professions - Lawyers - Retainer Agreements

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This bill prohibits a lawyer from requiring a person to sign a retainer agreement that requires the person to reimburse the lawyer for attorney's fees in the event of a future dispute between the person and the lawyer. The bill contains an exception to the prohibition if the person provides the lawyer with a written statement from an independent lawyer attesting to the fact that the person was advised by the independent lawyer of the meaning and ramifications of the reimbursement provision of the retainer agreement. A person who violates these provisions is guilty of a misdemeanor and subject to maximum penalties of a \$1,000 fine and/or one year imprisonment.

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Fiscal Summary

**State Effect:** Any increase in the number of Attorney Grievance Commission cases, or actions in District Court by clients against lawyers for invalid retainer agreements, could be handled with the existing resources of the Judiciary.

**Local Effect:** Any increase in circuit court actions by clients against lawyers for invalid retainer agreements could be handled with the existing resources of the circuit courts.

**Small Business Effect:** Potential meaningful. Attorneys whose practices qualify as small businesses and who include this type of provision in their retainer agreements may face litigation over invalid retainer agreements.

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Analysis

**Current Law:** Rule 1.5 prohibits lawyers from making an agreement for, charging, or collecting unreasonable fees or an unreasonable amount for expenses. Factors to be

considered in determining the reasonableness of the fee include the time and labor required, the time limitations imposed by the client or by the circumstances, and the difficulty of the questions involved. A lawyer is required to communicate, preferably in writing, to the client the scope of representation and the basis or rate of the fee and expenses for which the client will be charged. The communication must occur before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. A lawyer is also required to communicate to the client any changes in the basis or rate of the fee or expenses.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 24, 2006  
mam/jr

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Analysis by: Amy A. Devadas

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