

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1420

(Delegate Taylor, *et al.*)

Environmental Matters

Condominiums - Liens - Submission of Disputes

This bill permits a condominium unit owner to dispute the validity or amount of assessments, interest, late charges, costs of collection, or reasonable attorney's fees assessed against the unit owner by submitting the dispute to the Consumer Protection Division of the Office of the Attorney General. The bill prohibits the imposition of a lien on a condominium unit while such a dispute is pending.

Fiscal Summary

State Effect: General fund expenditures could increase by approximately \$54,500 in FY 2009 for additional staff to handle disputes. Future year expenditure estimates reflect annualization and inflation.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	54,500	67,300	70,400	73,800	77,300
Net Effect	(\$54,500)	(\$67,300)	(\$70,400)	(\$73,800)	(\$77,300)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill would not directly affect local finances or operations.

Small Business Effect: Potential minimal.

Analysis

Current Law: Under the Maryland Condominium Act, payment of assessments (with interest), late charges, costs of collection, and reasonable attorney's fees may be enforced by imposing a lien on a unit in accordance with the Contract Lien Act. A suit for a

deficiency following a foreclosure may be maintained in the same proceeding, as can a suit to recover any money judgment for unpaid assessments, without waiving the right to seek to impose a lien under the Contract Lien Act.

Under the Contract Lien Act, a person seeking to create a lien as a result of a breach of contract must give written notice, within two years of the breach, to the person against whose property the lien is intended to be imposed. Within 30 days after service of the notice, the person served may file a complaint in circuit court to determine whether probable cause exists to establish a lien. If the court orders a lien or the property owner fails to file a complaint, the person seeking to create a lien may file a statement of lien in the land records. A lien may be enforced and foreclosed by the lien holder in the same manner, and subject to the same requirements, as the foreclosure of mortgages or deeds of trust on property containing a power or sale or an assent to a decree. An action to foreclose a lien must be brought within three years following recordation of the lien statement.

Background: Chapter 469 of 2005 established the Task Force on Common Ownership Communities (COCs). The full task force met 10 times during 2006 and conducted 5 public hearings, at which public comments were solicited. In addition, subcommittees comprising task force members met several times, and the task force made several recommendations on various topics. Although the bill is not specifically one of the recommendations, the task force did address concerns that COCs may have unfair leverage in some situations over unit owners with bona fide disputes regarding assessments.

State Expenditures: General fund expenditures could increase by an estimated \$54,523 in fiscal 2009, which accounts for the bill's October 1 effective date. This estimate reflects the cost of hiring one complaint supervisor in the Consumer Protection Division to assist with the handling of disputes submitted by unit owners. This estimate includes a salary, fringe benefits, one-time start-up costs, office space fees, and ongoing operating expenses.

Positions	1
Salary and Fringe Benefits	\$43,594
Operating Expenses	<u>10,929</u>
Total FY 2009 State Expenditures	\$54,523

Future year expenditures reflect • a full salary with 4.4% annual increases and 3% employee turnover; and • 2% annual increases in ongoing operating expenses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Secretary of State; Judiciary (Administrative Office of the Courts); Office of the Attorney General (Consumer Protection); Department of Legislative Services

Fiscal Note History: First Reader - March 12, 2008

mcp/jr

Analysis by: Alexander M. Rzasa

Direct Inquiries to:

(410) 946-5510

(301) 970-5510