

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 354
Judiciary

(Delegate Barnes, *et al.*)

Civil Jury Trials - Amount in Controversy

This constitutional amendment would increase, from over \$10,000 to over \$20,000, the amount in controversy in civil proceedings in which the right to trial by jury may be limited by legislation.

Fiscal Summary

State Effect: Adoption of the constitutional amendment does not directly affect the Judiciary's operations or finances.

Local Effect: If approved by the General Assembly, this constitutional amendment will be submitted to the voters at the 2010 general election. It is not expected to result in additional costs for local election boards.

Small Business Effect: None.

Analysis

Current Law: The right to a jury trial in Maryland is established in Articles 5 and 23 of the Maryland Declaration of Rights. Article 5 preserves the right of the inhabitants of Maryland to a jury trial as it existed in the English Common Law on July 4, 1776. Article 23 inviolably preserves the right to a jury trial in civil proceedings where the amount in controversy exceeds \$10,000. A party may not demand a jury trial if the amount in controversy does not exceed \$10,000, exclusive of any attorney's fees if attorney's fees are recoverable by law or contract.

The District Court of Maryland has exclusive original jurisdiction for a civil case in which the amount in controversy does not exceed \$5,000, exclusive of prejudgment or postjudgment interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract.

The District Court has concurrent jurisdiction with the circuit courts in a civil case in which the amount in controversy exceeds \$5,000, but does not exceed \$30,000, exclusive of prejudgment or postjudgment interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract, and the plaintiff may elect to file the case in the District Court or a circuit court. However, if the plaintiff files the case in the District Court and the amount in controversy exceeds \$10,000, a defendant may demand a jury trial and the case must be transferred to the circuit court.

The circuit courts have exclusive jurisdiction in civil cases in which the amount in controversy exceeds \$30,000, exclusive of prejudgment or postjudgment interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract.

Background: Under the English Common Law, parties to civil cases at law were entitled to a trial by jury, regardless of the amount in controversy. Article X, Section 4 of the Maryland Constitution drafted at the 1850 Convention stated, "The trial by jury of all issues of fact in civil proceedings, in the several courts of law in this State, where the amount in controversy exceeds the sum of five dollars, shall be inviolably preserved." This was the first instance in which an amount in controversy was stipulated in reference to the entitlement to a trial by jury in civil cases at law. In 1970, the amount was changed to \$500. In 1977, the provision was moved to its current location in Article 23 of the Declaration of Rights. The amount in controversy was changed to \$5,000 in 1992, and then to \$10,000 in 1998.

In *Davis v. Slater*, 383 Md. 599 (2004), the Court of Appeals found that these prior constitutional amendments changing the amount in controversy provision contained in Article 23 of the Declaration of Rights did not abrogate Article 5(a) of the Declaration of Rights and the applicable amount in controversy for determining the right to a jury trial in a civil case was \$5. In response to that decision, Chapter 422 of 2006, a constitutional amendment, was passed by the General Assembly and ratified by the voters to specify that the General Assembly may limit the right to trial by jury to a civil case in which the amount in controversy exceeds \$10,000. Chapter 575 of 2006 was also enacted, contingent on ratification of Chapter 422, to specify that a party in a civil action may not demand a jury trial if the amount in controversy does not exceed \$10,000, exclusive of any applicable attorney's fees.

Local Effect: The Maryland Constitution requires that proposed amendments to the constitution be publicized either: (1) in at least two newspapers in each county, if

available, and in at least three newspapers in Baltimore City once a week for four weeks immediately preceding the general election; or (2) by order of the Governor in a manner provided by law. State law requires local boards of elections to publicize proposed amendments to the constitution either in newspapers or on specimen ballots; local boards of elections are responsible for the costs associated with these requirements. It is anticipated that the budgets of local election boards will contain funding for notifying qualified voters about proposed constitutional amendments for the 2010 general election in newspapers or on specimen ballots.

Additional Information

Prior Introductions: HB 644 of 2008 received a hearing in the House Judiciary Committee and was later withdrawn. SB 404 of 2008, as amended, failed in the Senate.

Cross File: None designated, however, SB 469 is identical.

Information Source(s): Maryland State Board of Elections, Judiciary (Administrative Office of the Courts), Office of the Public Defender, State's Attorneys' Association, Department of Legislative Services

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mcp/kdm

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