

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE

House Bill 844  
Judiciary

(Delegates Ali and Anderson)

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Civil Judgment Advances Regulation Act

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This bill prohibits the making of a “civil judgment advance” with the potential of a return of more than 10% without authorization by a circuit court. The bill specifies the procedural requirements for an application for a civil judgment advance and the criteria for authorization of the advance. The bill does not apply to any judgment advance granted by a defendant or the defendant’s insurer paid toward uncontested liability, services provided by a hospital to a patient, or any advance of costs made by an attorney to a client if the advance was made in accordance with the Maryland Rules of Professional Conduct.

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Fiscal Summary

**State Effect:** None.

**Local Effect:** Any increase in circuit court proceedings as a result of the bill can be handled with existing local resources.

**Small Business Effect:** Potential minimal increase in expenditures for companies that provide civil judgment advances to obtain judicial authorization for advances covered by the bill.

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Analysis

**Bill Summary:** The bill defines a “civil judgment advance” as an arrangement in which, before the resolution of a civil case or claim, a person pays to a plaintiff/claimant something of value in return for the right to collect any civil judgment, settlement payment, or other monetary recovery that the plaintiff/claimant may receive as a result of the case/claim.

The circuit court that has jurisdiction over the individual who is to receive funds from the advance or the circuit court for the county in which the original claim or the cause of action arose has jurisdiction over applications for civil judgment advances. An applicant for a civil judgment advance must file with the court a notice of the proposed advance and an application for its authorization, including: (1) copies of the application and the agreement; (2) notification of the time and place of the hearing; and (3) the payee's right to respond to the application by participation in the hearing or the submission of written comments to the court. The applicant must serve these materials on the payee at least five days before the hearing.

The court's authorization of the advance is based on a finding that: (1) the advance is necessary, reasonable, and appropriate; (2) the advance is not expected to subject the payee or the dependents of the payee to undue or unreasonable hardship in the future; and (3) the payee received independent professional advice regarding the legal, tax, and financial implications of the civil judgment advance. A court is required to issue an order on the application for an advance within 10 days after a hearing on the application.

If a court has authorized an advance, the defendant and the defendant's insurer are not liable to the payee for any payment made in accordance with the authorized advance. The bill specifies that its provisions may not be waived, and the bill may not be construed to authorize a civil judgment advance in contravention of applicable law or to give effect to a civil judgment advance that is invalid under applicable law.

**Current Law:** There are no provisions in State law governing judicial authorization of civil judgment advances.

**Background:** Advanced verdict funding companies purchase a portion of the rights to a civil lawsuit from a plaintiff before the plaintiff has collected any money from the lawsuit. In return, a plaintiff receives a certain amount of funds from the company that the plaintiff has to eventually pay back with interest. Some consumer advocates have viewed the interest charged on these advances as exorbitant. For example, a funding company may charge an annual interest rate of 20% or 25% on the amount the plaintiff needs to repay. If the lawsuit is not resolved for several years, the interest accumulates. Under the terms of a civil judgment advance agreement, however, plaintiffs do not need to repay the advance unless they are successful in their lawsuits.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

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

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