

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

House Bill 1243  
Judiciary

(Charles County Delegation)

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Courts and Judicial Proceedings - District Court Jurisdiction - Homeowners Associations

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This bill grants the District Court exclusive original civil jurisdiction in a proceeding to enforce a provision of the recorded covenants and restrictions, declaration, or bylaws of a homeowners association (HOA).

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Fiscal Summary

**State Effect:** Minimal increase in general fund expenditures for the Judiciary to handle the increase in District Court caseloads generated by the bill.

**Local Effect:** Minimal decrease in local expenditures from cases shifting from the circuit courts to the District Court.

**Small Business Effect:** None. Though HOAs are not considered small businesses, the bill could have a potential meaningful impact on homeowners who will be able to litigate these disputes at less expense in the District Court.

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Analysis

**Current Law:** Unlike the Maryland Condominium Act, the Maryland Homeowners Association Act (MHAA) does not set forth a dispute settlement mechanism. Chapter 44 of 2003 authorized Charles County to establish a homeowners association commission with the authority to hear and resolve disputes between an HOA and a homeowner regarding the enforcement of the recorded covenants or restrictions of the HOA by providing alternative dispute resolution services, including binding arbitration. The Montgomery County Commission on Common Ownership Communities, established in

1995, provides similar services for homeowners and HOAs in Montgomery County. Disputes before the commission typically involve architecture and landscaping, trash removal, and similar violations of rules of a community association.

In general, civil cases in which the amount claimed does not exceed \$30,000 – excluding interest, costs, and attorney’s fees – belong in District Court, and cases involving more than \$30,000 belong in circuit court.

Plaintiffs may elect to file cases involving between \$5,000 and \$30,000 in a circuit court (CJ § 4-402(d)), but because the District Court is quicker and cheaper, plaintiffs often prefer to file smaller cases there if possible. Cases involving less than \$5,000 *must* be filed in the District Court, and cases involving more than \$30,000 *must* be filed in circuit court. However, if the amount in controversy exceeds \$15,000, any party to the case has the right to demand a jury trial, in which case the matter should be filed in or transferred to circuit court. Jury trials, civil and criminal, always take place in circuit court.

Replevin cases, landlord/tenant cases, municipal infraction and zoning violations, no matter how much money is involved, must be filed in the District Court.

In general, the District Court has exclusive civil jurisdiction over the following cases:

- contract and tort claims involving \$30,000 or less, excluding interest, costs, and attorneys’ fees;
- replevin;
- attachment before judgment involving \$30,000 or less;
- landlord-tenant disputes (including distraint and forcible entry and detainer);
- grantee suit under Real Property Article § 14-109;
- petition for injunction relating to property that is claimed in a replevin action or sought to be levied upon in an action of distress;
- petition for injunction filed by a tenant under Real Property Article § 8-211 or local rent law or by a person under Real Property Article §§ 14-120 or 14-125.1;
- code enforcement petition filed by a county or municipality;
- forfeiture proceedings under Title 12 or Title 13 of the Criminal Procedure Article where the amount, excluding interest and attorney’s fees does not exceed \$20,000;
- municipal infractions;
- commission infractions;
- WSSC infractions;
- zoning violations;
- violations of specific city and county ordinances and regulations;
- citation for code violation under § 10-119 of the Criminal Law Article;

- violations of the Maryland Department of the Environment and the Maryland Department of Transportation regulations;
- violations of § 13-604 of the Election Law Article;
- enforcement of civil penalty assessed by the Division of Labor and Industry under Title 5 of the Labor and Employment Article when the amount does not exceed \$20,000;
- violation of ordinances, regulations, and specific provisions of the Code of Public Local Laws enacted by a county without home rule;
- civil infractions that can be prosecuted by a sanitary commission;
- subdivision violations for which a civil penalty has been provided in accordance with Article 66B, § 14.07(f) of the code;
- violations of alcoholic beverage consumption or possession of open container in passenger area of motor vehicle laws;
- civil infraction relating to the storage of tobacco products under Article 24, Title 15 of the code;
- proceedings for a civil infraction under §§ 21-202.1, 21-704.1, 21-809, or 21-810 of the Transportation Article (automated enforcement of red lights, speed limits, and railroad crossings);
- proceedings for a temporary peace order or a final peace order under Title 3, Subtitle 15 of this article;
- proceedings for condemnation and immediate possession of and title to abandoned, blighted, distressed, and deteriorated property under authority granted in the Code of Public Local Laws of a county, including Baltimore City, where the estimated value of the property does not exceed \$25,000;
- proceedings for a replacement motor vehicle under § 14-1502(c)(1)(i) of the Commercial Law Article;
- an action for damages for a dishonored check or other instrument under Title 15, Subtitle 8 of the Commercial Law Article, regardless of the amount in controversy. (If the amount in controversy in an action for damages for a dishonored check or other instrument exceeds \$25,000, the defendant is entitled to transfer the action from the District Court to circuit court by filing a timely demand.); and
- a civil action for an injunction or a civil penalty for a violation of § 8-605(f) of the Transportation Article, the prohibition against unauthorized signage on State highway rights-of-way.

**Background:** Both Charles County and Montgomery County have alternate dispute resolution boards for HOA disputes.

Montgomery County advises that referral of complaints to the board is voluntary, and individuals who are dissatisfied with board decisions can appeal to the circuit court.

Charles County advises that it receives numerous complaints from residents of defunct HOA neighborhoods that their neighbors are violating community covenants, as well as complaints from active HOAs about the prohibitive costs involved in litigating covenant violations in the circuit courts.

**State Expenditures:** The bill shifts cases normally heard in the circuit courts to the District Court. Though data is not available on the number of HOA cases that would be affected by the bill, it is assumed that the shifting of cases under the bill will result in a minimal increase in operational expenditures for the District Court.

Because the litigation in the District Court tends to be easier for individuals who want to represent themselves (*pro se* litigants) and less expensive than litigation in the circuit courts, the bill may result in an increase in the volume of HOA cases, since HOAs and homeowners will be in a better financial position to take these cases to court.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Secretary of State, Charles and Montgomery counties, Department of Legislative Services

**Fiscal Note History:** First Reader - February 27, 2012  
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