

Department of Legislative Services  
Maryland General Assembly  
2022 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 156

(Senator Sydnor)

Judicial Proceedings

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Civil Actions - Specialties - Statute of Limitations

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This bill extends application of the 12-year statute of limitations under § 5-102 of the Courts and Judicial Proceedings Article to an action *related to or concerning* one of the specialties specified in that statute. The bill contains uncodified language expressing the intent of the General Assembly that the bill (1) be applied and interpreted to abrogate the holding of the Court of Appeals in *Cain v. Midland Funding, LLC*, 38-2020 (Md. Aug. 4, 2021) and (2) apply the 12-year statute of limitations for an action to enforce judgment under § 5-102(a)(3) (as amended by the bill) to both parties to the judgment.

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Fiscal Summary

**State Effect:** The bill is not anticipated to materially affect State finances or operations.

**Local Effect:** The bill is not anticipated to materially affect local finances or operations.

**Small Business Effect:** Potential meaningful.

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Analysis

**Bill Summary/ Current Law:**

*Statutes of Limitations*

Pursuant to § 5-101 of the Courts and Judicial Proceedings Article, a civil action must be filed within three years from the date it accrues, unless otherwise provided by State law.

Section 5-102 of the Courts and Judicial Proceedings Article provides a longer statute of limitations for filing civil actions for the following specialties: a promissory note or other instrument under seal; a bond, except a public officer's bond; a judgment; a recognizance; and a contract under seal. With the exception of a specialty taken for the use of the State or a deed of trust, mortgage, or promissory note that has been signed under seal and secures or is secured by owner-occupied residential property, a civil action *on* one of these specialties must be filed within 12 years after the cause of action accrues or within 12 years from the date of the death of the last to die of the principal debtor or creditor, whichever is sooner. The bill establishes that this 12-year statute of limitations applies to an action *on, related to, or concerning* one of these specialties.

A payment of principal or interest on a specialty suspends the operation of the statute of limitations as to the specialty for three years after the date of payment. The bill does not alter this provision.

#### *Cain v. Midland Funding, LLC*

In *Cain v. Midland Funding, LLC*, Nos. 38 and 39, September Term, 2020 (filed August 4, 2021), the Maryland Court of Appeals held that claims by debtors for unjust enrichment and money damages under the Maryland Consumer Protection Act and the Maryland Consumer Debt Collection Act against a then-unlicensed debt collection agency were subject to Maryland's general three-year statute of limitations, rather than the 12-year statute of limitations under § 5-102 of the Courts and Judicial Proceedings Article.

In its analysis, the court noted that “[a]t issue is the definition or meaning of the preposition ‘on’ and whether it means an action ‘involving’ a judgment or whether it means an action to ‘enforce’ a judgment.” The court looked at the language of the entirety of § 5-102, including the nature of the specialties listed, before determining that “...it is clear that the statute is intended to apply to an action to *enforce* rights *granted by a specialty*.”

**Small Business Effect:** The bill may have a meaningful effect on small businesses involved in previously time-barred claims that are allowed to proceed as a result of the bill.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

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

**Fiscal Note History:** First Reader - February 1, 2022  
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