

**Department of Legislative Services**  
Maryland General Assembly  
2024 Session

**FISCAL AND POLICY NOTE**  
**Third Reader**

House Bill 1182

(Chair, Economic Matters Committee)(By Request -  
Office of the Attorney General)

Economic Matters

Finance

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**Commercial Law - Maryland Antitrust Act - Enforcement Remedies**

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This bill specifies that disgorgement is a type of restitution available under the civil enforcement provisions of the Maryland Antitrust Act.

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**Fiscal Summary**

**State Effect:** The bill does not materially affect State operations or finances.

**Local Effect:** The bill does not materially affect local government operations or finances.

**Small Business Effect:** None.

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**Analysis**

**Current Law/Background:** The Antitrust Division within the Office of the Attorney General is responsible for enforcing the State's antitrust laws and investigating possible violations, as specified.

In a civil proceeding under the antitrust laws, the court must determine whether a violation has been committed and enter any judgment or decree necessary to (1) remove the effects of any violation and (2) prevent continuation or renewal of the violation in the future. In addition to equitable remedies (including restitution, as explicitly specified in statute) or other authorized relief, the court may assess a civil penalty of up to \$10,000 for each violation; each day of a violation is considered as a separate violation.

Restitution is an equitable remedy that the court may exercise to restore to any person any

money or real or personal property acquired from that person by means of any violation of the State's antitrust laws. Disgorgement is an equitable remedy, which requires a person who profits from illegal or wrongful acts to give up any profits made as a result of the illegal or wrongful conduct. The purpose of disgorgement as an equitable remedy is to prevent the defendant's unjust enrichment by recapturing the gains the defendant secured in a transaction. Maryland law recognizes the general principle of the disgorgement remedy in restitution, where a claimant potentially recovers more than a provable loss so that the defendant may be stripped of a wrongful gain. See, *Consumer Protection v. Consumer Pub.*, 304 Md. 731 (1985).

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years; however, legislation with similar provisions has been proposed. For example, see SB 657 and HB 776 of 2023.

**Designated Cross File:** None.

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

**Fiscal Note History:** First Reader - February 22, 2024  
km/jkb Third Reader - March 18, 2024

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