



MARYLAND DEFENSE COUNSEL, INC.

Promoting justice. Providing solutions.

Senate Judicial Proceedings Committee

SB 156 – Civil Actions – Specialties – Statute of Limitations

Position: Unfavorable

February 3, 2022

The Maryland Defense Counsel, Inc. (MDC) hereby submits their strong opposition to Senate Bill 156. Founded in 1962, MDC endeavors to attain equal justice for all, improve Maryland's courts and laws, and strengthen the defense of civil lawsuits through political activism, judicial candidate interviews, and educational conferences. With a focus on promoting the efficiency of the legal profession in dealing with common problems facing civil litigants, this statewide defense organization performed a "watchdog" role up until 1987 by monitoring legislation and addressing issues of concern to the defense bar. In more recent decades, MDC has funded a PAC and worked with a lobbyist to promote defense interests in the state legislature on behalf of its now 400 members.

In 2021, the Court of Appeals in *Cain v. Midland Funding, LLC*, 475 Md. 4, 256 A.3d 765 (2021), affirmed that the statute of limitations for certain common law claims and statutory consumer claims brought by judgment debtors relating to a judgment is three years, consistent with the legislative judgment reflected in Md. Code Ann., Cts. & Jud Proc. ("CJP"), § 5-101 and the well-established legal precedent interpreting same. The Court also affirmed the long line of cases holding that the statute of limitations to enforce a judgment is 12 years under CJP § 5-102(a)(3). SB 156 seeks to upend these time-honored principles and allow a plaintiff to have 12 years to file any type of claim so long as it is "relating to or concerning" a judgment.

As discussed in *Cain*, the Legislature has already determined that there are strong policy reasons for maintaining a three-year statute of limitations for claims in Maryland. A longer timeframe risks memories fading, witnesses moving, and evidence being disposed of due to standard retention policies. Three years is sufficient time for a plaintiff to find counsel, investigate a claim, and gather evidence. In addition, disputes must end and parties move on; in the vast majority of civil matters, there is no need to drag out for over a decade the possibility of becoming a defendant.

The 12-year statute of limitations period for specialties is a very limited provision. *Cain* held that the 12-year limitations period applies to *enforcing* judgments, but not to any action related to or concerning a judgment. The 12-year limitations period is necessary because judgments in Maryland are valid for 12 years. See Md. R. 2-625 ("A money judgment expires 12 years from the date of entry or most recent renewal."). The 12-year period is intended to assist debtors, as it "gives a judgment debtor some breathing room to pay debts over time...." *Cain*, 256 A.2d at 789.

The subject legislation appears to seek parity between judgment debtors and judgment creditors, but parity already exists with regard to the limitations period. Under current law, the

statute of limitations for most civil claims in Maryland is three years (CJP § 5-101), and both creditors and debtors have three years to bring their claims. Judgments, on the other hand, are treated differently under the 12-year limitations period for specialties (CJP § 5-102(a)), because there is a fundamental difference between a judgment and a cause of action. A judgment has been validated by a judge or jury and is no longer a mere claim. The time to bring a cause of action is different from the time to enforce a judgment, so it would make little sense to apply the 12-year time to enforce a judgment to the time in which a party may bring a claim.

Given the fundamental difference between claims and enforcement of judgments, it makes no sense to suddenly and arbitrarily expand the statute of limitations for any and all types of judgment-related claims to 12 years. **But that is exactly what SB 156 seeks to do.**

The Court of Appeals in *Cain* unanimously affirmed that the statute of limitations for certain common law and statutory claims brought by a judgment debtor related to or concerning a judgment is three years. The Maryland Defense Counsel urges the Committee to honor the well-researched, well-written ruling in *Cain* and to oppose SB 156.

For additional information, please contact:
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