

HB 549 - MoCo_Consumer Protection_FAV (Senate) (GA

Uploaded by: Kathleen Boucher

Position: FAV



Montgomery County

Office of Intergovernmental Relations

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HB 549

DATE: March 21, 2024

SPONSOR: Delegate Embry, et al.

ASSIGNED TO: Judicial Proceedings

CONTACT PERSON: Kathleen Boucher (kathleen.boucher@montgomerycountymd.gov)

POSITION: Support (Office of Consumer Protection)

Statute of Limitations – Prosecution or Enforcement of Local Consumer Protection Codes

The Montgomery County Office of Consumer Protection has been enforcing consumer protection laws for 53 years and we are proud to have earned national recognition for our work. We strongly support House Bill 549 as an important measure to safeguard consumers.

The need for an extended 3-year statute of limitations period cuts across the many types of consumer complaints we investigate. A year goes by quickly for consumers who try their best to negotiate with business themselves before seeking outside assistance. Often the merchants make promises that are never kept and delay action for some time before consumers get frustrated enough to seek our help.

All too often, we see home improvement companies fail to complete or even begin the task for which they have been paid. Consumers can be left without the task completed and are not able, on their own, to recover money paid for the uncompleted work. And, certain home improvement cases take longer than others:

- Warranty Claims often have specific filing requirements and take an extended period of time for companies to resolve, running the clock before consumers seek assistance from our office;
- Driveway repairs that need revisions cannot be completed or repaired during the winter months;
- Roof replacements require that shingles settle during the summer heat, delaying the appearance of problems.

We have also investigated the case of a moving company that was unregistered and unlicensed and lost the consumers' belongings. The consumer's efforts to recover her belongings on her own led to the expiration of the one-year statute of limitations.

Several consumers have also filed complaints with our office alleging that they were signed up for car wash subscriptions without their knowledge, and the statute of limitations expired during the period in which they realized they were being charged and their attempted negotiations for refunds.

If the statute of limitations has passed by the time a consumer files a complaint with our office, we would not be able to issue a Civil Citation against the merchant.

At times, consumers initially file complaints with more well-known organizations or agencies that do not enforce local law or investigate individual cases, such as the Federal Trade Commission or the Better Business Bureau. Every year, we have consumers who have filed such cases, have not gotten satisfactory results, and then reach our doors when the 1-year statute of limitation has expired.

We strongly advocate for a three-year statute of limitations in order to assist the public in resolving these matters. We respectfully request that the Judicial Proceedings Committee give this bill a favorable report.

HB0549-JPR-SUPP.pdf

Uploaded by: Nina Themelis

Position: FAV



BRANDON M. SCOTT
MAYOR

*Office of Government Relations
88 State Circle
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HB0549

March 21, 2024

TO: Members of the Senate Judicial Proceedings Committee
FROM: Nina Themelis, Director of Mayor's Office of Government Relations
RE: HB 549 - Statute of Limitations - Prosecution or Enforcement of Local Consumer Protection Codes
POSITION: SUPPORT

Chair Smith, Vice Chair Waldstreicher, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** House Bill (HB) 549.

HB 549 would allow jurisdictions with local consumer protection codes to have up to three years to complete all prosecutions and actions related to enforcing those local consumer protection laws.

Baltimore City's recently passed legislation, enacted via local ordinance 23-266, allows Baltimore City to investigate and bring actions against businesses that engage in unfair and deceptive trade practices that harm Baltimore residents. The law gives Baltimore City subpoena power so it can conduct comprehensive investigations of potential bad actors. These investigations ensure that we accurately target bad behavior, that we take the time to understand the magnitude of the illegal conduct fully, and that we bring actions based on a strong evidentiary foundation. Each of these cases involved long, complex investigations. It can take years to build and prosecute a consumer protection matter properly.

In recognition of the complexity of these cases and the time-consuming nature of consumer protection investigations and lawsuits, comparable jurisdictions in other states do not have a statute of limitations for consumer protection actions.

Unlike the Attorney General's Office, Baltimore's ordinance only authorizes it to bring its consumer protection actions in Maryland Courts, not administratively. In Maryland, however, Courts and Judicial Proceedings §5-107 states that a prosecution or suit for a fine, penalty, or forfeiture shall be instituted within one year after the offense was committed¹.

A one-year statute of limitations may be sufficient in simple cases such as parking tickets or suits involving only a single violation. A one-year statute of limitations, with no discovery rule, would only incentivize corporations to conceal bad conduct and then argue after the conduct comes to light, that any action was time-barred. Large-scale consumer protection cases can involve thousands of violations over many years. It could take years for Baltimore City to investigate these cases and thoroughly understand the magnitude of the illegal conduct.

In addition, a lengthier statute of limitations will allow Baltimore City time to conduct a comprehensive investigation. This investigation could lead to a reasonable settlement between the parties. It would not benefit Baltimore City or businesses for the City to be forced quickly into filing lawsuits because of a short statute of limitations.

For these reasons, the BCA respectfully requests a **favorable** report on HB 549.

¹ Md. Code Ann., Cts. & Jud. Proc. § 5-107

HB0549-JPR_MACo_SUP.pdf

Uploaded by: Sarah Sample

Position: FAV



House Bill 549

*Statute of Limitations – Prosecution or Enforcement of Local Consumer
Protection Codes*

MACo Position: **SUPPORT**

To: Judicial Proceedings Committee

Date: March 21, 2024

From: Sarah Sample

The Maryland Association of Counties (MACo) **SUPPORTS** HB 549. This bill establishes a timeline of three years for a local jurisdiction to file a claim against an entity in violation of a local consumer protection code. This timeline begins at the time the offense was committed.

Protecting residents from predatory companies, who take advantage of consumers in need of services, is necessary to ensure communities have access to goods and services without fear of being exploited. Counties are currently authorized, in conjunction with the Attorney General's Office, to carry out various means of protection for distressed consumers in their jurisdictions. Specifically, local governments can enact local consumer protection codes and establish enforcement divisions within the county government to address claims from residents.

The provisions of this bill enable these local enforcement divisions with a longer window to effectively investigate claims as well as assign penalties and fines to entities in violation of local codes. There can be a great deal of research and discovery required to resolve these types of issues on behalf of residents who, often, have been the victim of systemic industry abuse and neglect. This is an authority and responsibility that local jurisdictions appreciate and do not take lightly. A longer window will undoubtedly enable counties to resolve these issues – especially more complicated matters – with even greater integrity as they defend the interests of community members.

As additional counties elect to handle these claims locally, the three-year window will ensure they have the necessary time to complete a thorough investigation and assign appropriate penalties on behalf of residents. For these reasons, MACo urges a **FAVORABLE** report for HB 549.

HB549_MRA_UNF.pdf

Uploaded by: Sarah Price

Position: UNF

MARYLAND RETAILERS ALLIANCE

The Voice of Retailing in Maryland



**HB549 Statute of Limitations - Prosecution or Enforcement of Local Consumer
Protection Codes
Judicial Proceedings Committee
March 21st, 2024**

Position: Unfavorable

Background: HB549 would increase the statute of limitations for the prosecution or suit for enforcement of local consumer protection codes.

Comments: The Maryland Retailers Alliance has concerns about the statute of limitations increase proposed in HB549. As introduced, the bill would have extended the statute of limitations for enforcement of local consumer protection codes from one to three years. As amended, the three-year extension is maintained but the statute of limitations would begin when local authorities become aware of the violation rather than when the violation actually occurs. We believe this is an inappropriate extension and would open our industry up to further actions. We would urge the Committee to strike the language on page 2 lines 1-2 as amended (“local authorities knew or reasonable should have known of the violation”) and revert the language to “after the offense was committed” as introduced.

Thank you for your consideration.