

DCRS_Support - HB 549 - Statute of Limitations - P

Uploaded by: Calvin Ball

Position: FAV



HOWARD COUNTY DEPARTMENT OF COMMUNITY RESOURCES AND SERVICES

9830 Patuxent Woods Drive ■ Columbia, Maryland 21046 ■ 410-313-6400 voice/relay

Jacqueline R. Scott, Director
communityresources@howardcountymd.gov

FAX 410-313-6424

February 13, 2024

Delegate Luke Clippinger, Chair
Delegate J. Sandy Bartlett, Vice Chair
House Judiciary Committee
House Office Building, Room 101
Annapolis, Maryland 21401

RE: HB0549: Statute of Limitations - Prosecution or Enforcement of Local Consumer Protection Codes

Chair Clippinger, Vice Chair Bartlett and Members of the Judiciary Committee,

The Howard County Department of Community Resources and Services (DCRS) provides vital human services through its nine offices and ten boards and commissions. The office relevant to this bill, the Office of Consumer Protection (OCP) helps to protect Howard County consumers and tenants by mediating disputes, taking enforcement action or providing tips on how to avoid scams or make smart purchasing decisions.

DCRS, and the OCP, file this comment in support of HB549, a bill sponsored by Delegates Embry, Addison, Amprey, Attar, Boyce, Edelson, Hill, R. Lewis, Ruff, Shetty, Vogel, and Young. HB549 seeks to expand the statute of limitations for prosecution or enforcement in local consumer protection codes from 1 to 3 years. This amendment would be a valuable tool to protecting consumers who we serve.

All too often, merchants in the home services or home improvement industry, fail to complete or even begin the task for which they have been paid. The consumers will attempt to negotiate with the merchant, who may come on site for a few minutes only to disappear again for weeks or months. Promises will be given, excuses made, but in the end, the consumer is left without the money and without the task completed. In home improvement arenas, this also includes leaving the homeowner with an open construction site on the property or in their homes. Complaints may be filed with agencies with more name recognition which do not enforce the law at the local level, e.g., the Federal Trade Commission or Better Business Bureau. Every year, we have consumers who finally reach our doors when the 1-year statute of limitation is either past, or almost past.

OCP's investigation mechanism requires reviewing the records, subpoenaing relevant third parties to prove chain of custody of funds, interviewing parties and non-parties, and otherwise creating an evidence package should enforcement be necessary. With merchants who are unwilling or unable to return to a job site, simply finding the merchant, identifying their real names and addresses, can be half the battle. When a consumer has been misled as to the merchant's true intent in completing the job for which they have been paid, when they still blame the pandemic and supply chain issues for the failure to make basic repairs, this causes consumers to delay action with consumer protection agencies. This delay, coupled with the investigatory process, makes the 1-year statute of limitation unduly burdensome for those victimized by unfair and deceptive practices.

The Department of Community Resources and Services provides vital human services through its offices of ADA Coordination, Aging and Independence, Children and Families, Community Partnerships, Consumer Protection, Disability Services, Human Trafficking Prevention, the Local Children's Board, and Veterans and Military Families.

In 2023, the OCP received a complaint by an older adult whose roofer had not returned to replace the roof despite full payment by his insurance company. This full pre-payment alone violated the state's law which only permits 1/3 down payment. Moreover, the salesman was not licensed to sell home improvement contracts by the Maryland Home Improvement Commission (MHIC), the roofing company was no longer licensed to fulfill home improvement contracts (MHIC), and the salesman was not licensed by the OCP to go door-to-door and solicit sales.

The consumer, and the insurer, contacted the sales representative, to no avail. The salesman, bearing a business card identifying him as "President" of the company, maintained he was simply the salesman and that the owner misrepresented his status to make his sales pitches more impressive. He claimed he turned over the payments to the roofing company's owner. The owner, in turn, claimed to only be the receptionist and pointed to the "President" as the party that took the funds and claimed not to know what happened thereafter. With criminal theft of deposit enterprises such as this, the perpetrators are often "on the wing" (moving living arrangements from friend to friend with disposable cell phones and numbers) and can only be found through diligent investigation of third-parties who may have information on their whereabouts. By the time the consumer filed with the OCP, the investigator had 3 weeks to determine the real party in interest, find the true mailing address and contact phone number, and make contact. It was months before OCP was able to speak to the owner and the salesman only to be treated to the same finger-pointing. By this time, the owner claimed all the money was gone and she had filed for bankruptcy protection.

An investigation into the business demonstrated that our consumer was one of *forty-three* (43) known victims throughout the State whose insurance proceeds and other deposits were stolen with minimal to no work done in return. Given the one-year statute of limitations, no enforcement had been taken on behalf of these victims as the roofer had been successful in fraudulently delaying the consumer's initial filing with false promises and obfuscation of responsibility. Neither criminal nor civil enforcement actions could be filed. The owner of the roofing business had successfully stolen the money and filed bankruptcy making her immune to civil suits by the consumers. In short, despite the theft of hundreds of thousands of dollars, none of these known consumers were able to receive their monies back. In the end, OCP could only report the matter to the National Insurance Crime Bureau and the Federal Trade Commission for statistical tracking. Had a three-year statute of limitations been filed, criminal enforcement actions could have been raised on behalf of these 43 known victims. Moreover, civil enforcement actions could have been taken to address the unfair and fraudulent business practices and lack of necessary licensure. Enforcement actions are exempt from bankruptcy and could have been the mechanism for recovery.

The 1-year statute of limitations hampers OCP's ability to help consumers recoup monies lost in schemes such as these. For this reason, DCRS by and through its Office of Consumer Protection, supports this bill.

Sincerely,

DocuSigned by:

Jacqueline Scott

287A14FE698F43F...

Jacqueline Scott, Director

Cc: Honorable Dr. Calvin Ball III, County Executive
Tracy Rezvani, Administrator Office of Consumer Protection
Maureen Evans Arthurs, Director of Government Affairs & Strategic Partnerships

testimony2024hb549ltr.pdf

Uploaded by: Franz Schneiderman

Position: FAV



Auto Consumer Alliance
13900 Laurel Lakes Avenue, Suite 100
Laurel, MD 20707

**Testimony to the House Judiciary Committee
HB 549 – Statute of Limitations –
Prosecution or Enforcement of Local Consumer Protection Codes
Position: Favorable**

The Honorable Luke Clippinger, Chair
House Judiciary Committee
Room 101, House Office Building
Annapolis, MD 21401
Cc: Members, House Judiciary Committee

Feb. 13, 2024

Honorable Chair Clippinger and Members of the Committee:

I'm a consumer advocate and Executive Director of Consumer Auto, a non-profit group that works to protect Maryland consumers and foster safety, transparency, and fair treatment for drivers and car buyers.

We support **HB 549** because it will expand the ability of our state's local consumer protection offices to bring the legal actions needed to vindicate the rights of consumer who have been abused or defrauded.

Litigation is very often essential to protect consumers against abuses and establish accountability for fraudsters and firms that intentionally engage in unfair or abusive treatment of their customers. But consumer litigation is often quite complex and time-consuming. It can take years for patterns of misconduct to emerge and for that misconduct to be investigated properly. And once the relevant facts have been established, of course it can take many months to put together an appropriate lawsuit or legal response.

Current rules limiting local consumer protection offices in Howard and Montgomery counties and Baltimore City to a statute of limitations of just one year to take such actions just don't allow adequate time for some of the investigations and litigation needed to protect consumers.

Justice delayed may be justice denied. But the wheels of justice often turn slowly and the practices of our courts and investigators do take time. Giving local consumer protection offices three years after an act of fraud or abuse or other unfair trade practice to take legal action will make it possible for them to do considerably more to vindicate the rights of consumers.

We support HB 549 and ask you to give it a FAVORABLE report.

Sincerely,
Franz Schneiderman
Consumer Auto

House JUD Bill HB549 2024 AV.pdf

Uploaded by: Marceline White

Position: FAV



Testimony to the House Judiciary Committee
HB549: Statute of Limitations-Prosecutions or Enforcement of Local Consumer
Protection Statutes
Position: Favorable

February 13, 2024

The Honorable Luke Clippinger, Chair
House Judiciary Committee
Room 101, HOB
Annapolis, Maryland 21401

cc: Members, Judiciary Committee

Honorable Chair Clippinger and Members of the Committee:

Economic Action Maryland (formerly the Maryland Consumer Rights Coalition) is a statewide coalition of individuals and organizations that advances economic rights and equity for Maryland families through research, education, direct service, and advocacy. Our 12,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland.

I am writing in support of HB549. HB549 extends the statute of limitations for the prosecution or enforcement of a consumer protection code for which relief, a fine, or penalty is provided. The legislation extends the statute from one year to three years. This is a common sense change, in line with what other jurisdictions are doing, and is supported by local consumer protection bureaus.

For all these reasons, we support HB549 and ask for a favorable report.

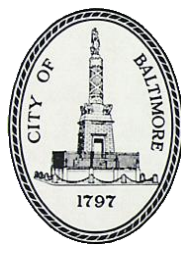
Best,

Marceline White
Executive Director

HB0549-JUD-SUPP.pdf

Uploaded by: Nina Themelis

Position: FAV



BRANDON M. SCOTT
MAYOR

*Office of Government Relations
88 State Circle
Annapolis, Maryland 21401*

HB0549

February 13, 2024

TO: Members of the House Judiciary 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 Clippinger, Vice Chair Bartlett, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** House Bill (HB) 549.

HB 549 would allow for jurisdictions that have local consumer protections code to have up to three years to complete all prosecutions and actions related to enforcing those local consumer protections 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 fully understand the magnitude of the illegal conduct, and that we bring actions based on a strong evidentiary foundation.

Each of these cases involved long, complex investigations. It can take years to properly build and prosecute a consumer protection matter.

In recognition of the complexity of these cases and the time-consuming nature consumer protection investigations and lawsuits, comparable jurisdictions in other states are not subject to 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-JUD_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: Judiciary Committee

Date: February 13, 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.