

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 876 (Delegate Rosenberg)
Appropriations and Judiciary

Access to Counsel in Evictions - Special Fund - Alteration

This bill expands the funding sources of the Access to Counsel in Eviction (ACE) Special Fund to include money received by the Antitrust Division in the Office of the Attorney General (OAG) from any final settlement or agreement with (or judgment against) a party relating to an investigation or enforcement of the Maryland Antitrust Act (MAA) for activity contributing to or resulting in an artificial inflation of rental housing costs (excluding any restitution and the costs of the action the Attorney General is entitled to recover). The bill also amends §11-209 of the Commercial Law Article to require that civil penalty revenues from any violations of MAA be paid to the ACE Special Fund (instead of the general fund).

Fiscal Summary

State Effect: Potential significant decrease in general fund revenues and corresponding increase in special fund revenues in any year in which (1) a civil penalty is imposed for any case under MAA or (2) the State receives money from a final settlement/agreement or judgment under MAA based on a certain actions related to rental housing costs, as discussed below.

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

Small Business Effect: None.

Analysis

Current Law:

Access to Counsel in Evictions Special Fund

Chapter 746 of 2021 established the ACE Special Fund, a special, nonlapsing fund that is administered by the Maryland Legal Services Corporation (MLSC). The fund is authorized to be used for specified purposes related to the Access to Counsel in Evictions Program (also administered by MLSC), which was created to organize and direct services and resources in order to provide individuals meeting certain criteria with access to legal representation in specified judicial or administrative proceedings to evict or terminate a tenancy or housing subsidy. Chapter 746 further required that access to legal representation be phased in over time as MLSC determines appropriate, with the goal of full implementation before October 1, 2025. Chapter 746 did not include a funding mechanism for this legal representation, and access to legal representation under its provisions is subject to the availability of funding.

Chapters 20 and 21 of 2022 altered the funding sources of the ACE Special Fund to include funds received by the Consumer Protection Division in OAG from any final settlement, agreement, or judgment related to an investigation or enforcement action of the Maryland Consumer Protection Act for an unfair, abusive, or deceptive trade practice regarding residential rental property. The Acts exclude from the fund any restitution and costs incurred by OAG to bring the action.

Additional funding was also provided under Chapter 40 of 2022, which required, for fiscal 2024 *only*, the Comptroller to distribute \$14.0 million from the State's Unclaimed Property Fund to the ACE Special Fund. It also required the Governor include in the annual budget bill for fiscal 2024 an appropriation of \$14.0 million from the ACE Special Fund to MLSC. Chapter 641 of 2023 extended the funding structure provided in Chapter 40 through fiscal 2027.

Maryland Antitrust Act – Generally

In general, MAA is designed to promote fair and honest competition, free of conspiracies, combinations, or agreements, which unreasonably restrain trade or commerce. The State's antitrust laws are complementary to the federal Sherman Antitrust Act, contained in 15 U.S.C. §§ 1, *et seq.* Enforcement under MAA may be civil and/or criminal, as further specified in statute.

In a civil enforcement proceeding, 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 or other authorized relief, the court may assess a civil penalty of up to \$10,000 for each violation, to be paid to the general fund.

State Fiscal Effect: The bill does not directly affect the total amount of funds available to the State under any final settlement, agreement, or judgment (based on the activity specified by the bill) or from civil penalties imposed for MAA violations. OAG reports that from fiscal 2020 through 2024, its Antitrust Division recovered approximately \$3.1 million for the State, which accounts for all monies received from civil penalties, as well as judgments and settlements/agreements. The funding recovered in any given year varies considerably; for instance, OAG collected \$2.2 million in fiscal 2023 but no funds in fiscal 2022. OAG did not provide details regarding what portion of the total funding is attributable to civil penalties versus judgments or settlements/agreements.

Under the bill, all civil penalty revenues from any MAA violations are diverted from the general fund to the ACE Special Fund. Additionally, any potential funding received by the State from judgments or settlements/agreements under MAA based on certain activities relating to rental housing costs is directed to the ACE Special Fund (excluding restitution and cost-recovery); in the absence of the bill, it is assumed that this funding would accrue to the general fund.

Accordingly, there is an anticipated decrease in general fund revenues, with a corresponding increase in special fund revenues. The magnitude and precise timing of any impact cannot be reliably predicted in advance, but may be significant, particularly in any years in which MAA enforcement activities result in substantial recoveries for the State.

Although additional funding may be available for the ACE Special Fund, expenditures are not directly affected.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Office of the Attorney General; Department of Legislative Services

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