

Defined terms: "Regulation" § 10-101
"Unit" § 10-101

10-125. DECLARATORY JUDGMENT.

(A) PETITION AUTHORIZED.

(1) A PERSON MAY FILE A PETITION FOR A DECLARATORY JUDGMENT ON THE VALIDITY OF ANY REGULATION, WHETHER OR NOT THE PERSON HAS ASKED THE UNIT TO CONSIDER THE VALIDITY OF THE REGULATION.

(2) A PETITION UNDER THIS SECTION SHALL BE FILED WITH THE CIRCUIT COURT FOR THE COUNTY WHERE THE PETITIONER RESIDES OR HAS A PRINCIPAL PLACE OF BUSINESS.

(B) AUTHORITY TO CONSIDER.

A COURT MAY DETERMINE THE VALIDITY OF ANY REGULATION IF IT APPEARS TO THE COURT THAT THE REGULATION OR ITS THREATENED APPLICATION INTERFERES WITH OR IMPAIRS OR THREATENS TO INTERFERE WITH OR IMPAIR A LEGAL RIGHT OR PRIVILEGE OF THE PETITIONER.

(C) UNIT AS PARTY.

THE UNIT THAT ADOPTED THE REGULATION SHALL BE MADE A PARTY TO THE PROCEEDING UNDER THIS SECTION.

(D) FINDING OF INVALIDITY.

SUBJECT TO § 10-128 OF THIS SUBTITLE, THE COURT SHALL DECLARE A PROVISION OF A REGULATION INVALID IF THE COURT FINDS THAT:

(1) THE PROVISION VIOLATES ANY PROVISION OF THE UNITED STATES OR MARYLAND CONSTITUTION;

(2) THE PROVISION EXCEEDS THE STATUTORY AUTHORITY OF THE UNIT; OR

(3) THE UNIT FAILED TO COMPLY WITH STATUTORY REQUIREMENTS FOR ADOPTION OF THE PROVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 249(a) and (b).

Subsection (a) of this section is revised to state that the filing of the petition is authorized generally and that the request for review by the unit is not a condition for filing.

In subsection (b) of this section, the phrase "to the court" is added to clarify that the decision to make the determination is a decision for the court.