

# HOUSE BILL 345

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By: **Delegates Rosenberg, Clippinger, Holmes, and Hough**

Introduced and read first time: January 22, 2014

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Courts – Certificate of Merit – Provider of Professional Services**

3 FOR the purpose of altering the definition of “claim”, for purposes of certain provisions  
4 of law requiring a person who originally files a certain claim in a circuit court  
5 against certain professionals to file a certificate of a qualified expert, to include  
6 a certain claim against a certain person or entity through which professional  
7 services were performed; altering the definition of “qualified expert”, for  
8 purposes of certain provisions of law requiring a person who originally files a  
9 certain claim in a circuit court against certain professions to file a certificate of  
10 a qualified expert, to exclude an individual who is a certain licensed or certified  
11 professional under the laws of another jurisdiction; requiring the contents of the  
12 certificate to include a statement from a qualified expert that the licensed  
13 professional, or a certain person or entity through which professional services  
14 were performed, failed to meet a certain standard; providing for the application  
15 of this Act; and generally relating to certain negligent actions.

16 BY repealing and reenacting, with amendments,  
17 Article – Courts and Judicial Proceedings  
18 Section 3–2C–01 and 3–2C–02  
19 Annotated Code of Maryland  
20 (2013 Replacement Volume and 2013 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article – Courts and Judicial Proceedings**

24 3–2C–01.

25 (a) In this subtitle the following words have the meanings indicated.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) “Claim” means a civil action, including an original claim, counterclaim,  
2 cross-claim, or third-party claim, originally filed in a circuit court or United States  
3 District Court against a licensed professional or the employer, partnership, or other  
4 **PERSON OR** entity through which the [licensed professional performed] professional  
5 services **WERE PERFORMED** that is based on [the licensed professional’s] **AN** alleged  
6 negligent act or omission in rendering professional services, within the scope of [the  
7 professional’s] **A PROFESSIONAL** license, permit, or certificate, for others.

8 (c) “Licensed professional” means:

9 (1) An architect licensed under Title 3 of the Business Occupations  
10 and Professions Article;

11 (2) An interior designer certified under Title 8 of the Business  
12 Occupations and Professions Article;

13 (3) A landscape architect licensed under Title 9 of the Business  
14 Occupations and Professions Article;

15 (4) A professional engineer licensed under Title 14 of the Business  
16 Occupations and Professions Article; or

17 (5) A professional land surveyor or property line surveyor licensed  
18 under Title 15 of the Business Occupations and Professions Article.

19 (d) (1) “Qualified expert” means an individual who is a licensed  
20 **MARYLAND** professional[, or comparably licensed or certified professional under the  
21 laws of another jurisdiction,] knowledgeable in the accepted standard of care in the  
22 same discipline as the licensed professional against whom a claim is filed.

23 (2) “Qualified expert” does not include:

24 (i) A party to the claim;

25 (ii) An employee or partner of a party;

26 (iii) An employee or stockholder of a professional corporation of  
27 which a party is a stockholder; or

28 (iv) A person having a financial interest in the outcome of the  
29 claim.

30 3-2C-02.

1           (a)   (1)   Except as provided in subsections (b) and (c) of this section, a claim  
2 shall be dismissed, without prejudice, if the claimant fails to file a certificate of a  
3 qualified expert with the court.

4                   (2)   A certificate of a qualified expert shall:

5                           (i)   Contain a statement from a qualified expert attesting that  
6 the licensed professional, **OR THE EMPLOYER, PARTNERSHIP, OR OTHER PERSON**  
7 **OR ENTITY THROUGH WHICH PROFESSIONAL SERVICES WERE PERFORMED,**  
8 failed to meet an applicable standard of professional care;

9                           (ii)   Subject to the provisions of subsections (b) and (c) of this  
10 section, be filed within 90 days after the claim is filed; and

11                           (iii)   Be served on all other parties to the claim or the parties'  
12 attorneys of record in accordance with the Maryland Rules.

13           (b)   (1)   Upon written request made by the claimant within 30 days of the  
14 date the claim is served, the defendant shall produce documentary evidence that  
15 would be otherwise discoverable, if the documentary evidence is reasonably necessary  
16 in order to obtain a certificate of a qualified expert.

17                   (2)   The time for filing a certificate of a qualified expert shall begin on  
18 the date on which the defendant's production of the documentary evidence under  
19 paragraph (1) of this subsection is completed.

20                   (3)   The defendant's failure to produce the requested documentary  
21 evidence under paragraph (1) of this subsection shall constitute a waiver of the  
22 requirement that the claimant file a certificate of a qualified expert as to that  
23 defendant.

24           (c)   (1)   Upon written request by the claimant and a finding of good cause  
25 by the court, the court may waive or modify the requirement for the filing of the  
26 certificate of a qualified expert.

27                   (2)   The time for filing the certificate of merit of a qualified expert shall  
28 be suspended until the court rules on the request and, absent an order to the contrary,  
29 the certificate shall be filed within 90 days of the court's ruling.

30           (d)   Discovery by the defendant as to the basis of the certificate of a qualified  
31 expert shall be available.

32           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
33 construed to apply only prospectively and may not be applied or interpreted to have  
34 any effect on or application to any cause of action arising before the effective date of  
35 this Act.

1           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2014.