

SENATE BILL 147

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SB 689/14 – JPR

5lr1193

By: **Senator Zirkin**

Introduced and read first time: January 29, 2015

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Local Government Tort Claims Act and Maryland Tort Claims Act – Repeal of**
3 **Certain Notice Requirements**

4 FOR the purpose of repealing a certain notice requirement for a claim under the Local
5 Government Tort Claims Act; repealing a requirement that a claimant submit a
6 claim within a certain time to the State Treasurer or a designee of the State
7 Treasurer under the Maryland Tort Claims Act; providing for the application of this
8 Act; and generally relating to repealing certain requirements under the Local
9 Government Tort Claims Act and the Maryland Tort Claims Act.

10 BY repealing

11 Article – Courts and Judicial Proceedings
12 Section 5–304
13 Annotated Code of Maryland
14 (2013 Replacement Volume and 2014 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – State Government
17 Section 12–106
18 Annotated Code of Maryland
19 (2014 Replacement Volume)

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

22 **Article – Courts and Judicial Proceedings**

23 **[5–304.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) This section does not apply to an action against a nonprofit corporation
2 described in § 5–301(d)(23), (24), (25), (26), (28), or (29) of this subtitle or its employees.

3 (b) (1) Except as provided in subsections (a) and (d) of this section, an action
4 for unliquidated damages may not be brought against a local government or its employees
5 unless the notice of the claim required by this section is given within 180 days after the
6 injury.

7 (2) The notice shall be in writing and shall state the time, place, and cause
8 of the injury.

9 (c) (1) The notice required under this section shall be given in person or by
10 certified mail, return receipt requested, bearing a postmark from the United States Postal
11 Service, by the claimant or the representative of the claimant.

12 (2) Except as otherwise provided, if the defendant local government is a
13 county, the notice required under this section shall be given to the county commissioners
14 or county council of the defendant local government.

15 (3) If the defendant local government is:

16 (i) Baltimore City, the notice shall be given to the City Solicitor;

17 (ii) Howard County or Montgomery County, the notice shall be given
18 to the County Executive; and

19 (iii) Anne Arundel County, Baltimore County, Harford County, or
20 Prince George's County, the notice shall be given to the county solicitor or county attorney.

21 (4) For any other local government, the notice shall be given to the
22 corporate authorities of the defendant local government.

23 (d) Notwithstanding the other provisions of this section, unless the defendant can
24 affirmatively show that its defense has been prejudiced by lack of required notice, upon
25 motion and for good cause shown the court may entertain the suit even though the required
26 notice was not given.]

27 Article – State Government

28 12–106.

29 [(a) This section does not apply to a claim that is asserted by cross–claim,
30 counterclaim, or third–party claim.

31 (b)] A claimant may not institute an action under this subtitle unless[:

1 (1) the claimant submits a written claim to the Treasurer or a designee of
2 the Treasurer within 1 year after the injury to person or property that is the basis of the
3 claim;

4 (2) the Treasurer or designee denies the claim finally; and

5 (3)] the action is filed within 3 years after the cause of action arises.

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

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2015.