SENATE BILL 356

D36lr0440 SB 147/15 - JPRBy: Senator Zirkin Introduced and read first time: January 28, 2016 Assigned to: Judicial Proceedings Committee Report: Favorable with amendments Senate action: Adopted Read second time: March 16, 2016 CHAPTER AN ACT concerning Local Government Tort Claims Act and Maryland Tort Claims Act - Statute of Limitations and Repeal of Certain Notice Requirements FOR the purpose of repealing a certain notice requirement for a claim under the Local Government Tort Claims Act: repealing a requirement that a claimant submit a claim within a certain time to the State Treasurer or a designee of the State Treasurer under the Maryland Tort Claims Act; providing that when a certain cause of action accrues in favor of a minor or mental incompetent under the Local Government Tort Claims Act or the Maryland Tort Claims Act, the claimant shall file an action must be filed within a certain number of years after the disability is removed and a certain notice is not required; providing for the application of this Act; and generally relating to the Local Government Tort Claims Act and the Maryland Tort Claims Act. BY repealing and reenacting, with amendments, Article – Courts and Judicial Proceedings Section 5–304 Annotated Code of Maryland (2013 Replacement Volume and 2015 Supplement) BY repealing and reenacting, with amendments, Article – State Government Section 12–106 Annotated Code of Maryland (2014 Replacement Volume and 2015 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

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Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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INCOMPETENT:

$1\\2$	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND That the Laws of Maryland read as follows:
3	Article - Courts and Judicial Proceedings
4	₹ 5−304.
5 6	(a) This section does not apply to an action against a nonprofit corporation described in § 5–301(d)(23), (24), (25), (26), (28), or (29) of this subtitle or its employees.
7 8 9 10	(b) (1) Except as provided in subsections (a) and (d) (A), (D), AND (E) of this section, an action for unliquidated damages may not be brought against a local government or its employees unless the notice of the claim required by this section is given within 1 year after the injury.
11 12	(2) The notice shall be in writing and shall state the time, place, and cause of the injury.
13 14 15	(c) (1) The notice required under this section shall be given in person or by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, by the claimant or the representative of the claimant.
16 17 18	(2) Except as otherwise provided, if the defendant local government is a county, the notice required under this section shall be given to the county commissioners or county council of the defendant local government.
19	(3) If the defendant local government is:
20	(i) Baltimore City, the notice shall be given to the City Solicitor;
21 22	(ii) Howard County or Montgomery County, the notice shall be given to the County Executive; and
23 24	(iii) Anne Arundel County, Baltimore County, Harford County, or Prince George's County, the notice shall be given to the county solicitor or county attorney
25 26	(4) For any other local government, the notice shall be given to the corporate authorities of the defendant local government.
27	(D) WHEN A CAUSE OF ACTION ACCRUES IN FAVOR OF A MINOR OR MENTAL

29 (1) The action shall be brought within 3 years after the 30 disability is removed; and

1 (2) NO NOTICE SHALL BE REQUIRED UNDER THIS SECTION.

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

Article - State Government

7 12–106.

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- 8 (a) {This section does not apply to a claim that is asserted by cross-claim, 9 counterclaim, or third-party claim.
- 10 (b) Except as provided in subsection $\{(c)\}$ AND (D) of this section, a claimant may not institute an action under this subtitle unless $\{(c)\}$:
- 12 (1) the claimant submits a written claim to the Treasurer or a designee of 13 the Treasurer within 1 year after the injury to person or property that is the basis of the 14 claim;
- 15 (2) the Treasurer or designee denies the claim finally; and
- 16 (3) the action is filed within 3 years after the cause of action arises.
- 17 (B) (C) WHEN A CAUSE OF ACTION ACCRUES IN FAVOR OF A MINOR OR MENTAL INCOMPETENT, THE CLAIMANT:
- 19 (1) SHALL FILE AN ACTION WITHIN 3 YEARS AFTER THE DISABILITY IS 20 REMOVED; AND
- 21 (2) IS NOT REQUIRED TO SUBMIT A WRITTEN CLAIM UNDER THIS 22 SECTION.
- If a claimant fails to submit a written claim in accordance with subsection (b)(1) of this section, on motion by a claimant and for good cause shown, the court may entertain an action under this subtitle unless the State can affirmatively show that its defense has been prejudiced by the claimant's failure to submit the claim.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any cause of action arising before the effective date of this Act.
- SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect 31 October 1, 2016.