
By: **Delegates K. Kelly and Vallario**
Introduced and read first time: February 4, 1999
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Local Government Tort Claims Act - Notice Requirement**

3 FOR the purpose of providing that notice to the insurer or claims administration
4 office of local government shall be deemed to substantially comply with the
5 required notice under the Local Government Tort Claims Act under certain
6 circumstances; providing for the application of this Act; and generally relating to
7 notice of a claim under the Local Government Tort Claims Act.

8 BY repealing and reenacting, without amendments,
9 Article - Courts and Judicial Proceedings
10 Section 5-301(a) and (d)
11 Annotated Code of Maryland
12 (1998 Replacement Volume)

13 BY repealing and reenacting, with amendments,
14 Article - Courts and Judicial Proceedings
15 Section 5-304
16 Annotated Code of Maryland
17 (1998 Replacement Volume)

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

20 **Article - Courts and Judicial Proceedings**

21 5-301.

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

23 (d) "Local government" means:

24 (1) A chartered county established under Article 25A of the Code;

25 (2) A code county established under Article 25B of the Code;

- 1 (3) A board of county commissioners established or operating under
2 Article 25 of the Code;
- 3 (4) Baltimore City;
- 4 (5) A municipal corporation established or operating under Article 23A of
5 the Code;
- 6 (6) The Maryland-National Capital Park and Planning Commission;
- 7 (7) The Washington Suburban Sanitary Commission;
- 8 (8) The Northeast Maryland Waste Disposal Authority;
- 9 (9) A community college or board of trustees for a community college
10 established or operating under Title 16 of the Education Article, not including
11 Baltimore City Community College;
- 12 (10) A county public library or board of trustees of a county public library
13 established or operating under Title 23, Subtitle 4 of the Education Article;
- 14 (11) The Enoch Pratt Free Library or Board of Trustees of the Enoch Pratt
15 Free Library;
- 16 (12) The Washington County Free Library or the Board of Trustees of the
17 Washington County Free Library;
- 18 (13) A special taxing district;
- 19 (14) A nonprofit community service corporation incorporated under
20 Maryland law that is authorized to collect charges or assessments;
- 21 (15) Housing authorities created under Article 44A of the Code;
- 22 (16) A sanitary district, sanitary commission, metropolitan commission,
23 or other sewer or water authority established or operating under public local law or
24 public general law;
- 25 (17) The Baltimore Metropolitan Council;
- 26 (18) The Howard County Economic Development Authority;
- 27 (19) The Howard County Mental Health Authority;
- 28 (20) A commercial district management authority established by a county
29 or municipal corporation if provided under local law; and
- 30 (21) The Baltimore City Police Department.

1 5-304.

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

6 (b) (1) Except in Anne Arundel County, Baltimore County, Harford County,
7 and Prince George's County, the notice shall be given in person or by certified mail,
8 return receipt requested, bearing a postmark from the United States Postal Service,
9 by the claimant or the representative of the claimant, to the county commissioner,
10 county council, or corporate authorities of a defendant local government, or:

11 (i) In Baltimore City, to the City Solicitor;

12 (ii) In Howard County, to the County Executive; OR

13 (iii) In Montgomery County, to the County Executive.

14 (2) In Anne Arundel County, Baltimore County, Harford County, and
15 Prince George's County, the notice shall be given in person or by certified mail, return
16 receipt requested, bearing a postmark from the United States Postal Service, by the
17 claimant or the representative of the claimant, to the county solicitor or county
18 attorney.

19 (3) The notice shall be in writing and shall state the time, place, and
20 cause of the injury.

21 (c) Notwithstanding the [other] provisions of SUBSECTIONS (A) AND (B) OF
22 this section, unless the defendant can affirmatively show that its defense has been
23 prejudiced by lack of required notice, upon motion and for good cause shown the court
24 may entertain the suit even though the required notice was not given.

25 (D) NOTICE GIVEN IN PERSON OR BY CERTIFIED MAIL, RETURN RECEIPT
26 REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES POSTAL SERVICE, BY
27 THE CLAIMANT OR THE REPRESENTATIVE OF THE CLAIMANT TO THE INSURER OR
28 CLAIMS ADMINISTRATION OFFICE OF A LOCAL GOVERNMENT WITHIN 180 DAYS
29 AFTER THE INJURY SHALL BE DEEMED TO SUBSTANTIALLY COMPLY WITH THE
30 REQUIRED NOTICE UNDER THIS SECTION IF THE NOTICE IS IN WRITING AND STATES
31 THE TIME, PLACE, AND CAUSE OF THE INJURY.

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

35 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 1999.