

HOUSE BILL 155

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HB 947/00 - JUD

2001 Regular Session  
11r0296

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By: **Delegates K. Kelly and Vallario**  
Introduced and read first time: January 18, 2001  
Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Courts - Local Government Tort Claims - Limits on Liability**

3 FOR the purpose of increasing the limits on the liability of a local government for  
4 certain claims under the Local Government Tort Claims Act; providing for the  
5 application of this Act; and generally relating to the limits on liability of a local  
6 government for certain tort claims.

7 BY repealing and reenacting, with amendments,  
8 Article - Courts and Judicial Proceedings  
9 Section 5-303  
10 Annotated Code of Maryland  
11 (1998 Replacement Volume and 2000 Supplement)

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

14 **Article - Courts and Judicial Proceedings**

15 5-303.

16 (a) (1) Subject to paragraph (2) of this subsection, the liability of a local  
17 government may not exceed [~~\$200,000~~] \$300,000 per an individual claim, and  
18 [~~\$500,000~~] \$750,000 per total claims that arise from the same occurrence for damages  
19 resulting from tortious acts or omissions, including liability arising under subsection  
20 (b) of this section and indemnification under subsection (c) of this section.

21 (2) The limits on liability provided under paragraph (1) of this subsection  
22 do not include interest accrued on a judgment.

23 (b) (1) Except as provided in subsection (c) of this section, a local  
24 government shall be liable for any judgment against its employee for damages  
25 resulting from tortious acts or omissions committed by the employee within the scope  
26 of employment with the local government.

1           (2)     A local government may not assert governmental or sovereign  
2 immunity to avoid the duty to defend or indemnify an employee established in this  
3 subsection.

4       (c)     (1)     A local government may not be liable for punitive damages.

5           (2)     (i)       Subject to subsection (a) of this section and except as provided  
6 in subparagraph (ii) of this paragraph, a local government may indemnify an  
7 employee for a judgment for punitive damages entered against the employee.

8                   (ii)     A local government may not indemnify a law enforcement  
9 officer for a judgment for punitive damages if the law enforcement officer has been  
10 found guilty under Article 27, § 731 of the Code as a result of the act or omission  
11 giving rise to the judgment, if the act or omission would constitute a felony under the  
12 laws of this State.

13           (3)     A local government may not enter into an agreement that requires  
14 indemnification for an act or omission of an employee that may result in liability for  
15 punitive damages.

16       (d)     Notwithstanding the provisions of subsection (b) of this section, this  
17 subtitle does not waive any common law or statutory defense or immunity in  
18 existence as of June 30, 1987, and possessed by an employee of a local government.

19       (e)     A local government may assert on its own behalf any common law or  
20 statutory defense or immunity in existence as of June 30, 1987, and possessed by its  
21 employee for whose tortious act or omission the claim against the local government is  
22 premised and a local government may only be held liable to the extent that a  
23 judgment could have been rendered against such an employee under this subtitle.

24       (f)     Lexington Market, Inc., in Baltimore City, and its employees, may not  
25 raise as a defense a limitation on liability described under § 5-406 of this title.

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

29     SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2001.