

SENATE BILL 433
EMERGENCY BILL

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2001 Regular Session
1r2124
CF 1r2125

By: **Senators Baker, Green, Colburn, Mooney, Haines, Ferguson, Forehand,
Mitchell, and Sfikas**

Introduced and read first time: February 2, 2001

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of clarifying that the monetary limits on the liability of a local
4 government under the Local Government Tort Claims Act apply to claims
5 against local governments when named as defendants; clarifying that the
6 monetary limits under the Local Government Tort Claims Act apply to tort
7 judgments for which local governments are liable; stating the intent of the
8 General Assembly; providing for the application of this Act; making this Act an
9 emergency measure; and generally relating to the Local Government Tort
10 Claims Act.

11 BY repealing and reenacting, with amendments,
12 Article - Courts and Judicial Proceedings
13 Section 5-303
14 Annotated Code of Maryland
15 (1998 Replacement Volume and 2000 Supplement)

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

18 **Article - Courts and Judicial Proceedings**

19 5-303.

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

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

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

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

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

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

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the total liability of a local government, directly or otherwise, in an action arising from tortious acts or omissions, may not exceed the limits on liability stated in § 5-303(a) of the Courts and Judicial Proceedings Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to any claim for damages under § 5-303 of the Courts and Judicial Proceedings Article in a case pending on the effective date of this Act and arising from events occurring on or after July 1, 1987.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health and safety,

1 has been passed by a yea and nay vote supported by three-fifths of all the members
2 elected to each of the two Houses of the General Assembly, and shall take effect from
3 the date it is enacted.