

SENATE BILL 376

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2002 Regular Session
2r1171
CF 2r1172

By: **Senator McFadden (Baltimore City Administration) and Senators
Blount and Hoffman**

Introduced and read first time: January 29, 2002

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City - Contract Disputes**

3 FOR the purpose of prohibiting Baltimore City from raising the defense of sovereign
4 immunity in certain contract cases; providing for a statute of limitations in
5 certain cases; requiring the Mayor and City Council of Baltimore City to provide
6 adequate funds for the satisfaction of final judgments in certain cases; providing
7 that Baltimore City is not liable for punitive damages in certain contract cases;
8 making stylistic changes; and generally relating to contract disputes and actions
9 involving the Baltimore City government.

10 BY repealing and reenacting, with amendments,
11 The Charter of Baltimore City
12 Article II - General Powers
13 Section (4A)
14 (1996 Edition and 2000 Supplement, as amended)

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

17 **The Charter of Baltimore City**

18 **Article II - General Powers**

19 The Mayor and City Council of Baltimore shall have full power and authority to
20 exercise all of the powers heretofore or hereafter granted to it by the Constitution of
21 Maryland or by any Public General or Public Local Laws of the State of Maryland;
22 and in particular, without limitation upon the foregoing, shall have power by
23 ordinance, or such other method as may be provided for in its Charter, subject to the
24 provisions of said Constitution and Public General Laws:

25 (4A)

26 (A) UNLESS OTHERWISE SPECIFICALLY PROVIDED BY THE LAWS OF
27 MARYLAND, BALTIMORE CITY, ITS OFFICERS, DEPARTMENTS, AGENCIES, BOARDS,

1 COMMISSIONS, OR OTHER UNITS OF GOVERNMENT MAY NOT RAISE THE DEFENSE OF
2 SOVEREIGN IMMUNITY IN THE COURTS OF THIS STATE IN AN ACTION IN CONTRACT
3 BASED ON A WRITTEN CONTRACT EXECUTED ON BEHALF OF THE CITY,
4 DEPARTMENT, AGENCY, BOARD, COMMISSION, OR UNIT BY AN OFFICIAL OR
5 EMPLOYEE ACTING WITHIN THE SCOPE OF AUTHORITY.

6 (B) IN ANY ACTION IN CONTRACT DESCRIBED IN SUBSECTION (A) OF THIS
7 SECTION, BALTIMORE CITY, ITS OFFICERS, DEPARTMENTS, AGENCIES, BOARDS,
8 COMMISSIONS, AND OTHER UNITS OF GOVERNMENT HAVE THE IMMUNITY FROM
9 LIABILITY DESCRIBED IN § 5-509 OF THE COURTS AND JUDICIAL PROCEEDINGS
10 ARTICLE.

11 (C) A CLAIM IS BARRED UNLESS THE CLAIMANT FILES SUIT WITHIN 1 YEAR
12 FROM THE DATE ON WHICH THE CLAIM AROSE OR WITHIN 1 YEAR AFTER
13 COMPLETION OF THE CONTRACT GIVING RISE TO THE CLAIM, WHICHEVER IS LATER.

14 (D) THE MAYOR AND CITY COUNCIL OF BALTIMORE SHALL MAKE AVAILABLE
15 ADEQUATE FUNDS FOR THE SATISFACTION, AFTER THE EXHAUSTION OF ANY RIGHT
16 OF APPEAL, OF A FINAL JUDGMENT THAT HAS BEEN RENDERED AGAINST THE CITY
17 OR ANY OFFICER, DEPARTMENT, AGENCY, BOARD, COMMISSION, OR OTHER UNIT OF
18 GOVERNMENT IN AN ACTION IN CONTRACT AS PROVIDED IN THIS SECTION.

19 [(a)] (E) Except as provided in subsections [(b) and (c)] (F) AND (G) of this
20 section, Baltimore City may not require in a construction contract, or otherwise
21 provide with regard to a construction contract, to which it is a party, that a dispute
22 between the parties involving \$10,000 or more [regarding] OVER the terms of the
23 contract or performance under the contract[,] be subject to final binding or conclusive
24 determination by an officer or official body of Baltimore City.

25 [(b)] (F) [Baltimore City may require or provide, with] WITH regard to a
26 construction contract to which it is a party, BALTIMORE CITY MAY PROVIDE OR
27 REQUIRE that if there is a dispute [regarding] OVER the terms of the contract or
28 performance under the contract, the [question or] questions involved in the dispute
29 shall be subject to a determination [which] THAT is final and conclusive on all
30 parties, made either by:

31 (1) a neutral person or entity selected by or in accordance with a
32 procedure established by the [highest executive authority] MAYOR of Baltimore City;
33 or

34 (2) [in the event that] IF the other party does not accept as neutral a
35 person or entity selected under paragraph (1) of this subsection, by an arbitration
36 panel composed of the following:

37 (i) one member designated by the [highest executive authority]
38 MAYOR of Baltimore City;

39 (ii) one member designated by the other party to the dispute; and

1 (iii) one member [to be] selected by mutual agreement of the 2
2 designated members from lists to be submitted by the parties to the dispute.

3 [(c)] (G) Notwithstanding the provisions of subsections [(a) and (b)] (E) AND
4 (F) of this section, [Baltimore City may provide or require,] with regard to a
5 construction contract to which it is a party, **BALTIMORE CITY MAY PROVIDE OR**
6 **REQUIRE** that **IF THERE IS** a dispute between the parties involving \$10,000 or more
7 [regarding] **OVER** the terms of the contract or performance under the contract, [be
8 subject] **THE DISPUTE IS SUBJECT** to a determination of questions of fact by an officer
9 or official body of Baltimore City, [provided that the decision of the officer or official
10 body of Baltimore City is] subject to review on the record by a court of competent
11 jurisdiction.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
13 effect July 1, 2002.