By: **Delegate Marriott (By Request - Baltimore City Administration)**
Rules suspended
Introduced and read first time: March 7, 2003
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City - Local Government Tort Claims Act - Notice of Claim**

3 FOR the purpose of altering the period of time for filing a claim under the Local
4   Government Tort Claims Act against the City of Baltimore for damages to an
5   abandoned vehicle; and generally relating to filing a claim against the City of
6   Baltimore under the Local Government Tort Claims Act.

7 BY repealing and reenacting, with amendments,
8   Article - Courts and Judicial Proceedings
9   Section 5-304
10   Annotated Code of Maryland
11   (2002 Replacement Volume)

12 BY repealing and reenacting, without amendments,
13   Article - Transportation
14   Section 25-204
15   Annotated Code of Maryland
16   (2002 Replacement Volume)

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

19   **Article - Courts and Judicial Proceedings**

20 5-304.

21   (a)   (1)   Except as provided in subsection (c) of this section AND PARAGRAPH
22 (2) OF THIS SUBSECTION, an action for unliquidated damages may not be brought
23 against a local government or its employees unless the notice of the claim required by
24 this section is given within 180 days after the injury.

25   (2)   EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IN
26 BALTIMORE CITY AN ACTION FOR UNLIQUIDATED DAMAGES FOR DAMAGE TO AN
27 ABANDONED VEHICLE MAY NOT BE BROUGHT AGAINST THE CITY OR ITS EMPLOYEES

1 UNLESS THE NOTICE OF THE CLAIM REQUIRED BY THIS SECTION IS GIVEN WITHIN 45
2 DAYS AFTER THE OWNER HAS PAID ALL TOWING, PRESERVATION, AND STORAGE
3 CHARGES RESULTING FROM TAKING OR PLACING THE VEHICLE IN CUSTODY IN
4 ACCORDANCE WITH TITLE 25, SUBTITLE 2 OF THE TRANSPORTATION ARTICLE.

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

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

11   (ii)   In Howard County, to the County Executive; and

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

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

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

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

24   **Article - Transportation**

25 25-204.

26   (a)   As soon as reasonably possible and within 7 days at most after it takes an
27 abandoned vehicle into custody, a police department shall send a notice, by certified
28 mail, return receipt requested, bearing a postmark from the United States Postal
29 Service, to:

30   (1)   The last known registered owner of the vehicle; and

31   (2)   Each secured party, as shown on the records of the Administration.

32   (b)   The notice shall:

33   (1)   State that the abandoned vehicle has been taken into custody;

34   (2)   Describe the year, make, model, and vehicle identification number of
35 the vehicle;

1   (3)   Give the location of the facility where the vehicle is held;

2   (4)   (i)   Inform the owner and secured party of the owner's and secured
3   party's right to reclaim the vehicle within 3 weeks after the date of the notice, on
4   payment of all towing, preservation, and storage charges resulting from taking or
5   placing the vehicle in custody; or

6   (ii)   In Baltimore City and Montgomery County, be sent by certified
7   mail, return receipt requested, and inform the owner and secured party of the owner's
8   and secured party's right to reclaim the vehicle within 11 working days after the
9   receipt of the notice, on payment of all towing, preservation, and storage charges
10   resulting from taking or placing the vehicle in custody; and

11   (5)   State that the failure of the owner or secured party to exercise this
12   right in the time provided is:

13   (i)   A waiver by the owner or secured party of all of the owner's or
14   secured party's right, title, and interest in the vehicle;

15   (ii)   A consent to the sale of the vehicle at public auction; and

16   (iii)   A consent by the owner other than a lessor to the retention of
17   the vehicle for public purposes as provided in § 25-207 of this subtitle.

18   (c)   In Baltimore City, Prince George's County, and Montgomery County, a
19   police department or its agent may seek to recover costs of impoundment, storage,
20   and sale of a vehicle as provided by §§ 25-206.1 and 25-206.2 of this subtitle. If a
21   police department or its agent seeks to apply the provisions of §§ 25-206.1 and
22   25-206.2 of this subtitle, the notice required by this section shall also state that the
23   failure of the owner or secured party to exercise the right to reclaim the vehicle in the
24   time provided may cause:

25   (1)   Continuing liability of the owner for costs of:

26   (i)   Impoundment;

27   (ii)   Storage within the chargeable limit for storage as provided in §
28   25-206.1(b) of this subtitle; and

29   (iii)   Sale of the vehicle; and

30   (2)   Denial of any application by the owner to renew the registration of
31   any vehicle as required by § 25-206.2 of this subtitle.

32   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33   October 1, 2003.