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By: **Delegates Doory, V. Clagett, Dumais, Gutierrez, Holmes, Krysiak,  
Leopold, Love, Menes, Rosenberg, Sophocleus, and Zirkin**

Introduced and read first time: January 31, 2005

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Courts - Certificate of Merit - Licensed Professional**

3 FOR the purpose of applying a certain requirement of filing a certificate of merit in  
4 certain malpractice claims brought in certain courts against licensed  
5 professionals to a claim against the employer, partnership, or certain entity for  
6 whom the licensed professional performs certain services; altering a certain  
7 definition; providing for the construction and application of this Act; and  
8 generally relating to malpractice claims against licensed professionals.

9 BY repealing and reenacting, with amendments,  
10 Article - Courts and Judicial Proceedings  
11 Section 3-2C-01  
12 Annotated Code of Maryland  
13 (2002 Replacement Volume and 2004 Supplement)

14 BY repealing and reenacting, without amendments,  
15 Article - Courts and Judicial Proceedings  
16 Section 3-2C-02(a)  
17 Annotated Code of Maryland  
18 (2002 Replacement Volume and 2004 Supplement)

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

21 **Article - Courts and Judicial Proceedings**

22 3-2C-01.

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

24 (b) "Claim" means a civil action, including an original claim, counterclaim,  
25 cross-claim, or third-party claim, originally filed in circuit court OR UNITED STATES  
26 DISTRICT COURT against a licensed professional OR THE EMPLOYER, PARTNERSHIP,  
27 OR OTHER ENTITY THROUGH WHICH THE LICENSED PROFESSIONAL PERFORMED

1 PROFESSIONAL SERVICES that is based on the licensed professional's alleged  
2 negligent act or omission in rendering professional services, within the scope of the  
3 professional's license, permit, or certificate, for others.

4 (c) "Licensed professional" means:

5 (1) An architect licensed under Title 3 of the Business Occupations and  
6 Professions Article;

7 (2) An interior designer certified under Title 8 of the Business  
8 Occupations and Professions Article;

9 (3) A landscape architect licensed under Title 9 of the Business  
10 Occupations and Professions Article;

11 (4) A professional engineer licensed under Title 14 of the Business  
12 Occupations and Professions Article; or

13 (5) A professional land surveyor or property line surveyor licensed under  
14 Title 15 of the Business Occupations and Professions Article.

15 (d) (1) "Qualified expert" means an individual who is a licensed  
16 professional, or comparably licensed or certified professional under the laws of  
17 another jurisdiction, knowledgeable in the accepted standard of care in the same  
18 discipline as the licensed professional against whom a claim is filed.

19 (2) "Qualified expert" does not include:

20 (i) A party to the claim;

21 (ii) An employee or partner of a party;

22 (iii) An employee or stockholder of a professional corporation of  
23 which a party is a stockholder; or

24 (iv) A person having a financial interest in the outcome of the claim.  
25 3-2C-02.

26 (a) (1) Except as provided in subsections (b) and (c) of this section, a claim  
27 shall be dismissed, without prejudice, if the claimant fails to file a certificate of a  
28 qualified expert with the court.

29 (2) A certificate of a qualified expert shall:

30 (i) Contain a statement from a qualified expert attesting that the  
31 licensed professional against whom the claim is filed failed to meet an applicable  
32 standard of professional care;

33 (ii) Subject to the provisions of subsections (b) and (c) of this  
34 section, be filed within 90 days after the claim is filed; and

1 (iii) Be served on all other parties to the claim or the parties'  
2 attorneys of record in accordance with the Maryland Rules.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be  
4 construed to extend or otherwise modify any applicable statute of limitation or statute  
5 of repose.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be  
7 construed to apply only prospectively and may not be applied or interpreted to have  
8 any effect on or application to any claim filed before the effective date of this Act.

9 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2005.