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By: **Senators Haines, Forehand, and Jacobs**  
Introduced and read first time: January 19, 2005  
Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of applying a certain requirement of filing a certificate of merit in  
4 certain malpractice claims against licensed professionals to a claim against the  
5 employer of a licensed professional; altering a certain definition; providing for  
6 the construction and application of this Act; and generally relating to  
7 malpractice claims against licensed professionals.

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

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

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

20 **Article - Courts and Judicial Proceedings**

21 3-2C-01.

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

23 (b) "Claim" means a civil action, including an original claim, counterclaim,  
24 cross-claim, or third-party claim, originally filed in circuit court against a licensed  
25 professional OR THE EMPLOYER OF A LICENSED PROFESSIONAL that is based on the  
26 licensed professional's alleged negligent act or omission in rendering professional  
27 services, within the scope of the professional's license, permit, or certificate, for  
28 others.

1 (c) "Licensed professional" means:

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

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

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

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

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

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

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

17 (i) A party to the claim;

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

19 (iii) An employee or stockholder of a professional corporation of  
20 which a party is a stockholder; or

21 (iv) A person having a financial interest in the outcome of the claim.  
22 3-2C-02.

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

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

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

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

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

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

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

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