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

Committee Report: Favorable with amendments
 Senate action: Adopted
 Read second time: March 3, 2005

CHAPTER_____

1 AN ACT concerning

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

3 FOR the purpose of specifying that a certain requirement of filing a certificate of a
 4 qualified expert in certain malpractice claims applies to claims filed in a United
 5 States District Court; applying a certain requirement of filing a certificate of
 6 merit a qualified expert in certain malpractice claims ~~against licensed~~
 7 ~~professionals to a claim against the employer of a licensed professional to a~~
 8 claim against the employer, partnership, or other entity through which a
 9 licensed professional performs certain services; altering a certain definition;
 10 providing for the construction and application of this Act; and generally relating
 11 to malpractice claims against certain licensed professionals.

12 BY repealing and reenacting, with amendments,
 13 Article - Courts and Judicial Proceedings
 14 Section 3-2C-01 and 3-2C-02(a)
 15 Annotated Code of Maryland
 16 (2002 Replacement Volume and 2004 Supplement)

17 ~~BY repealing and reenacting, without amendments,~~
 18 ~~Article - Courts and Judicial Proceedings~~
 19 ~~Section 3-2C-02(a)~~
 20 ~~Annotated Code of Maryland~~
 21 ~~(2002 Replacement Volume and 2004 Supplement)~~

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

1 **Article - Courts and Judicial Proceedings**

2 3-2C-01.

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

4 (b) "Claim" means a civil action, including an original claim, counterclaim,
5 cross-claim, or third-party claim, originally filed in A circuit court OR UNITED
6 STATES DISTRICT COURT against a licensed professional OR THE EMPLOYER OF A,
7 PARTNERSHIP, OR OTHER ENTITY THROUGH WHICH THE LICENSED PROFESSIONAL
8 PERFORMED PROFESSIONAL SERVICES that is based on the licensed professional's
9 alleged negligent act or omission in rendering professional services, within the scope
10 of the professional's license, permit, or certificate, for others.

11 (c) "Licensed professional" means:

12 (1) An architect licensed under Title 3 of the Business Occupations and
13 Professions Article;14 (2) An interior designer certified under Title 8 of the Business
15 Occupations and Professions Article;16 (3) A landscape architect licensed under Title 9 of the Business
17 Occupations and Professions Article;18 (4) A professional engineer licensed under Title 14 of the Business
19 Occupations and Professions Article; or20 (5) A professional land surveyor or property line surveyor licensed under
21 Title 15 of the Business Occupations and Professions Article.22 (d) (1) "Qualified expert" means an individual who is a licensed
23 professional, or comparably licensed or certified professional under the laws of
24 another jurisdiction, knowledgeable in the accepted standard of care in the same
25 discipline as the licensed professional against whom a claim is filed.

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

27 (i) A party to the claim;

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

29 (iii) An employee or stockholder of a professional corporation of
30 which a party is a stockholder; or

31 (iv) A person having a financial interest in the outcome of the claim.

32 3-2C-02.

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

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

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

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

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

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

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

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