
By: **Chairman, Judicial Proceedings Committee (By Request -
Departmental - Transportation)**

Introduced and read first time: January 20, 2005

Rules suspended

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Transit Administration - Limits of Liability - Transactional**
3 **Agreements**

4 FOR the purpose of limiting, in tort actions against the Maryland Transit
5 Administration based on the acts of an entity that has entered into an
6 agreement with the Administration, the liability of the Administration to the
7 lesser of the liability of the other entity under certain circumstances or certain
8 statutory liability limits under certain circumstances; providing for the
9 construction and applicability of this Act; and generally relating to limiting the
10 liability of the Maryland Transit Administration in certain tort actions.

11 BY repealing and reenacting, with amendments,
12 Article - Transportation
13 Section 7-702
14 Annotated Code of Maryland
15 (2001 Replacement Volume and 2004 Supplement)

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

18 **Article - Transportation**

19 7-702.

20 (a) Subject to the provisions of this section, the Administration is liable for its
21 contracts and torts and for the torts of its officers, agents, and employees in
22 connection with the performance of the duties and functions of the Administration
23 under this title.

24 (b) The exclusive remedy for a breach of contract or for a tort committed by the
25 Administration, its officers, agents, or employees is a suit against the Administration.
26 No execution may be levied on any property of this State or of the Administration.

1 (C) IN ACTIONS AGAINST THE ADMINISTRATION FOR THE TORTS OF AN
2 ENTITY THAT HAS ENTERED INTO AN AGREEMENT WITH THE ADMINISTRATION, THE
3 ADMINISTRATION'S LIABILITY MAY NOT EXCEED THE LESSER OF:

4 (1) THE LIABILITY OF THE ENTITY, IF THE ENTITY'S LIABILITY IS
5 LIMITED BY A PROVISION OF STATE LAW; OR

6 (2) THE LIMITS OF LIABILITY SET FORTH IN § 12-104 OF THE STATE
7 GOVERNMENT ARTICLE, IF THE CONDUCT THAT GIVES RISE TO THE CLAIM:

8 (I) OCCURRED ON ADMINISTRATION PROPERTY; AND

9 (II) AROSE FROM ACTS RELATED TO AN AGREEMENT TO CONDUCT
10 COMMERCIAL ACTIVITY ON ADMINISTRATION PROPERTY.

11 [(c)] (D) Subsection [(d)] (E) of this section does not apply to a tort claim that
12 is asserted by cross-claim, counterclaim, or third-party claim.

13 [(d)] (E) A tort claimant may not institute an action under this section unless:

14 (1) The claimant submits a written notice of claim to the Administrator
15 or the Administrator's designee within 1 year after the injury to person or property
16 that is the basis of the claim;

17 (2) The Administrator or the Administrator's designee denies the claim;
18 and

19 (3) The action is filed within 3 years after the cause of action arises.

20 [(e)] (F) A notice of claim under this section shall:

21 (1) Contain a concise statement of facts that sets forth the nature of the
22 claim, including the date and place of the alleged tort;

23 (2) State the name and address of the claimant;

24 (3) State the name, address, and telephone number of counsel for the
25 claimant, if any; and

26 (4) Be signed by the claimant, or the legal representative or counsel for
27 the claimant.

28 [(f)] (G) A claim under this section is denied:

29 (1) If the Administrator or the Administrator's designee sends the
30 claimant, or the legal representative or counsel for the claimant, written notice of
31 denial; or

32 (2) If the Administrator or the Administrator's designee fails to give
33 notice of a denial within 6 months after the sending of the notice of claim.

1 [(g)] (H) Notwithstanding any other provision of this section, unless the
2 Administration affirmatively shows that its defense has been prejudiced by the lack
3 of the required notice, a court may allow the action to proceed even if the written
4 notice of claim was not submitted.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
6 construed to apply only prospectively and apply only to actions against the Maryland
7 Transit Administration based on the acts of an entity entering into an agreement with
8 the Administration on or after October 1, 2005.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
10 effect October 1, 2005.