

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 836

(Delegate Heller, *et al.*)

(Joint Committee on the Management of Public Funds)

Judiciary

Judicial Proceedings

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Maryland Tort Claims Act - Structured Settlements

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This bill alters the definition of “structured settlement” in the Maryland Tort Claims Act to allow the State to enter into settlement agreements prior to a judgment being entered. The bill further requires that the State and claimant select an investment company, if a structured settlement is entered into, by mutual agreement.

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Fiscal Summary

**State Effect:** Potential significant decrease in expenditures from the State Insurance Trust Fund (SITF) due to the State Treasurer’s ability to enter into pretrial settlements with claimants.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law:** Under the Maryland Tort Claims Act (MTCA), State personnel are immune from liability for acts or omissions performed in the course of their official duties, so long as the acts or omissions are made without malice or gross negligence. The State essentially waives its own common law immunity for its employees’ actions. MTCA limits the liability of the State to \$200,000 to a single claimant for injuries arising from a single incident.

A structured settlement means a plan for the payment of a judgment to a claimant for damages in periodic installments.

**Background:** The State Treasurer's Office maintains that the Insurance Division has been prevented from entering into settlements because the statute does not expressly permit structured settlements absent a judgment. Chapter 446 of 1996 amended MTCA to apply to claimants, rather than plaintiffs.

No claims have been paid using structured settlements following the entry of a judgment.

Claims covered by MTCA are paid by SITF, a nonbudgeted fund within the State Treasurer's Office. SITF receives its funding from annual insurance premiums paid by the individual State agencies and other entities.

**State Expenditures:** Special fund expenditures would reduce significantly by the use of structured settlements entered into prior to litigation. The amount depends on the amount and number of settlements and the annuity values. The State Treasurer advises that the ability to settle claims prior to the entry of a judgment will allow the State to purchase annuities at less than the actual settlement amount.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** SB 781 (Senator Lawlah, *et al.*) (Joint Committee on the Management of Public Funds) – Judicial Proceedings.

**Information Source(s):** State Treasurer, Department of Legislative Services

**Fiscal Note History:** First Reader - February 21, 2005  
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