
By: **Carroll County Delegation**
Introduced and read first time: February 2, 2006
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 21, 2006

CHAPTER _____

1 AN ACT concerning

2 **Carroll County - Local Government Tort Claims Act - Inclusion of Specified**
3 **Nonprofit Entities**

4 FOR the purpose of altering the definition of a "local government" under the Local
5 Government Tort Claims Act to include certain nonprofit corporations in Carroll
6 County; providing that a certain notice requirement does not apply to certain
7 actions against certain nonprofit corporations in Carroll County or their
8 employees; and generally relating to the inclusion of certain nonprofit entities in
9 Carroll County under the Local Government Tort Claims Act.

10 BY repealing and reenacting, with amendments,
11 Article - Courts and Judicial Proceedings
12 Section 5-301 and 5-304
13 Annotated Code of Maryland
14 (2002 Replacement Volume and 2005 Supplement)

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

17 **Article - Courts and Judicial Proceedings**

18 5-301.

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

20 (b) "Actual malice" means ill will or improper motivation.

1 (c) (1) "Employee" means any person who was employed by a local
2 government at the time of the act or omission giving rise to potential liability against
3 that person.

4 (2) "Employee" includes:

5 (i) Any employee, either within or without a classified service or
6 merit system;

7 (ii) An appointed or elected official; or

8 (iii) A volunteer who, at the request of the local government, and
9 under its control and direction, was providing services or performing duties.

10 (d) "Local government" means:

11 (1) A chartered county established under Article 25A of the Code;

12 (2) A code county established under Article 25B of the Code;

13 (3) A board of county commissioners established or operating under
14 Article 25 of the Code;

15 (4) Baltimore City;

16 (5) A municipal corporation established or operating under Article 23A of
17 the Code;

18 (6) The Maryland-National Capital Park and Planning Commission;

19 (7) The Washington Suburban Sanitary Commission;

20 (8) The Northeast Maryland Waste Disposal Authority;

21 (9) A community college or board of trustees for a community college
22 established or operating under Title 16 of the Education Article, not including
23 Baltimore City Community College;

24 (10) A county public library or board of trustees of a county public library
25 established or operating under Title 23, Subtitle 4 of the Education Article;

26 (11) The Enoch Pratt Free Library or Board of Trustees of the Enoch Pratt
27 Free Library;

28 (12) The Washington County Free Library or the Board of Trustees of the
29 Washington County Free Library;

30 (13) A special taxing district;

31 (14) A nonprofit community service corporation incorporated under State
32 law that is authorized to collect charges or assessments;

- 1 (15) Housing authorities created under Article 44A of the Code;
- 2 (16) A sanitary district, sanitary commission, metropolitan commission,
3 or other sewer or water authority established or operating under public local law or
4 public general law;
- 5 (17) The Baltimore Metropolitan Council;
- 6 (18) The Howard County Economic Development Authority;
- 7 (19) The Howard County Mental Health Authority;
- 8 (20) A commercial district management authority established by a county
9 or municipal corporation if provided under local law;
- 10 (21) The Baltimore City Police Department;
- 11 (22) A regional library resource center or a cooperative library corporation
12 established under Title 23, Subtitle 2 of the Education Article; [and]
- 13 (23) Lexington Market, Inc., in Baltimore City;
- 14 (24) THE NONPROFIT CORPORATION SERVING AS THE LOCAL PUBLIC
15 TRANSPORTATION AUTHORITY FOR CARROLL COUNTY PURSUANT TO A CONTRACT
16 OR MEMORANDUM OF UNDERSTANDING WITH CARROLL COUNTY (CARROLL COUNTY
17 SENIOR OVERLAND SERVICE, INC., T/A CARROLL AREA TRANSIT SYSTEM); AND
- 18 (25) THE NONPROFIT CORPORATION SERVING AS THE ANIMAL CONTROL
19 AND LICENSING AUTHORITY FOR CARROLL COUNTY PURSUANT TO A CONTRACT OR
20 MEMORANDUM OF UNDERSTANDING WITH CARROLL COUNTY (THE HUMANE
21 SOCIETY OF CARROLL COUNTY, INC.).

22 5-304.

23 (a) THIS SECTION DOES NOT APPLY TO AN ACTION AGAINST A NONPROFIT
24 CORPORATION DESCRIBED IN § 5-301(D)(24) OR (25) OF THIS SUBTITLE OR ITS
25 EMPLOYEES.

26 (B) Except as provided in [subsection (c)] SUBSECTIONS (A) AND (D) of this
27 section, an action for unliquidated damages may not be brought against a local
28 government or its employees unless the notice of the claim required by this section is
29 given within 180 days after the injury.

30 [(b)] (C) (1) Except in Anne Arundel County, Baltimore County, Harford
31 County, and Prince George's County, the notice shall be given in person or by certified
32 mail, return receipt requested, bearing a postmark from the United States Postal
33 Service, by the claimant or the representative of the claimant, to the county
34 commissioner, county council, or corporate authorities of a defendant local
35 government, or:

36 (i) In Baltimore City, to the City Solicitor;

1 (ii) In Howard County, to the County Executive; and

2 (iii) In Montgomery County, to the County Executive.

3 (2) In Anne Arundel County, Baltimore County, Harford County, and
4 Prince George's County, the notice shall be given in person or by certified mail, return
5 receipt requested, bearing a postmark from the United States Postal Service, by the
6 claimant or the representative of the claimant, to the county solicitor or county
7 attorney.

8 (3) The notice shall be in writing and shall state the time, place, and
9 cause of the injury.

10 [~~(c)~~] (D) Notwithstanding the other provisions of this section, unless the
11 defendant can affirmatively show that its defense has been prejudiced by lack of
12 required notice, upon motion and for good cause shown the court may entertain the
13 suit even though the required notice was not given.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 July 1, 2006.