

# HOUSE BILL 387

D3

(71r2208)

## **ENROLLED BILL**

— *Judiciary/Judicial Proceedings* —

Introduced by **Delegates Smigiel, Anderson, Carter, Dumais, Elmore, Kelly, Lee, Manno, Schuler, and Simmons**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Torts - Release of Claim for Damages - Voidable**

3 FOR the purpose of altering the period during which a release of a claim for certain  
4 damages signed by an injured individual is voidable; altering the circumstances  
5 under which a release of a claim for certain damages is voidable; altering the  
6 period during which a certain power of attorney or employment contract signed  
7 by an injured individual is voidable; clarifying when a certain time period  
8 begins; requiring a certain notice that a certain release is voided to be in writing  
9 and accompanied by the return of certain money; providing that a certain  
10 release is void from the date that a certain notice is mailed; providing for the

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber / conference committee amendments.*



1 application of this Act; and generally relating to certain documents signed by  
2 injured individuals.

3 BY repealing and reenacting, with amendments,  
4 Article – Courts and Judicial Proceedings  
5 Section 5–401.1  
6 Annotated Code of Maryland  
7 (2006 Replacement Volume)

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

10 **Article – Courts and Judicial Proceedings**

11 5–401.1.

12 (a) **(1)** A release of the claim of an injured individual for damages  
13 resulting from a tort, signed by the injured individual within [5] **30** days of the  
14 infliction of the injuries **WITHOUT THE ASSISTANCE OR GUIDANCE OF AN**  
15 **ATTORNEY AT LAW**, and any power of attorney to or contract of employment with an  
16 attorney at law, with reference to recovery of damages for the tort, signed by the  
17 individual within [5] **30** days after the infliction of the injuries, shall be voidable **AT**  
18 **THE OPTION OF THE INJURED INDIVIDUAL** within 60 days [at the option of the  
19 injured individual] **AFTER THE DAY ON WHICH THE INDIVIDUAL SIGNED THE**  
20 **DOCUMENT.**

21 **(2) (I) NOTICE THAT A RELEASE IS VOIDED UNDER THIS**  
22 **SUBSECTION BY THE INJURED INDIVIDUAL SHALL BE:**

23 **1. IN WRITING; AND**

24 **2. ACCOMPANIED BY THE RETURN OF ANY MONEY**  
25 **PAID TO THE INJURED INDIVIDUAL AS A RESULT OF THE SIGNING OF THE**  
26 **RELEASE.**

27 **(II) THE RELEASE IS VOID FROM THE DATE THAT THE**  
28 **NOTICE IS MAILED.**

29 (b) A person whose interest is or may become adverse to an injured  
30 individual who is confined to a hospital or sanitarium as a patient may not, within 15  
31 days from the date of the occurrence causing the patient's injury:

- 1           (1)    Negotiate or attempt to negotiate a settlement with the patient;
- 2           (2)    Obtain or attempt to obtain a general release of liability from the  
3 patient; or
- 4           (3)    Obtain or attempt to obtain any statement, either written or oral  
5 from the patient, for use in negotiating a settlement or obtaining a release.

6           (c)    Any settlement agreement entered into or any general release of liability  
7 made by any individual who is confined in a hospital or sanitarium after the  
8 individual incurs a personal injury may not be used in evidence in any court action  
9 relating to the injury and may not be used for any purpose in any legal action in  
10 connection with the injury if the settlement agreement or release is obtained contrary  
11 to the provisions of subsection (b) of this section.

12          (d)    A release executed by an individual who has sustained personal injuries  
13 does not discharge a subsequent tort-feasor:

14               (1)    Who is not a party to the release; and

15               (2)    (i)    Whose responsibility for the individual's injuries is unknown  
16 at the time of execution of the release; or

17               (ii)   Who is not specifically identified in the release.

18          SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
19 construed to apply only prospectively and may not be applied or interpreted to have  
20 any effect on or application to any injury occurring before the effective date of this Act.

21          SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2007.