

# HOUSE BILL 387

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CF SB 368

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By: **Delegates Smigiel, Anderson, Carter, Dumais, Elmore, Kelly, Lee, Manno, Schuler, and Simmons**

Introduced and read first time: February 2, 2007

Assigned to: Judiciary

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## A BILL ENTITLED

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 period during  
5 which a certain power of attorney or employment contract signed by an injured  
6 individual is voidable; clarifying when a certain time period begins; providing  
7 for the application of this Act; and generally relating to certain documents  
8 signed by injured individuals.

9 BY repealing and reenacting, with amendments,  
10 Article – Courts and Judicial Proceedings  
11 Section 5–401.1  
12 Annotated Code of Maryland  
13 (2006 Replacement Volume)

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

16 **Article – Courts and Judicial Proceedings**

17 5–401.1.

18 (a) A release of the claim of an injured individual for damages resulting from  
19 a tort, signed by the injured individual within [5] **30** days of the infliction of the  
20 injuries, and any power of attorney to or contract of employment with an attorney at

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 law, with reference to recovery of damages for the tort, signed by the individual within  
2 [5] **30** days after the infliction of the injuries, shall be voidable **AT THE OPTION OF**  
3 **THE INJURED INDIVIDUAL** within 60 days [at the option of the injured individual]  
4 **AFTER THE DAY ON WHICH THE INDIVIDUAL SIGNED THE DOCUMENT.**

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

8 (1) Negotiate or attempt to negotiate a settlement with the patient;

9 (2) Obtain or attempt to obtain a general release of liability from the  
10 patient; or

11 (3) Obtain or attempt to obtain any statement, either written or oral  
12 from the patient, for use in negotiating a settlement or obtaining a release.

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

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

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

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

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

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

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