

HOUSE BILL 387

D3

71r2208
CF SB 368

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

Introduced and read first time: February 2, 2007

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 6, 2007

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 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; requiring a
7 certain notice that a certain release is voided to be in writing and accompanied
8 by the return of certain money; providing that a certain release is void from the
9 date that a certain notice is mailed; providing for the application of this Act; and
10 generally relating to certain documents signed by injured individuals.

11 BY repealing and reenacting, with amendments,
12 Article – Courts and Judicial Proceedings
13 Section 5–401.1
14 Annotated Code of Maryland
15 (2006 Replacement Volume)

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

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.



1 **Article – Courts and Judicial Proceedings**

2 5–401.1.

3 (a) **(1)** A release of the claim of an injured individual for damages
4 resulting from a tort, signed by the injured individual within [5] **30** days of the
5 infliction of the injuries, and any power of attorney to or contract of employment with
6 an attorney at law, with reference to recovery of damages for the tort, signed by the
7 individual within [5] **30** days after the infliction of the injuries, shall be voidable **AT**
8 **THE OPTION OF THE INJURED INDIVIDUAL** within 60 days [at the option of the
9 injured individual] **AFTER THE DAY ON WHICH THE INDIVIDUAL SIGNED THE**
10 **DOCUMENT.**

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

13 **1. IN WRITING; AND**

14 **2. ACCOMPANIED BY THE RETURN OF ANY MONEY**
15 **PAID TO THE INJURED INDIVIDUAL AS A RESULT OF THE SIGNING OF THE**
16 **RELEASE.**

17 **(II) THE RELEASE IS VOID FROM THE DATE THAT THE**
18 **NOTICE IS MAILED.**

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

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

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

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

27 (c) Any settlement agreement entered into or any general release of liability
28 made by any individual who is confined in a hospital or sanitarium after the
29 individual incurs a personal injury may not be used in evidence in any court action
30 relating to the injury and may not be used for any purpose in any legal action in

1 connection with the injury if the settlement agreement or release is obtained contrary
2 to the provisions of subsection (b) of this section.

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

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

6 (2) (i) Whose responsibility for the individual’s injuries is unknown
7 at the time of execution of the release; or

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.