HOUSE BILL 1357

D3, R2   7lr3320

By: **Delegate Morhaim**
Introduced and read first time: March 2, 2007
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1   AN ACT concerning

2   **Maryland Transit Administration – Limitation of Tort Liability –**
3   **Performance of Third Party Contracts**

4   FOR the purpose of limiting the liability of the Maryland Transit Administration to a
5   certain amount per occurrence to a person seeking damages resulting from
6   tortious acts or omissions occurring in the course of performance of a contract
7   between the Administration and a third party; providing for the application of
8   this Act; and generally relating to the tort liability of the Maryland Transit
9   Administration.

10 BY repealing and reenacting, with amendments,
11   Article – Transportation
12   Section 7–702
13   Annotated Code of Maryland
14   (2001 Replacement Volume and 2006 Supplement)

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

Article – Transportation

18 7–702.

19   (a)   Subject to the provisions of this section, the Administration is liable for
20 its contracts and torts and for the torts of its officers, agents, and employees in

1   connection with the performance of the duties and functions of the Administration
2   under this title.

3   (b)   The exclusive remedy for a breach of contract or for a tort committed by
4   the Administration, its officers, agents, or employees is a suit against the
5   Administration. No execution may be levied on any property of this State or of the
6   Administration.

7   **(C)   THE LIABILITY OF THE ADMINISTRATION MAY NOT EXCEED**
8   **$1,000,000 PER OCCURRENCE TO A PERSON SEEKING DAMAGES RESULTING**
9   **FROM TORTIOUS ACTS OR OMISSIONS OCCURRING IN THE COURSE OF**
10 **PERFORMANCE OF A CONTRACT BETWEEN THE ADMINISTRATION AND A THIRD**
11 **PARTY.**

12   **[**(c)**] (D)**   Subsection **[**(d)**] (E)** of this section does not apply to a tort claim
13 that is asserted by cross–claim, counterclaim, or third–party claim.

14   **[**(d)**] (E)**   A tort claimant may not institute an action under this section
15 unless:

16   (1)   The claimant submits a written notice of claim to the
17 Administrator or the Administrator's designee within 1 year after the injury to person
18 or property that is the basis of the claim;

19   (2)   The Administrator or the Administrator's designee denies the
20 claim; and

21   (3)   The action is filed within 3 years after the cause of action arises.

22   **[**(e)**] (F)**   A notice of claim under this section shall:

23   (1)   Contain a concise statement of facts that sets forth the nature of
24 the claim, including the date and place of the alleged tort;

25   (2)   State the name and address of the claimant;

26   (3)   State the name, address, and telephone number of counsel for the
27 claimant, if any; and

28   (4)   Be signed by the claimant, or the legal representative or counsel
29 for the claimant.

1 **[**(f)**] (G)** A claim under this section is denied:

2 (1) If the Administrator or the Administrator's designee sends the
3 claimant, or the legal representative or counsel for the claimant, written notice of
4 denial; or

5 (2) If the Administrator or the Administrator's designee fails to give
6 notice of a denial within 6 months after the sending of the notice of claim.

7 **[**(g)**] (H)** Notwithstanding any other provision of this section, unless the
8 Administration affirmatively shows that its defense has been prejudiced by the lack of
9 the required notice, a court may allow the action to proceed even if the written notice
10 of claim was not submitted.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
12 construed to apply only prospectively and may not be applied or interpreted to have
13 any effect on or application to any actions against the Maryland Transit
14 Administration arising from incidents occurring before the effective date of this Act.

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