

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1035

(Delegate Rudolph, *et al.*)

Judiciary

Judicial Proceedings

Maryland Tort Claims Act - State Personnel - Definition and Claims

This emergency bill alters the definition of “State personnel” for purposes of the Maryland Tort Claims Act to include an employee or official of the Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO).

The bill also exempts claims against MARBIDCO, the Maryland Economic Development Corporation, the Maryland Technological Development Corporation, and the Maryland African American Museum Corporation from a requirement that the claimant submit a written claim within one year after the injury that is the basis of the claim.

The bill applies prospectively to actions arising on or after the date the bill is enacted.

Fiscal Summary

State Effect: The bill would negate the need for MARBIDCO to purchase liability insurance for its employees and directors, resulting in savings of approximately \$2,000 a year which will likely be used to fund additional agricultural assistance. The bill is not anticipated to change budgeted funds for MARBIDCO or tort claims paid under the Maryland Tort Claims Act.

Local Effect: None.

Small Business Effect: Probably minimal. To the extent that MARBIDCO saves money on insurance coverage and losses, those funds could be made available as loans to rural small business.

Analysis

Current Law: Under the Maryland Tort Claims Act (MTCA), State personnel are immune from liability for acts or omissions performed in the course of their official duties, so long as the acts or omissions are made without malice or gross negligence. Under MTCA, the State essentially waives its own common law immunity. However, MTCA limits the liability of the State to \$200,000 to a single claimant for injuries arising from a single incident. MTCA's definition of State personnel includes:

- State employees or officials paid through the Central Payroll Bureau;
- employees or officials of various State agencies and public corporations, including the Maryland Technology Development Corporation and the Maryland Economic Development Corporation;
- individuals who, without compensation, exercise a part of the sovereignty of the State;
- students of a State educational institution providing clinical services who also meet specified liability insurance requirements;
- a sheriff or deputy sheriff of a county or Baltimore City;
- a county employee assigned to a local department of social services;
- a State's Attorney and employees of a State's Attorney's office;
- members of various county boards;
- judges and employees of the circuit courts and orphans' courts;
- nonprofit organizations, without other insurance, that have been approved as a third party;
- payees for providing temporary cash assistance, transitional assistance, or child-specific benefits to Family Investment Program recipients; and
- students, faculty, or staff of a higher education institution who are providing a service under the Family Investment Program.

A person wishing to file a claim under the MTCA must submit a written claim to the Treasurer or a designee of the Treasurer within one year after the injury that is the basis of the claim. The claimant must then wait until the Treasurer or designee denies the claim finally to file the cause of action.

Background: MARBIDCO, an independent quasi-public corporation established in 2004, is expected to begin operations in February 2007. It hired its first employee in December 2006 and currently has three employees. The fiscal 2007 budget includes \$1 million in general funds for MARBIDCO. Its fiscal 2008 budget allowance is

\$3 million in general funds. It is modeled after the Maryland Technology Development Corporation and the Maryland Economic Development Corporation.

MARBIDCO's mission is to assist Maryland's farm, forestry, seafood, and recreation-based businesses to achieve profitability and sustainability through targeted low-interest loan and rural business development programs. It is broadly authorized to (1) develop agricultural industries and markets; (2) support appropriate commercialization of agricultural processes and technology; (3) assist with rural land preservation efforts; and (4) alleviate the shortage of nontraditional capital and credit available at affordable interest rates for investment in agricultural and resource-based businesses.

The State is self-insured for claims made pursuant to MTCA, with tort losses paid out by the State Treasurer's Office. For fiscal 2008, tort losses are estimated at \$4.0 million.

Additional Information

Prior Introductions: None.

Cross File: SB 275 (Senators Middleton and Munson) – Judicial Proceedings.

Information Source(s): Maryland Department of Agriculture, Office of the Treasurer, Maryland Agricultural and Resource-Based Industry Development Corporation, Department of Legislative Services

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