

Department of Legislative Services  
Maryland General Assembly  
2007 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 387

(Delegate Smigiel, *et al.*)

Judiciary

Judicial Proceedings

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

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This bill increases from 5 to 30 days the time period during which the signing of a release of a claim for damages resulting from a tort, or any power of attorney to or contract of employment with attorney with reference to recovery of tort damages, triggers the voidability of that release or contract. Under the bill, such a release or contract is voidable at the option of the injured individual within 60 days after the document is signed if it was signed by that individual within 30 days of the infliction of the injuries without the assistance of an attorney. The bill clarifies that the 60 days during which such a claim is voidable starts running when the claim is signed.

Notice that a release is voided by the injured individual must be in writing and accompanied by the return of any money paid to the individual as a result of signing the release. The release is void from the date the notice is mailed.

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**Fiscal Summary**

**State Effect:** Minimal. The longer time period to void a release could slightly increase the Judiciary's workload, but such an increase is speculative and expected to be insignificant.

**Local Effect:** None.

**Small Business Effect:** Minimal. This bill could slightly increase the number of lawsuits a small business would have to litigate, but such an increase is speculative and expected to be insignificant.

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## Analysis

**Current Law:** A claim for damages resulting from a tort is voidable at the option of the injured individual within 60 days if signed by the injured individual within 5 days of the infliction of injuries. This time period for voidability also applies to a power of attorney to or contract of employment with an attorney with reference to recovery of damages for the tort.

Such releases are contractual in nature, and conventional rules of construction should be applied to give them their ordinary effect. A release executed by an injured individual does not discharge a subsequent tort-feasor who is not a party to the release, and whose responsibility is unknown at the time of the release or who is not specifically identified in the release.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** SB 368 (Senator Muse) – Judicial Proceedings.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Office of the Attorney General, Department of Legislative Services

**Fiscal Note History:** First Reader - February 15, 2007  
ncs/jr Revised - House Third Reader - March 21, 2007  
Revised - Enrolled Bill - April 25, 2007

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