

# HOUSE BILL 1378

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CF SB 974

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By: **Delegate Barnes**

Introduced and read first time: February 23, 2009

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Local Government Tort Claims Act – Notice of Claim**

3 FOR the purpose of clarifying certain provisions of law governing the notice of a claim  
4 required to be given to a defendant local government under the Local  
5 Government Tort Claims Act; repealing redundant language; making stylistic  
6 changes; and generally relating to notice of a claim under the Local Government  
7 Tort Claims Act.

8 BY repealing and reenacting, with amendments,  
9 Article – Courts and Judicial Proceedings  
10 Section 5–304  
11 Annotated Code of Maryland  
12 (2006 Replacement Volume and 2008 Supplement)

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

15 **Article – Courts and Judicial Proceedings**

16 5–304.

17 (a) This section does not apply to an action against a nonprofit corporation  
18 described in § 5–301(d)(23), (24), (25), (26), or (28) of this subtitle or its employees.

19 (b) Except as provided in subsections (a) and (d) of this section, an action for  
20 unliquidated damages may not be brought against a local government or its employees  
21 unless the notice of the claim required by this section is given within 180 days after  
22 the injury.

23 (c) (1) [Except in Anne Arundel County, Baltimore County, Harford  
24 County, and Prince George’s County, the] **THE notice REQUIRED UNDER THIS**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **SECTION** shall be given in person or by certified mail, return receipt requested,  
2 bearing a postmark from the United States Postal Service, by the claimant or the  
3 representative of the claimant[, to the county commissioner, county council, or  
4 corporate authorities of a defendant local government, or:].

5 **(2) EXCEPT AS OTHERWISE PROVIDED, IF THE DEFENDANT**  
6 **LOCAL GOVERNMENT IS A COUNTY, THE NOTICE REQUIRED UNDER THIS**  
7 **SECTION SHALL BE GIVEN TO THE COUNTY COMMISSIONERS OR COUNTY**  
8 **COUNCIL OF THE DEFENDANT LOCAL GOVERNMENT.**

9 **(3) IF THE DEFENDANT LOCAL GOVERNMENT IS:**

10 (i) [In] Baltimore City, **THE NOTICE SHALL BE GIVEN** to the  
11 City Solicitor;

12 (ii) [In] Howard County **OR MONTGOMERY COUNTY, THE**  
13 **NOTICE SHALL BE GIVEN** to the County Executive; and

14 (iii) [In Montgomery County, to the County Executive.

15 (2) In] Anne Arundel County, Baltimore County, Harford County,  
16 [and] **OR** Prince George's County, the notice shall be given [in person or by certified  
17 mail, return receipt requested, bearing a postmark from the United States Postal  
18 Service, by the claimant or the representative of the claimant,] to the county solicitor  
19 or county attorney.

20 [(3) The notice shall be in writing and shall state the time, place, and  
21 cause of the injury.]

22 **(4) FOR ANY OTHER LOCAL GOVERNMENT, THE NOTICE SHALL BE**  
23 **GIVEN TO THE CORPORATE AUTHORITIES OF THE DEFENDANT LOCAL**  
24 **GOVERNMENT.**

25 (d) Notwithstanding the other provisions of this section, unless the  
26 defendant can affirmatively show that its defense has been prejudiced by lack of  
27 required notice, upon motion and for good cause shown the court may entertain the  
28 suit even though the required notice was not given.

29 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect  
30 October 1, 2009.