

SENATE BILL 974

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9lr3085
CF HB 1378

By: **Senators Raskin and Rosapepe**

Introduced and read first time: February 23, 2009

Assigned to: Rules

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

23 (2) **THE NOTICE SHALL BE IN WRITING AND SHALL STATE THE**
24 **TIME, PLACE, AND CAUSE OF THE INJURY.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) (1) [Except in Anne Arundel County, Baltimore County, Harford
2 County, and Prince George's County, the] **THE notice REQUIRED UNDER THIS**
3 **SECTION** shall be given in person or by certified mail, return receipt requested,
4 bearing a postmark from the United States Postal Service, by the claimant or the
5 representative of the claimant[, to the county commissioner, county council, or
6 corporate authorities of a defendant local government, or:].

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

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

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

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

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

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

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

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

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

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2009.