

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1378
Judiciary

(Delegate Barnes)

Judicial Proceedings

Local Government Tort Claims Act - Notice of Claim

This bill clarifies to whom notice must be given for claims under the Local Government Tort Claims Act (LGTCA) by creating a clear distinction between notice given to counties and notice given to other local governments under the LGTCA. If the defendant local government is a county, the notice must be given to the county commissioners or the county council, unless otherwise specified in statute. If the notice is to be given to a defendant local government that is not a county, the notice must be given to the corporate authorities of the defendant local government.

Fiscal Summary

State Effect: None. The bill is technical in nature and does not directly affect governmental finances.

Local Effect: None. The bill is technical in nature and does not directly affect governmental finances.

Small Business Effect: None.

Analysis

Current Law: The LGTCA limits the liability of a local government to \$200,000 per individual claim and \$500,000 per total claims that arise from the same occurrence for damages from tortious acts or omissions. It further provides that the local government is liable for tortious acts or omissions of its employees acting within the scope of employment. It thus prevents local governments from asserting a common law claim of governmental immunity from liability for such acts of its employees.

An action for unliquidated damages against an entity covered by the LGTCA or its employees may not be brought unless notice of the claim meeting specific requirements is given within 180 days of the injury. Unless a defendant can show that its defense was prejudiced by lack of required notice, a court, upon motion or for good cause shown, may entertain a suit that does not meet LGTCA notice requirements.

Unless otherwise specified, notice must be given by the claimant or the claimant's representative to the county commissioner, county council, or corporate authorities of a defendant local government. Exceptions exist under statute for Baltimore City and Anne Arundel, Baltimore, Harford, Howard, Montgomery, and Prince George's counties. The LGTCA does not contain any specific provisions exclusively devoted to notice to a local government that is not a county other than Baltimore City.

Background: There are 156 municipalities in the State (excluding Baltimore City), all of whom are covered by the LGTCA.

Additional Information

Prior Introductions: None.

Cross File: SB 974 (Senators Raskin and Rosapepe) – Judicial Proceedings.

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

Fiscal Note History: First Reader - March 23, 2009
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