

HOUSE BILL 345

D3

4lr1191

By: **Delegates Rosenberg, Clippinger, Holmes, and Hough**

Introduced and read first time: January 22, 2014

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 10, 2014

CHAPTER _____

1 AN ACT concerning

2 **Courts – Certificate of Merit – Provider of Professional Services**

3 FOR the purpose of ~~altering the definition of “claim”, for purposes of certain provisions~~
4 ~~of law requiring a person who originally files a certain claim in a circuit court~~
5 ~~against certain professionals to file a certificate of a qualified expert, to include~~
6 ~~a certain claim against a certain person or entity through which professional~~
7 ~~services were performed; altering the definition of “qualified expert”, for~~
8 ~~purposes of certain provisions of law requiring a person who originally files a~~
9 ~~certain claim in a circuit court against certain professions to file a certificate of~~
10 ~~a qualified expert, to exclude an individual who is a certain licensed or certified~~
11 ~~professional under the laws of another jurisdiction; requiring the contents of the~~
12 ~~certificate of a qualified expert to include a statement from a qualified expert~~
13 ~~that the licensed professional, or a certain person or entity through which~~
14 ~~professional services were performed, failed to meet a certain standard; making~~
15 ~~a certain clarifying change; providing for the application of this Act; and~~
16 ~~generally relating to a certain certificate of merit for certain negligent actions.~~

17 BY repealing and reenacting, without amendments,

18 Article – Courts and Judicial Proceedings

19 Section 3-2C-01

20 Annotated Code of Maryland

21 (2013 Replacement Volume and 2013 Supplement)

22 BY repealing and reenacting, with amendments,

23 Article – Courts and Judicial Proceedings

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section ~~3-2C-01~~ and 3-2C-02
 2 Annotated Code of Maryland
 3 (2013 Replacement Volume and 2013 Supplement)

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

6 **Article – Courts and Judicial Proceedings**

7 3-2C-01.

8 (a) In this subtitle the following words have the meanings indicated.

9 (b) “Claim” means a civil action, including an original claim, counterclaim,
 10 cross-claim, or third-party claim, originally filed in a circuit court or United States
 11 District Court against a licensed professional or the employer, partnership, or other
 12 ~~PERSON OR~~ entity through which the ~~licensed professional performed~~ professional
 13 services ~~WERE PERFORMED~~ that is based on ~~the licensed professional’s~~ ~~AN~~ alleged
 14 negligent act or omission in rendering professional services, within the scope of ~~the~~
 15 professional’s ~~A PROFESSIONAL~~ license, permit, or certificate, for others.

16 (c) “Licensed professional” means:

17 (1) An architect licensed under Title 3 of the Business Occupations
 18 and Professions Article;

19 (2) An interior designer certified under Title 8 of the Business
 20 Occupations and Professions Article;

21 (3) A landscape architect licensed under Title 9 of the Business
 22 Occupations and Professions Article;

23 (4) A professional engineer licensed under Title 14 of the Business
 24 Occupations and Professions Article; or

25 (5) A professional land surveyor or property line surveyor licensed
 26 under Title 15 of the Business Occupations and Professions Article.

27 (d) (1) “Qualified expert” means an individual who is a licensed
 28 ~~MARYLAND~~ professional~~,~~ or comparably licensed or certified professional under the
 29 laws of another jurisdiction,~~,~~ knowledgeable in the accepted standard of care in the
 30 same discipline as the licensed professional against whom a claim is filed.

31 (2) “Qualified expert” does not include:

32 (i) A party to the claim;

- 1 (ii) An employee or partner of a party;
- 2 (iii) An employee or stockholder of a professional corporation of
3 which a party is a stockholder; or
- 4 (iv) A person having a financial interest in the outcome of the
5 claim.

6 3-2C-02.

7 (a) (1) Except as provided in subsections (b) and (c) of this section, a claim
8 shall be dismissed, ON A MOTION TO DISMISS without prejudice, if the claimant fails
9 to file a certificate of a qualified expert with the court.

10 (2) A certificate of a qualified expert shall:

11 (i) Contain a statement from a qualified expert attesting that
12 the licensed professional, ~~OR THE EMPLOYER, PARTNERSHIP, OR OTHER PERSON~~
13 ~~OR ENTITY THROUGH WHICH PROFESSIONAL SERVICES WERE PERFORMED,~~
14 failed to meet an applicable standard of professional care AND SUPERVISION;

15 (ii) Subject to the provisions of subsections (b) and (c) of this
16 section, be filed within 90 days after the claim is filed; and

17 (iii) Be served on all other parties to the claim or the parties'
18 attorneys of record in accordance with the Maryland Rules.

19 (b) (1) Upon written request made by the claimant within 30 days of the
20 date the claim is served, the defendant shall produce documentary evidence that
21 would be otherwise discoverable, if the documentary evidence is reasonably necessary
22 in order to obtain a certificate of a qualified expert.

23 (2) The time for filing a certificate of a qualified expert shall begin on
24 the date on which the defendant's production of the documentary evidence under
25 paragraph (1) of this subsection is completed.

26 (3) The defendant's failure to produce the requested documentary
27 evidence under paragraph (1) of this subsection shall constitute a waiver of the
28 requirement that the claimant file a certificate of a qualified expert as to that
29 defendant.

30 (c) (1) Upon written request by the claimant and a finding of good cause
31 by the court, the court may waive or modify the requirement for the filing of the
32 certificate of a qualified expert.

1 (2) The time for filing the certificate of merit of a qualified expert shall
2 be suspended until the court rules on the request and, absent an order to the contrary,
3 the certificate shall be filed within 90 days of the court's ruling.

4 (d) Discovery by the defendant as to the basis of the certificate of a qualified
5 expert shall be available.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
7 construed to apply only prospectively and may not be applied or interpreted to have
8 any effect on or application to any cause of action arising before the effective date of
9 this Act.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2014.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.