

HB0113/788978/1

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL 113
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, after “Act –” insert “Notice Requirements and”; in line 4, after the semicolon insert “altering the period of time during which a certain notice of a claim under the Local Government Tort Claims Act must be provided; requiring a court to entertain a suit under the Local Government Tort Claims Act under certain circumstances, even if the required notice was not provided; authorizing a court to entertain a suit under the Local Government Tort Claims Act under certain circumstances, even if the required notice was not provided;”; and in line 9, after “5-303” insert “and 5-304”.

AMENDMENT NO. 2

On page 1, in line 17, strike “\$300,000” and substitute “\$500,000”; and in line 18, strike “\$600,000” and substitute “\$1,000,000”.

AMENDMENT NO. 3

On page 2, after line 33, insert:

“5-304.

(a) This section does not apply to an action against a nonprofit corporation described in § 5–301(d)(23), (24), (25), (26), (28), or (29) of this subtitle or its employees.

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

(Over)

(2) The notice shall be in writing and shall state the time, place, and cause of the injury.

(c) (1) The notice required under this section shall be given in person or by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, by the claimant or the representative of the claimant.

(2) Except as otherwise provided, if the defendant local government is a county, the notice required under this section shall be given to the county commissioners or county council of the defendant local government.

(3) If the defendant local government is:

(i) Baltimore City, the notice shall be given to the City Solicitor;

(ii) Howard County or Montgomery County, the notice shall be given to the County Executive; and

(iii) Anne Arundel County, Baltimore County, Harford County, or Prince George's County, the notice shall be given to the county solicitor or county attorney.

(4) For any other local government, the notice shall be given to the corporate authorities of the defendant local government.

(d) [Notwithstanding the other provisions of this section, unless the defendant can affirmatively show that its defense has been prejudiced by lack of required notice, upon motion and for good cause shown the court may entertain the suit even though the required notice was not given.] IF A CLAIMANT FAILS TO PROVIDE THE NOTICE REQUIRED UNDER THIS SECTION:

(1) ON MOTION BY THE CLAIMANT, THE COURT SHALL ENTERTAIN THE ACTION UNLESS THE DEFENDANT CAN AFFIRMATIVELY SHOW THAT ITS DEFENSE HAS BEEN PREJUDICED BY THE FAILURE TO PROVIDE NOTICE; AND

(2) ON MOTION BY THE CLAIMANT AND FOR GOOD CAUSE SHOWN, THE COURT MAY ENTERTAIN THE ACTION REGARDLESS OF WHETHER THE DEFENDANT CAN AFFIRMATIVELY SHOW THAT ITS DEFENSE HAS BEEN PREJUDICED BY THE FAILURE TO PROVIDE NOTICE.”