

HOUSE BILL 113

D3

5lr0914

By: **Delegate Conaway**

Introduced and read first time: January 26, 2015

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Local Government Tort Claims Act – Limits on Liability**

3 FOR the purpose of increasing the limits on liability of a local government for certain claims
4 under the Local Government Tort Claims Act; providing for the application of this
5 Act; and generally relating to the limits on liability of a local government under the
6 Local Government Tort Claims Act.

7 BY repealing and reenacting, with amendments,
8 Article – Courts and Judicial Proceedings
9 Section 5–303
10 Annotated Code of Maryland
11 (2013 Replacement Volume and 2014 Supplement)

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

14 **Article – Courts and Judicial Proceedings**

15 5–303.

16 (a) (1) Subject to paragraph (2) of this subsection, the liability of a local
17 government may not exceed ~~[\$200,000]~~ **\$500,000** per an individual claim, and ~~[\$500,000]~~
18 **\$1,000,000** per total claims that arise from the same occurrence for damages resulting
19 from tortious acts or omissions, or liability arising under subsection (b) of this section and
20 indemnification under subsection (c) of this section.

21 (2) The limits on liability provided under paragraph (1) of this subsection
22 do not include interest accrued on a judgment.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) (1) Except as provided in subsection (c) of this section, a local government
2 shall be liable for any judgment against its employee for damages resulting from tortious
3 acts or omissions committed by the employee within the scope of employment with the local
4 government.

5 (2) A local government may not assert governmental or sovereign
6 immunity to avoid the duty to defend or indemnify an employee established in this
7 subsection.

8 (c) (1) A local government may not be liable for punitive damages.

9 (2) (i) Subject to subsection (a) of this section and except as provided in
10 subparagraph (ii) of this paragraph, a local government may indemnify an employee for a
11 judgment for punitive damages entered against the employee.

12 (ii) A local government may not indemnify a law enforcement officer
13 for a judgment for punitive damages if the law enforcement officer has been found guilty
14 under § 3–108 of the Public Safety Article as a result of the act or omission giving rise to
15 the judgment, if the act or omission would constitute a felony under the laws of this State.

16 (3) A local government may not enter into an agreement that requires
17 indemnification for an act or omission of an employee that may result in liability for
18 punitive damages.

19 (d) Notwithstanding the provisions of subsection (b) of this section, this subtitle
20 does not waive any common law or statutory defense or immunity in existence as of June
21 30, 1987, and possessed by an employee of a local government.

22 (e) A local government may assert on its own behalf any common law or statutory
23 defense or immunity in existence as of June 30, 1987, and possessed by its employee for
24 whose tortious act or omission the claim against the local government is premised and a
25 local government may only be held liable to the extent that a judgment could have been
26 rendered against such an employee under this subtitle.

27 (f) (1) Lexington Market, Inc., in Baltimore City, and its employees, may not
28 raise as a defense a limitation on liability described under § 5–406 of this title.

29 (2) Baltimore Public Markets Corporation, in Baltimore City, and its
30 employees, may not raise as a defense a limitation on liability described under § 5–406 of
31 this title.

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

35 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 2015.