

# HOUSE BILL 856

E4, C4, D3  
HB 890/15 – JUD

6lr0313

---

By: **Delegate Carter**

Introduced and read first time: February 8, 2016

Assigned to: Judiciary

---

## A BILL ENTITLED

1 AN ACT concerning

2 **State and Local Police Officers – Liability Insurance – Required**

3 FOR the purpose of providing that the liability of a local government for a certain judgment  
4 is subject to certain provisions of law; providing that the authority of a local  
5 government to indemnify an employee under certain circumstances is subject to  
6 certain provisions of law; providing that the immunity of State personnel under  
7 certain circumstances is subject to certain provisions of law; prohibiting the Police  
8 Training Commission from certifying an individual as a police officer unless the  
9 individual provides proof of professional liability insurance in a certain amount;  
10 requiring police officers to maintain professional liability insurance coverage during  
11 a certain period of employment; providing that certain professional liability  
12 insurance is primary coverage under certain circumstances and shall include  
13 coverage for certain acts or omissions; authorizing a law enforcement agency to  
14 reimburse a police officer for a certain premium under certain circumstances, with a  
15 certain limitation; prohibiting the State, a county, or a municipal corporation from  
16 indemnifying a police officer in a certain amount except under certain circumstances;  
17 providing that the authority of the State Treasurer to pay a certain tort claim under  
18 certain circumstances is subject to certain provisions of law; and generally relating  
19 to liability insurance for police officers of the State, counties, and municipal  
20 corporations.

21 BY repealing and reenacting, with amendments,  
22 Article – Courts and Judicial Proceedings  
23 Section 5–303 and 5–522  
24 Annotated Code of Maryland  
25 (2013 Replacement Volume and 2015 Supplement)

26 BY repealing and reenacting, with amendments,  
27 Article – Public Safety  
28 Section 3–209  
29 Annotated Code of Maryland

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2011 Replacement Volume and 2015 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 12–104  
Annotated Code of Maryland  
(2014 Replacement Volume and 2015 Supplement)

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

**Article – Courts and Judicial Proceedings**

5–303.

(a) (1) Subject to paragraph (2) of this subsection, the liability of a local government may not exceed \$400,000 per an individual claim, and \$800,000 per total claims that arise from the same occurrence for damages resulting from tortious acts or omissions, or liability arising under subsection (b) of this section and indemnification under subsection (c) of this section.

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

(b) (1) Except as provided in subsection (c) of this section **AND SUBJECT TO § 3–209(D) OF THE PUBLIC SAFETY ARTICLE**, a local government shall be liable for any judgment against its employee for damages resulting from tortious acts or omissions committed by the employee within the scope of employment with the local government.

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

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

(2) (i) Subject to subsection (a) of this section and **§ 3–209(D) OF THE PUBLIC SAFETY ARTICLE AND** except as provided in subparagraph (ii) of this paragraph, a local government may indemnify an employee for a judgment for punitive damages entered against the employee.

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

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

4           (d) Notwithstanding the provisions of subsection (b) of this section, this subtitle  
5 does not waive any common law or statutory defense or immunity in existence as of June  
6 30, 1987, and possessed by an employee of a local government.

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

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

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

17 5–522.

18           (a) Immunity of the State is not waived under § 12–104 of the State Government  
19 Article for:

20           (1) Punitive damages;

21           (2) Interest before judgment;

22           (3) A claim that arises from the combatant activities of the State Militia  
23 during a state of emergency;

24           (4) Any tortious act or omission of State personnel that:

25           (i) Is not within the scope of the public duties of the State personnel;  
26 or

27           (ii) Is made with malice or gross negligence;

28           (5) A claim by an individual arising from a single incident or occurrence  
29 that exceeds \$200,000; or

30           (6) A cause of action that law specifically prohibits.

31           (b) [State] **SUBJECT TO § 3–209 OF THE PUBLIC SAFETY ARTICLE, STATE**  
32 personnel, as defined in § 12–101 of the State Government Article, are immune from suit

1 in courts of the State and from liability in tort for a tortious act or omission that is within  
2 the scope of the public duties of the State personnel and is made without malice or gross  
3 negligence, and for which the State or its units have waived immunity under Title 12,  
4 Subtitle 1 of the State Government Article, even if the damages exceed the limits of that  
5 waiver.

6 (c) The scope of public duties of State personnel shall include, but not be limited  
7 to:

8 (1) Any authorized use of a State-owned vehicle by State personnel,  
9 including, but not limited to, commuting to and from the place of employment; and

10 (2) Services to third parties performed by State personnel, as defined by §  
11 12-101 of the State Government Article, in the course of participation in an approved  
12 clinical training or academic program.

13 (d) In a contract action under Title 12, Subtitle 2 of the State Government Article,  
14 the State and its officers and units are not liable for punitive damages.

#### 15 Article – Public Safety

16 3-209.

17 (a) **[The] SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE** Commission  
18 shall certify as a police officer each individual who:

19 (1) (i) satisfactorily meets the standards of the Commission; or

20 (ii) provides the Commission with sufficient evidence that the  
21 individual has satisfactorily completed a training program in another state of equal quality  
22 and content as required by the Commission; and

23 (2) submits to a criminal history records check in accordance with §  
24 3-209.1 of this subtitle.

25 (b) The Commission may certify as a police officer an individual who is not  
26 considered a police officer under § 3-201(e)(3) of this subtitle if the individual meets the  
27 selection and training standards of the Commission.

28 (c) Each certificate issued to a police officer under this subtitle remains the  
29 property of the Commission.

30 **(D) (1) THE COMMISSION MAY NOT CERTIFY AN INDIVIDUAL AS A POLICE**  
31 **OFFICER UNLESS THE INDIVIDUAL PROVIDES PROOF OF PROFESSIONAL LIABILITY**  
32 **INSURANCE IN AN AMOUNT CONSISTENT WITH:**



1 (a) (1) Subject to the exclusions and limitations in this subtitle and  
2 notwithstanding any other provision of law, the immunity of the State and of its units is  
3 waived as to a tort action, in a court of the State, to the extent provided under paragraph  
4 (2) of this subsection.

5 (2) The liability of the State and its units may not exceed \$400,000 to a  
6 single claimant for injuries arising from a single incident or occurrence.

7 (b) Immunity is not waived under this section as described under § 5–522(a) of  
8 the Courts and Judicial Proceedings Article.

9 (c) (1) **[The] SUBJECT TO § 3–209(D) OF THE PUBLIC SAFETY ARTICLE,**  
10 **THE** Treasurer may pay from the State Insurance Trust Fund all or part of that portion of  
11 a tort claim which exceeds the limitation on liability established under subsection (a)(2) of  
12 this section under the following conditions:

13 (i) the tort claim is one for which the State and its units have waived  
14 immunity under subsections (a) and (b) of this section;

15 (ii) a judgment or settlement has been entered granting the claimant  
16 damages to the full amount established under subsection (a)(2) of this section; and

17 (iii) the Board of Public Works, with the advice and counsel of the  
18 Attorney General, has approved the payment.

19 (2) Any payment of part of a settlement or judgment under this subsection  
20 does not abrogate the sovereign immunity of the State or any units beyond the waiver  
21 provided in subsections (a) and (b) of this section.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2016.