

SENATE BILL 356

D3
SB 147/15 – JPR

6lr0440

By: **Senator Zirkin**

Introduced and read first time: January 28, 2016

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Local Government Tort Claims Act and Maryland Tort Claims Act – Statute of**
3 **Limitations and Repeal of Certain Notice Requirements**

4 FOR the purpose of repealing a certain notice requirement for a claim under the Local
5 Government Tort Claims Act; repealing a requirement that a claimant submit a
6 claim within a certain time to the State Treasurer or a designee of the State
7 Treasurer under the Maryland Tort Claims Act; providing that when a certain cause
8 of action accrues in favor of a minor or mental incompetent, the claimant shall file
9 an action within a certain number of years after the disability is removed; providing
10 for the application of this Act; and generally relating to the Local Government Tort
11 Claims Act and the Maryland Tort Claims Act.

12 BY repealing
13 Article – Courts and Judicial Proceedings
14 Section 5–304
15 Annotated Code of Maryland
16 (2013 Replacement Volume and 2015 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – State Government
19 Section 12–106
20 Annotated Code of Maryland
21 (2014 Replacement Volume and 2015 Supplement)

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

24 **Article – Courts and Judicial Proceedings**

25 [5–304.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

14 (3) If the defendant local government is:

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

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

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

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

22 (d) Notwithstanding the other provisions of this section, unless the defendant can
23 affirmatively show that its defense has been prejudiced by lack of required notice, upon
24 motion and for good cause shown the court may entertain the suit even though the required
25 notice was not given.]

26 Article – State Government

27 12–106.

28 (a) [This section does not apply to a claim that is asserted by cross–claim,
29 counterclaim, or third–party claim.

30 (b)] Except as provided in subsection [(c)] (B) of this section, a claimant may not
31 institute an action under this subtitle unless[:

1 (1) the claimant submits a written claim to the Treasurer or a designee of
2 the Treasurer within 1 year after the injury to person or property that is the basis of the
3 claim;

4 (2) the Treasurer or designee denies the claim finally; and

5 (3)] the action is filed within 3 years after the cause of action arises.

6 **(B) WHEN A CAUSE OF ACTION ACCRUES IN FAVOR OF A MINOR OR MENTAL**
7 **INCOMPETENT, THE CLAIMANT SHALL FILE AN ACTION WITHIN 3 YEARS AFTER THE**
8 **DISABILITY IS REMOVED.**

9 [(c) If a claimant fails to submit a written claim in accordance with subsection
10 (b)(1) of this section, on motion by a claimant and for good cause shown, the court may
11 entertain an action under this subtitle unless the State can affirmatively show that its
12 defense has been prejudiced by the claimant's failure to submit the claim.]

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

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2016.