

# HOUSE BILL 1373

D3  
HB 636/16 – JUD

7lr3444  
CF SB 336

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By: **Delegates Wilkins, Angel, Morales, Proctor, Sanchez, and Sydnor**  
Introduced and read first time: February 10, 2017  
Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Tort Claims Act – Certain Claim Requirement**

3 FOR the purpose of repealing the requirement that a claimant make a certain motion and  
4 show good cause before a court may entertain a certain action under the Maryland  
5 Tort Claims Act; requiring a court to entertain an action under the Maryland Tort  
6 Claims Act even if a claimant fails to submit a certain written claim, subject to a  
7 certain exception; providing for the application of this Act; and generally relating to  
8 the Maryland Tort Claims Act.

9 BY repealing and reenacting, with amendments,  
10 Article – State Government  
11 Section 12–106  
12 Annotated Code of Maryland  
13 (2014 Replacement Volume and 2016 Supplement)

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

16 **Article – State Government**

17 12–106.

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

20 (b) Except as provided in subsection (c) of this section, a claimant may not  
21 institute an action under this subtitle unless:

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

8           (2)    Subsection (b)(1) and (2) of this section does not apply if, within 1 year  
9 after the injury to person or property that is the basis of the claim, the State has actual or  
10 constructive notice of:

11                   (i)    the claimant's injury; or

12                   (ii)   the defect or circumstances giving rise to the claimant's injury.

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, 2017.