

HOUSE BILL 113

D3

(5lr0914)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegate Conaway**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Local Government Tort Claims Act – *Notice Requirements and Limits on***
3 **Liability**

4 FOR the purpose of increasing the limits on liability of a local government for certain claims
5 under the Local Government Tort Claims Act; altering the period of time during
6 which a certain notice of a claim under the Local Government Tort Claims Act must
7 be provided; providing for the application of this Act; and generally relating to the
8 limits on liability of a local government under the Local Government Tort Claims
9 Act.

10 BY repealing and reenacting, with amendments,
11 Article – Courts and Judicial Proceedings
12 Section 5–303 and 5–304
13 Annotated Code of Maryland
14 (2013 Replacement Volume and 2014 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



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

3 **Article – Courts and Judicial Proceedings**

4 5–303.

5 (a) (1) Subject to paragraph (2) of this subsection, the liability of a local
6 government may not exceed ~~[\$200,000] \$500,000 \$300,000~~ \$400,000 per an individual
7 claim, and ~~[\$500,000] \$1,000,000 \$600,000~~ \$800,000 per total claims that arise from the
8 same occurrence for damages resulting from tortious acts or omissions, or liability arising
9 under subsection (b) of this section and indemnification under subsection (c) of this section.

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

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

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

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

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

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

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

30 (d) Notwithstanding the provisions of subsection (b) of this section, this subtitle
31 does not waive any common law or statutory defense or immunity in existence as of June
32 30, 1987, and possessed by an employee of a local government.

33 (e) A local government may assert on its own behalf any common law or statutory
34 defense or immunity in existence as of June 30, 1987, and possessed by its employee for

1 whose tortious act or omission the claim against the local government is premised and a
2 local government may only be held liable to the extent that a judgment could have been
3 rendered against such an employee under this subtitle.

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

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

9 5–304.

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

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

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

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

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

24 (3) If the defendant local government is:

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

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

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

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

32 (d) Notwithstanding the other provisions of this section, unless the defendant can
33 affirmatively show that its defense has been prejudiced by lack of required notice, upon

1 motion and for good cause shown the court may entertain the suit even though the required
2 notice was not given.

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.