

HOUSE BILL 637

D3

(6lr0324)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegates Smith, Conaway, Dumais, Moon, Morales, Proctor, Rosenberg, Sanchez, and Sydnor**

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 Requirement – Exception**

3 FOR the purpose of providing a certain exception to a certain notice requirement for a claim
4 under the Local Government Tort Claims Act; providing for the application of this
5 Act; and generally relating to a certain notice requirement for a claim under the
6 Local Government Tort Claims Act.

7 BY repealing and reenacting, with amendments,

8 Article – Courts and Judicial Proceedings

9 Section 5–304

10 Annotated Code of Maryland

11 (2013 Replacement Volume and 2015 Supplement)

12 ~~BY repealing and reenacting, without amendments,~~

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 ~~Article – State Government~~
2 ~~Section 20-1004~~
3 ~~Annotated Code of Maryland~~
4 ~~(2014 Replacement Volume and 2015 Supplement)~~

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

7 **Article – Courts and Judicial Proceedings**

8 5-304.

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

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

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

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

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

22 (3) If the defendant local government is:

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

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

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

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

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

1 (E) THIS SECTION DOES NOT APPLY TO A COMPLAINT CLAIMING TO BE
2 AGGRIEVED BY:

3 ~~(1) A CLAIM CONCERNING AN ALLEGED DISCRIMINATORY ACT THAT~~
4 ~~IS FILED IN ACCORDANCE WITH § 20-1004 OF THE STATE GOVERNMENT ARTICLE;~~
5 ~~OR~~

6 ~~(2) A CLAIM FILED IN ACCORDANCE WITH ANY OTHER PROVISION OF~~
7 ~~LAW THAT PROHIBITS DISCRIMINATION OR RETALIATION AND REQUIRES THE~~
8 ~~CLAIMANT TO FILE AN ADMINISTRATIVE CHARGE OR COMPLAINT BEFORE FILING A~~
9 ~~CIVIL ACTION IF, WITHIN 1 YEAR AFTER THE INJURY, THE DEFENDANT LOCAL~~
10 ~~GOVERNMENT HAS ACTUAL OR CONSTRUCTIVE NOTICE OF:~~

11 ~~(1) THE CLAIMANT'S INJURY; OR~~

12 ~~(2) THE DEFECT OR CIRCUMSTANCES GIVING RISE TO THE~~
13 ~~CLAIMANT'S INJURY.~~

14 ~~Article State Government~~

15 ~~20-1004.~~

16 ~~(a) Any person claiming to be aggrieved by an alleged discriminatory act may file~~
17 ~~a complaint with the Commission.~~

18 ~~(b) The complaint shall:~~

19 ~~(1) be in writing;~~

20 ~~(2) state:~~

21 ~~(i) the name and address of the person or State or local unit alleged~~
22 ~~to have committed the discriminatory act; and~~

23 ~~(ii) the particulars of the alleged discriminatory act;~~

24 ~~(3) contain any other information required by the Commission; and~~

25 ~~(4) be signed by the complainant under oath.~~

26 ~~(c) (1) A complaint shall be filed within 6 months after the date on which the~~
27 ~~alleged discriminatory act occurred.~~

HOUSE BILL 637

1 ~~(2) A complaint filed with a federal or local human relations commission~~
 2 ~~within 6 months after the date on which the alleged discriminatory act occurred shall be~~
 3 ~~deemed to have complied with this subsection.~~

4 ~~(d) The Commission, on its own motion, and by action of at least three~~
 5 ~~commissioners, may issue a complaint in its name in the same manner as if the complaint~~
 6 ~~had been filed by an individual, if:~~

7 ~~(1) the Commission has received reliable information from an individual~~
 8 ~~that a person has been or is engaged in a discriminatory act; and~~

9 ~~(2) after a preliminary investigation by the Commission's staff authorized~~
 10 ~~by the chair or vice chair, the Commission is satisfied that the information warrants the~~
 11 ~~filing of a complaint.~~

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.