

# HOUSE BILL 114

D3

(5lr0918)

## *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 **Maryland Tort Claims Act – *Claim Requirement and Limit on Liability***

3 FOR the purpose of increasing the limit on liability of the State and its units under the  
4 Maryland Tort Claims Act for injuries to a claimant arising from an incident or  
5 occurrence; authorizing a court to entertain a suit under the Maryland Tort Claims  
6 Act under certain circumstances, even if a certain claim was not submitted; providing  
7 for the application of this Act; and generally relating to the limits on liability of the  
8 State and its units under the Maryland Tort Claims Act.

9 BY repealing and reenacting, with amendments,

10 Article – State Government  
11 Section 12–104 and 12–106  
12 Annotated Code of Maryland  
13 (2014 Replacement Volume)

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### 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 – State Government**

4 12–104.

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

9 (2) The liability of the State and its units may not exceed **[\$200,000]**  
10 ~~\$500,000~~ ~~\$300,000~~ \$400,000 to a single claimant for injuries arising from a single  
11 incident or occurrence.

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

14 (c) (1) The Treasurer may pay from the State Insurance Trust Fund all or part  
15 of that portion of a tort claim which exceeds the limitation on liability established under  
16 subsection (a)(2) of this section under the following conditions:

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

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

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

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

26 12–106.

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

29 (b) [A] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A  
30 claimant may not 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           **(C) IF A CLAIMANT FAILS TO SUBMIT A WRITTEN CLAIM IN ACCORDANCE**  
7 **WITH SUBSECTION (B)(1) OF THIS SECTION, ON MOTION BY A CLAIMANT AND FOR**  
8 **GOOD CAUSE SHOWN, THE COURT MAY ENTERTAIN AN ACTION UNDER THIS SUBTITLE**  
9 **UNLESS THE STATE CAN AFFIRMATIVELY SHOW THAT ITS DEFENSE HAS BEEN**  
10 **PREJUDICED BY THE CLAIMANT’S FAILURE TO SUBMIT THE CLAIM.**

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

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.