

SENATE BILL 336

D3
SB 935/16 – JPR

7lr0910

By: **Senator Manno**

Introduced and read first time: January 25, 2017

Assigned to: Judicial Proceedings

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;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

(i) the claimant's injury; or

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

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

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.