

# VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

## CHAPTER 207

*An Act to amend and reenact § 8.01-195.6 of the Code of Virginia, relating to notice of claim under the Virginia Tort Claims Act.*

[H 500]

Approved March 22, 2002

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-195.6 of the Code of Virginia is amended and reenacted as follows:**

§ 8.01-195.6. Notice of claim.

Every claim cognizable against the Commonwealth or a transportation district shall be forever barred unless the claimant or his agent, attorney or representative has filed a written statement of the nature of the claim, which includes the time and place at which the injury is alleged to have occurred and the agency or agencies alleged to be liable. The statement shall be filed with the Director of the Division of Risk Management or the Attorney General within one year after such cause of action accrued if the claim is against the Commonwealth. If the claim is against a transportation district the statement shall be filed with the chairman of the commission of the transportation district within one year after the cause of action accrued. However, if the claimant was under a disability at the time the cause of action accrued, the tolling provisions of § 8.01-229 shall apply. The claimant or his agent, attorney or representative shall, in a claim cognizable against the Commonwealth, mail the notice of claim via the United States Postal Service by certified mail, return receipt requested, addressed to the Director of the Division of Risk Management or the Attorney General in Richmond. The notice, in a claim cognizable against a transportation district, shall be mailed via the United States Postal Service by certified mail, return receipt requested, addressed to the chairman of the commission of the transportation district.

In any action contesting the filing of the notice of claim, the burden of proof shall be on the claimant to establish mailing and receipt of the notice in conformity with this section. The signed return receipt indicating delivery to the Director of the Division of Risk Management, the Attorney General, or the chairman of the commission of the transportation district, when admitted into evidence, shall be prima facie evidence of filing of the notice under this section. ~~The date on which the return receipt is signed by the Director, the Attorney General, or the chairman shall be prima facie evidence of the date of filing for purposes of compliance with this section.~~ *The notice shall be deemed to be timely filed if it is sent by certified mail, return receipt requested, and if the official receipt for the notice shows the mailing was within the prescribed time limits.*

Claims against the Commonwealth involving medical malpractice shall be subject to the provisions of this article and to the provisions of Chapter 21.1 (§ 8.01-581.1 et seq.) of this title. However, the recovery in such a claim involving medical malpractice shall not exceed the limits imposed by § 8.01-195.3.