

14103368D

SENATE BILL NO. 409

Offered January 8, 2014

Prefiled January 7, 2014

A BILL to amend and reenact § 8.01-195.6 of the Code of Virginia and to amend the Code of Virginia by adding in Article 15 of Chapter 1 of Title 33.1 a section numbered 33.1-223.2:30, relating to response to claims.

 Patron—McWaters

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-195.6 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 15 of Chapter 1 of Title 33.1 a section numbered 33.1-223.2:30 as follows:

§ 8.01-195.6. Notice of claim; response.

A. 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, within one year after such 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.

B. If the claim is against the Commonwealth, the statement shall be filed with the Director of the Division of Risk Management or the Attorney General. If the claim is against a transportation district the statement shall be filed with the chairman of the commission of the transportation district.

C. The notice is deemed filed when it is received in the office of the official to whom the notice is directed. The notice may be delivered by hand, by any form of United States mail service (including regular, certified, registered or overnight mail), or by commercial delivery service.

D. In any action contesting the filing of the notice of claim, the burden of proof shall be on the claimant to establish receipt of the notice in conformity with this section. A signed United States mail return receipt indicating the date of delivery, or any other form of signed and dated acknowledgment of delivery given by authorized personnel in the office of the official with whom the statement is filed, shall be prima facie evidence of filing of the notice under this section.

E. 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.

F. The office of the official with whom the claim was filed shall acknowledge receipt of all claims and assign such claims a claims number within 30 days of receipt. Within 60 days of receipt of a claim, the Director of the Division of Risk Management, the Attorney General, or the chairman of the commission for a transportation district shall deny or propose settlement of a claim pursuant to § 8.01-195.5 and send written notification of its decision to the claimant.

§ 33.1-223.2:30. Department of Transportation response to claims.

As used in this section, "claim" means a notification to the Department of Transportation that a person or personal property was damaged as a result of the condition of a highway.

For claims less than \$1,000 and not handled pursuant to Article 18.1 (§ 8.01-195.1 et seq.) of Chapter 3 of Title 8.01, the Department of Transportation shall acknowledge the receipt of all claims and assign such claims a claims number within 30 days of receipt. Claims shall be considered a report of the condition of a highway, as is necessary to allow for future claims. Within 60 days of receipt of a claim, the Department shall deny or propose settlement of a claim and notify the claimant of the result in writing.

INTRODUCED

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