

# VIRGINIA ACTS OF ASSEMBLY -- 2016 RECONVENED SESSION

## CHAPTER 760

*An Act to amend and reenact § 8.01-195.6 of the Code of Virginia, relating to Virginia Tort Claims Act; notice of claim; electronic filing when notice filed with Department of Transportation.*

[S 240]

Approved April 20, 2016

**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.**

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, *except as otherwise provided herein*. If the claim is against a transportation district, the statement shall be filed with the chairman of the commission of the transportation district. *If the claim is against the Commonwealth and the agency alleged to be liable is the Department of Transportation, then notice of such claim shall be filed with the Commissioner of Highways. If notice of such claim is filed with the Commissioner of Highways and is outside of any settlement authority delegated to the Department of Transportation by the Attorney General, then the Commissioner of Highways shall promptly deliver the notice of such claim to the Attorney General.*

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. *If notice is to be filed with the Commissioner of Highways, it may also be delivered electronically in a manner prescribed by the Commissioner of Highways.*

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.