

HOUSE BILL 452

Unofficial Copy  
L2

2002 Regular Session  
2r1172  
CF 2r1171

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By: **Delegate Marriott (Baltimore City Administration)**

Introduced and read first time: January 30, 2002

Assigned to: Commerce and Government Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City - Contract Disputes**

3 FOR the purpose of prohibiting Baltimore City from raising the defense of sovereign  
4 immunity in certain contract cases; providing for a statute of limitations in  
5 certain cases; requiring the Mayor and City Council of Baltimore City to provide  
6 adequate funds for the satisfaction of final judgments in certain cases; providing  
7 that Baltimore City is not liable for punitive damages in certain contract cases;  
8 making stylistic changes; and generally relating to contract disputes and actions  
9 involving the Baltimore City government.

10 BY repealing and reenacting, with amendments,  
11 The Charter of Baltimore City  
12 Article II - General Powers  
13 Section (4A)  
14 (1996 Edition and 2000 Supplement, as amended)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
16 MARYLAND, That the Laws of Maryland read as follows:

17 **The Charter of Baltimore City**

18 **Article II - General Powers**

19 The Mayor and City Council of Baltimore shall have full power and authority to  
20 exercise all of the powers heretofore or hereafter granted to it by the Constitution of  
21 Maryland or by any Public General or Public Local Laws of the State of Maryland;  
22 and in particular, without limitation upon the foregoing, shall have power by  
23 ordinance, or such other method as may be provided for in its Charter, subject to the  
24 provisions of said Constitution and Public General Laws:

25 (4A)

26 (A) UNLESS OTHERWISE SPECIFICALLY PROVIDED BY THE LAWS OF  
27 MARYLAND, BALTIMORE CITY, ITS OFFICERS, DEPARTMENTS, AGENCIES, BOARDS,  
28 COMMISSIONS, OR OTHER UNITS OF GOVERNMENT MAY NOT RAISE THE DEFENSE OF

1 SOVEREIGN IMMUNITY IN THE COURTS OF THIS STATE IN AN ACTION IN CONTRACT  
2 BASED ON A WRITTEN CONTRACT EXECUTED ON BEHALF OF THE CITY,  
3 DEPARTMENT, AGENCY, BOARD, COMMISSION, OR UNIT BY AN OFFICIAL OR  
4 EMPLOYEE ACTING WITHIN THE SCOPE OF AUTHORITY.

5 (B) IN ANY ACTION IN CONTRACT DESCRIBED IN SUBSECTION (A) OF THIS  
6 SECTION, BALTIMORE CITY, ITS OFFICERS, DEPARTMENTS, AGENCIES, BOARDS,  
7 COMMISSIONS, AND OTHER UNITS OF GOVERNMENT HAVE THE IMMUNITY FROM  
8 LIABILITY DESCRIBED IN § 5-509 OF THE COURTS AND JUDICIAL PROCEEDINGS  
9 ARTICLE.

10 (C) A CLAIM IS BARRED UNLESS THE CLAIMANT FILES SUIT WITHIN 1 YEAR  
11 FROM THE DATE ON WHICH THE CLAIM AROSE OR WITHIN 1 YEAR AFTER  
12 COMPLETION OF THE CONTRACT GIVING RISE TO THE CLAIM, WHICHEVER IS LATER.

13 (D) THE MAYOR AND CITY COUNCIL OF BALTIMORE SHALL MAKE AVAILABLE  
14 ADEQUATE FUNDS FOR THE SATISFACTION, AFTER THE EXHAUSTION OF ANY RIGHT  
15 OF APPEAL, OF A FINAL JUDGMENT THAT HAS BEEN RENDERED AGAINST THE CITY  
16 OR ANY OFFICER, DEPARTMENT, AGENCY, BOARD, COMMISSION, OR OTHER UNIT OF  
17 GOVERNMENT IN AN ACTION IN CONTRACT AS PROVIDED IN THIS SECTION.

18 [(a)] (E) Except as provided in subsections [(b) and (c)] (F) AND (G) of this  
19 section, Baltimore City may not require in a construction contract, or otherwise  
20 provide with regard to a construction contract, to which it is a party, that a dispute  
21 between the parties involving \$10,000 or more [regarding] OVER the terms of the  
22 contract or performance under the contract[,] be subject to final binding or conclusive  
23 determination by an officer or official body of Baltimore City.

24 [(b)] (F) [Baltimore City may require or provide, with] WITH regard to a  
25 construction contract to which it is a party, BALTIMORE CITY MAY PROVIDE OR  
26 REQUIRE that if there is a dispute [regarding] OVER the terms of the contract or  
27 performance under the contract, the [question or] questions involved in the dispute  
28 shall be subject to a determination [which] THAT is final and conclusive on all  
29 parties, made either by:

30 (1) a neutral person or entity selected by or in accordance with a  
31 procedure established by the [highest executive authority] MAYOR of Baltimore City;  
32 or

33 (2) [in the event that] IF the other party does not accept as neutral a  
34 person or entity selected under paragraph (1) of this subsection, by an arbitration  
35 panel composed of the following:

36 (i) one member designated by the [highest executive authority]  
37 MAYOR of Baltimore City;

38 (ii) one member designated by the other party to the dispute; and

39 (iii) one member [to be] selected by mutual agreement of the 2  
40 designated members from lists to be submitted by the parties to the dispute.

1 [(c)] (G) Notwithstanding the provisions of subsections [(a) and (b)] (E) AND  
2 (F) of this section, [Baltimore City may provide or require,] with regard to a  
3 construction contract to which it is a party, BALTIMORE CITY MAY PROVIDE OR  
4 REQUIRE that IF THERE IS a dispute between the parties involving \$10,000 or more  
5 [regarding] OVER the terms of the contract or performance under the contract, [be  
6 subject] THE DISPUTE IS SUBJECT to a determination of questions of fact by an officer  
7 or official body of Baltimore City, [provided that the decision of the officer or official  
8 body of Baltimore City is] subject to review on the record by a court of competent  
9 jurisdiction.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
11 effect July 1, 2002.