

ASSEMBLY, No. 4042

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED JULY 21, 2016

Sponsored by:

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

SYNOPSIS

Clarifies notice requirements for third party claims under the “New Jersey Tort Claims Act.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning notice requirements and amending N.J.S.59:8-8
2 and N.J.S.59:8-9.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. N.J.S.59:8-8 is amended to read as follows:

8 59:8-8. Time for presentation of claims. A claim relating to a
9 cause of action for death or for injury or damage to person or to
10 property shall be presented as provided in this chapter not later than
11 the 90th day after accrual of the cause of action. A plaintiff or
12 defendant presenting a claim in the original action may bring a third
13 party claim upon a public entity not a party to that action not later
14 than the 90th day after presenting the original notice of claim.
15 After the expiration of six months from the date notice of claim is
16 received, the claimant may file suit in an appropriate court of law.

17 The claimant shall be forever barred from recovering against a
18 public entity or public employee if:

19 a. (1) The claimant failed to file the claim with the public entity
20 within 90 days of accrual of the claim, or (2) in the case of a third
21 party claim the claimant failed to file the claim with the public
22 entity not later than the 90th day after presenting the original claim
23 except as otherwise provided in N.J.S.59:8-9; or

24 b. Two years have elapsed since the accrual of the claim or
25 third party claim; or

26 c. The claimant or the claimant's authorized representative
27 entered into a settlement agreement with respect to the claim or
28 with respect to a third party claim.

29 Nothing in this section shall prohibit a minor or a person who is
30 mentally incapacitated from commencing an action under this act
31 within the time limitations contained herein, after reaching majority
32 or returning to mental capacity.

33 (cf: P.L.2013, c.103, s.133)

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35 2. N.J.S.59:8-9 is amended to read as follows:

36 59:8-9. Notice of late claim. A claimant, or a party who files a
37 third party claim, who fails to file notice of his claim within 90 days
38 as provided in **[section] N.J.S.59:8-8 [of this act]**, may, in the
39 discretion of a judge of the Superior Court, be permitted to file such
40 notice at any time within one year after the accrual of his claim
41 provided that the public entity or the public employee has not been
42 substantially prejudiced thereby. Application to the court for
43 permission to file a late notice of claim shall be made upon motion
44 supported by affidavits based upon personal knowledge of the
45 affiant showing sufficient reasons constituting extraordinary

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 circumstances for his failure to file notice of claim within the period
2 of time prescribed by [section] N.J.S.59:8-8 [of this act] or to file
3 a motion seeking leave to file a late notice of claim within a
4 reasonable time thereafter; provided that in no event may any suit
5 against a public entity or a public employee arising under this act be
6 filed later than two years from the time of the accrual of the claim.
7 (cf: P.L.1994, c.49, s.5)

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9 3. This act shall take effect immediately.

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STATEMENT

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14 Under N.J.S.59:8-8 of the "New Jersey Tort Claims Act,"
15 N.J.S.59:1-1 et seq., a claim against a public entity relating to a
16 cause of action for death or for injury or damage to person or to
17 property is required to be filed 90 days after accrual of the cause of
18 action. If a party fails to file a claim with the public entity within
19 the 90 days, then the party is barred from recovering against a
20 public entity.

21 This bill amends N.J.S.59:8-8 to clarify that a plaintiff or
22 defendant in the original action may bring a third party claim upon
23 a public entity not a party to the action not later than the 90th day
24 after presenting the original notice of claim.

25 In addition, the bill amends N.J.S.59:8-9 concerning notice of
26 late claims to make that provision applicable to third party
27 claimants. Specifically, N.J.S.59:8-9 provides that a late claim may
28 be filed up to one year after the accrual of the claim provided that
29 the public entity has not been substantially prejudiced by the late
30 filing.