

SENATE BILL 680

P1, D3

4lr2692
CF 4lr2498

By: **The President (By Request – Office of the Attorney General)**

Introduced and read first time: January 29, 2024

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **State Government – Public Welfare Actions – Determinations and Settlements**

3 FOR the purpose of requiring the factfinder in a public welfare action to make a certain
4 determination and assign responsibility and liability in a certain manner;
5 authorizing the State to continue to pursue certain actions if it does not obtain
6 complete relief from certain responsible persons; establishing that certain provisions
7 of law requiring uniform contribution among joint tort-feasors do not apply to public
8 welfare claims; establishing the impact of a certain settlement on the liability of
9 certain responsible persons; and generally relating to determinations and
10 settlements of public welfare actions.

11 BY adding to
12 Article – Courts and Judicial Proceedings
13 Section 3–1401.1
14 Annotated Code of Maryland
15 (2020 Replacement Volume and 2023 Supplement)

16 BY adding to
17 Article – State Government
18 Section 6–106.2
19 Annotated Code of Maryland
20 (2021 Replacement Volume and 2023 Supplement)

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

23 **Article – Courts and Judicial Proceedings**

24 **3–1401.1.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **THIS TITLE DOES NOT APPLY TO A PUBLIC WELFARE CLAIM BROUGHT UNDER**
2 **§ 6–106.2 OF THE STATE GOVERNMENT ARTICLE.**

3 **Article – State Government**

4 **6–106.2.**

5 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
6 **INDICATED.**

7 **(2) “PROPORTIONATE SHARE OF LIABILITY” MEANS THE**
8 **PERCENTAGE OF COMPARATIVE RESPONSIBILITY ASSIGNED BY THE FACTFINDER TO**
9 **A SETTLING PARTY UNDER THIS SECTION.**

10 **(3) “PUBLIC WELFARE ACTION” MEANS ANY CIVIL ACTION IN WHICH**
11 **THE STATE OR THE ATTORNEY GENERAL HAS ASSERTED A PUBLIC WELFARE CLAIM.**

12 **(4) “PUBLIC WELFARE CLAIM” MEANS ANY CLAIM, COUNTERCLAIM,**
13 **CROSS CLAIM, OR OTHER DEMAND FOR RELIEF OF ANY KIND BROUGHT OR**
14 **ASSERTED BY THE ATTORNEY GENERAL OR THE STATE UNDER COMMON LAW,**
15 **STATUTORY LAW, OR ANY OTHER BASIS:**

16 **(I) FOR CONSUMER PROTECTION; OR**

17 **(II) ARISING FROM OR RELATED TO ALLEGED INJURIES TO OR**
18 **THREATENED INJURIES TO THE HEALTH, SAFETY, ENVIRONMENT, OR WELFARE OF**
19 **THE RESIDENTS OF MARYLAND.**

20 **(5) “RESPONSIBLE PERSON” MEANS ANY PERSON ALLEGEDLY LIABLE**
21 **IN WHOLE OR IN PART FOR ANY PUBLIC WELFARE CLAIM.**

22 **(B) IN A PUBLIC WELFARE ACTION, THE FACTFINDER SHALL:**

23 **(1) MAKE A DETERMINATION OF THE TOTAL LIABILITY, INCLUDING**
24 **DAMAGES, COSTS, AND ALL OTHER AVAILABLE RELIEF;**

25 **(2) ASSIGN COMPARATIVE RESPONSIBILITY TO ALL PARTIES JOINED**
26 **IN THE PUBLIC WELFARE ACTION, INCLUDING ALL DEFENDANTS, THIRD-PARTY**
27 **DEFENDANTS, INTERVENORS, AND ANY OTHER NAMED PARTY, BASED ON THE**
28 **PARTY’S RELATIVE DEGREE OF FAULT OR RESPONSIBILITY FOR THE TOTAL**
29 **LIABILITY; AND**

30 **(3) IF EQUITY REQUIRES, DETERMINE THE LIABILITY OF A GROUP OF**
31 **RELATED PERSONS ON A COLLECTIVE BASIS.**

(C) IF THE STATE HAS NOT OBTAINED COMPLETE RELIEF FROM A RESPONSIBLE PERSON WHO HAS RESOLVED THE PERSON'S LIABILITY TO THE STATE IN A SETTLEMENT FOR A PUBLIC WELFARE CLAIM, THE STATE MAY:

(1) CONTINUE TO PURSUE AN ONGOING PUBLIC WELFARE ACTION AGAINST ANY OTHER RESPONSIBLE PERSON WHO HAS NOT RESOLVED THE PERSON'S LIABILITY TO THE STATE FOR THE PUBLIC WELFARE CLAIM THAT IS THE SUBJECT OF THE PUBLIC WELFARE ACTION; OR

(2) BRING A NEW PUBLIC WELFARE ACTION AGAINST ANY OTHER RESPONSIBLE PERSON WHO HAS NOT RESOLVED THE PERSON'S LIABILITY TO THE STATE FOR THE PUBLIC WELFARE CLAIM THAT IS THE SUBJECT OF THE PUBLIC WELFARE ACTION.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF STATE LAW:

(1) THE MARYLAND UNIFORM CONTRIBUTION AMONG JOINT TORT-FEASORS ACT UNDER TITLE 3, SUBTITLE 14 OF THE COURTS ARTICLE DOES NOT APPLY TO PUBLIC WELFARE CLAIMS;

(2) IF A RESPONSIBLE PERSON RESOLVES THE PERSON'S LIABILITY TO THE STATE IN A SETTLEMENT OF A PUBLIC WELFARE CLAIM, THE PERSON MAY NOT BE LIABLE FOR CLAIMS FOR NONCONTRACTUAL CONTRIBUTION OR INDEMNITY REGARDING ANY MATTER OR CLAIM ADDRESSED IN THE SETTLEMENT, INCLUDING ANY STATUTORY OR COMMON LAW CLAIM; AND

(3) A SETTLEMENT OF A PUBLIC WELFARE CLAIM THAT RESOLVES THE LIABILITY OF A RESPONSIBLE PERSON:

(I) DOES NOT RELEASE FROM LIABILITY ANY OTHER RESPONSIBLE PERSON EXCEPT AS SPECIFICALLY PROVIDED IN THE TERMS OF THE SETTLEMENT; BUT

(II) REDUCES THE POTENTIAL LIABILITY OF ALL OTHER RESPONSIBLE PERSONS LIABLE IN WHOLE OR IN PART FOR THE PUBLIC WELFARE CLAIM THAT IS THE SUBJECT OF THE SETTLEMENT BY THE SETTLING PERSON'S PROPORTIONATE SHARE OF LIABILITY FOR ALL SETTLED PUBLIC WELFARE CLAIMS, INCLUDING ALL STATUTORY AND COMMON LAW CLAIMS.

(E) THIS SECTION MAY NOT BE CONSTRUED TO:

(1) IMPAIR ANY EXPRESS CONTRACTUAL RIGHTS; OR

1 **(2) GRANT AUTHORITY TO THE STATE OR THE ATTORNEY GENERAL**
2 **TO BRING ACTIONS OR CLAIMS NOT OTHERWISE AUTHORIZED BY LAW.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
4 apply only prospectively and may not be applied or interpreted to have any effect on or
5 application to any settlement of a public welfare action finalized before the effective date of
6 this Act.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
8 1, 2024.