

House Bill 1090 (COMMITTEE SUBSTITUTE)

By: Representatives Bordeaux of the 151<sup>st</sup>, Stokes of the 92<sup>nd</sup> and Davis of the 60<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 50-21-26 of the Official Code of Georgia Annotated, relating to  
2 notice of a claim against the State of Georgia, commencement of action, examination of  
3 records to facilitate investigation of a claim, and the confidential nature of the documents and  
4 information furnished, so as to change provisions relative to the notice of claim; to provide  
5 for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 50-21-26 of the Official Code of Georgia Annotated, relating to notice of a  
9 claim against the State of Georgia, commencement of action, examination of records to  
10 facilitate investigation of a claim, and the confidential nature of the documents and  
11 information furnished, is amended by striking subsections (a) and (c) and inserting in their  
12 place new subsections to read as follows:

13 "(a) No person, firm, or corporation having a tort claim against the state under this article  
14 shall bring any action against the state upon such claim without first giving notice of the  
15 claim as follows:

16 (1) Notice of a claim shall be given in writing within 12 months of the date the loss was  
17 discovered or should have been discovered; provided, however, for tort claims and causes  
18 of action which accrued between January 1, 1991, and July 1, 1992, notice of claim shall  
19 be given in writing within 12 months after July 1, 1992;

20 (2) Notice of a claim shall be given in writing and shall be mailed by certified mail or  
21 statutory overnight delivery, return receipt requested, or delivered personally to and a  
22 receipt obtained from the Risk Management Division of the Department of  
23 Administrative Services. ~~In addition, a copy shall be delivered personally to or mailed~~  
24 ~~by first-class mail to the state government entity, the act or omissions of which are~~  
25 ~~asserted as the basis of the claim. Each state government entity may designate an office~~

1 ~~or officer within that state government entity to whom a notice of claim is to be delivered~~  
 2 ~~or mailed;~~

3 (3) No action against the state under this article shall be commenced and the courts shall  
 4 have no jurisdiction thereof unless and until a written notice of claim has been timely  
 5 presented to the state as provided in this subsection;

6 (4) Any complaint filed pursuant to this article must have a copy of the notice of claim  
 7 presented to the Department of Administrative Services together with the certified mail  
 8 or statutory overnight delivery receipt or receipt for other delivery attached as exhibits.  
 9 If failure to attach such exhibits to the complaint is not cured within 30 days after the  
 10 state raises such issue by motion, then the complaint shall be dismissed without prejudice;  
 11 and

12 (5) A notice of claim under this Code section shall state, to the extent of the claimant's  
 13 knowledge and belief and as may be practicable under the circumstances, the following:

14 (A) The name of the state government entity, the acts or omissions of which are  
 15 asserted as the basis of the claim;

16 (B) The time of the transaction or occurrence out of which the loss arose;

17 (C) The place of the transaction or occurrence;

18 (D) The nature of the loss suffered;

19 (E) The amount of the loss claimed; and

20 (F) The acts or omissions which caused the loss."

21 "(c) The Department of Administrative Services shall mail by first-class mail a copy of the  
 22 notice of a claim to the state government entity, the act or omissions of which are asserted  
 23 as the basis of the claim. Each state government entity may designate an office or officer  
 24 within that state government entity to whom a notice of claim is to be mailed. The  
 25 Department of Administrative Services shall have the authority to examine and copy any  
 26 records of any state government entity to facilitate the investigation of a claim. Each state  
 27 government entity shall make available to the Department of Administrative Services,  
 28 incidental to any investigation of a claim, all such records notwithstanding any other  
 29 provision of law which designates such records as confidential or which prohibits  
 30 disclosure of such records; provided, however, that the Department of Administrative  
 31 Services shall be bound by such provision of law and shall not make further disclosure of  
 32 such records except as permitted by such provision of law. The Department of  
 33 Administrative Services may enforce the authority granted under this subsection by  
 34 subpoena which may be enforced, upon application by the department, by the Superior  
 35 Court of Fulton County, Georgia, in the same manner as subpoenas issued under Chapter  
 36 13 of this title, the 'Georgia Administrative Procedure Act,' may be enforced."

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**SECTION 2.**

2 All laws and parts of laws in conflict with this Act are repealed.