

§8107. Notice to governmental entity

1. Notice requirements for filing. Within 365 days after any claim or cause of action permitted by this chapter accrues, or at a later time within the limits of section 8110, when a claimant shows good cause why notice could not have reasonably been filed within the 365-day limit, a claimant or a claimant's personal representative or attorney shall file a written notice containing:

A. The name and address of the claimant, and the name and address of the claimant's attorney or other representative, if any; [PL 1989, c. 327 (AMD).]

B. A concise statement of the basis of the claim, including the date, time, place and circumstances of the act, omission or occurrence complained of; [PL 1977, c. 2, §2 (NEW).]

C. The name and address of any governmental employee involved, if known; [PL 1977, c. 2, §2 (NEW).]

D. A concise statement of the nature and extent of the injury claimed to have been suffered; and [PL 1977, c. 2, §2 (NEW).]

E. A statement of the amount of monetary damages claimed. [PL 1977, c. 2, §2 (NEW).]
[PL 2019, c. 214, §1 (AMD).]

2. Incapacity. If the claimant is incapacitated and thereby prevented from presenting and filing the claim within the time prescribed or if the claimant is a minor, the claim may be presented and filed on behalf of the claimant by any relative, attorney or agent representing the claimant. If the claimant is a minor when the cause of action accrues, the notice may be presented within 365 days of the minor's attaining 18 years of age.

[PL 2019, c. 214, §2 (AMD).]

3. Notices.

A. If the claim is against the State or an employee thereof, copies of the notice shall be addressed to and filed with the state department, board, agency, commission or authority whose act or omission is said to have caused the injury and the Attorney General. [PL 1977, c. 2, §2 (NEW).]

B. Notice of claims against any political subdivision or an employee thereof shall be addressed to and filed with one of the persons upon whom a summons and complaint could be served under the Maine Rules of Civil Procedure, Rule 4, in a civil action against a political subdivision. [PL 1977, c. 578, §3 (AMD).]

[PL 1979, c. 578, §3 (AMD).]

4. Substantial notice compliance required. No claim or action shall be commenced against a governmental entity or employee in the Superior Court unless the foregoing notice provisions are substantially complied with. A claim filed under this section shall not be held invalid or insufficient by reason of an inaccuracy in stating the time, place, nature or cause of the claim, or otherwise, unless it is shown that the governmental entity was in fact prejudiced thereby. A claim filed under this section shall not be held invalid solely because a claim based on the same facts was filed under a different statutory procedure and was disallowed.

[PL 1977, c. 591, §3 (AMD).]

5. Definition of good cause. "Good cause" as used in subsection 1 includes but is not limited to any cases in which any official of the governmental entity whose duties and authority include the settlement of tort claims or any tort liability insurer of the governmental entity makes direct oral or written contacts with the claimant or the claimant's personal representative or attorney, including payments to or on behalf of the claimant, that contain or imply a promise of coverage sufficient to cause a reasonable person to believe that the losses for which no timely notice claim is filed would be covered.

If oral or written contact is limited to coverage for specific injuries or damage, a claimant is not excused from filing the notice required by this section in relation to other claims or causes of action permitted by this chapter that arise out of the same incident or event.

Nothing in this subsection prevents the injured party and an agent or insurer of the governmental entity from entering into a consensual agreement pursuant to which the injured party releases the governmental entity from any further liability in exchange for an agreed upon consideration.

[PL 1991, c. 460 (NEW).]

This section shall not apply to such claims as may be asserted under the Rules of Civil Procedure by a 3rd party complaint, crossclaim or counterclaim. [PL 1977, c. 2, §2 (NEW).]

SECTION HISTORY

PL 1977, c. 2, §§2,5 (NEW). PL 1977, c. 578, §3 (AMD). PL 1977, c. 591, §§3,6 (AMD). PL 1979, c. 68, §5 (AMD). PL 1987, c. 740, §6 (AMD). PL 1989, c. 327 (AMD). PL 1991, c. 460 (AMD). PL 2001, c. 249, §1 (AMD). PL 2019, c. 214, §§1, 2 (AMD).

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