

Article – Courts and Judicial Proceedings

5-399.2.

(a) Immunity of the State is not waived under § 12-104 of the State Government Article for:

(1) Punitive damages;

(2) Interest before judgment;

(3) A claim that arises from the combatant activities of the State Militia during a state of emergency;

(4) Any tortious act or omission of State personnel that:

(i) Is not within the scope of the public duties of the State personnel;

or

(ii) Is made with malice or gross negligence; [or]

(5) AN INDIVIDUAL CLAIM A CLAIM BY AN INDIVIDUAL ARISING FROM A SINGLE INCIDENT OR OCCURRENCE THAT EXCEEDS \$100,000; OR

[(5)](6) A cause of action that law specifically prohibits.

Article – State Government

12-104.

(a) (1) Subject to the exclusions and limitations in this subtitle AND NOTWITHSTANDING ANY OTHER PROVISION OF LAW, the immunity of the State and of its units is waived as to a tort action, in a court of the State, to the extent [of insurance coverage under Title 9 of the State Finance and Procurement Article] PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(2) THE LIABILITY OF THE STATE AND ITS UNITS MAY NOT EXCEED \$100,000 PER AN INDIVIDUAL CLAIM TO A SINGLE CLAIMANT FOR INJURIES ARISING FROM A SINGLE INCIDENT OR OCCURRENCE.

(b) Immunity is not waived under this section as described under § 5-399.2(a) of the Courts and Judicial Proceedings Article.

(c) (1) The Treasurer may pay from the State Insurance Trust Fund all or part of that portion of a tort claim which exceeds the [coverage obtained under Title 9 of the State Finance and Procurement Article] LIMITATION ON LIABILITY ESTABLISHED UNDER SUBSECTION (A)(2) OF THIS SECTION under the following conditions:

(i) the tort claim is one for which the State and its units have waived immunity under subsections (a) and (b) of this section;

(ii) a judgment or settlement has been entered granting the claimant damages to the full amount [of coverage under Title 9 of the State Finance and Procurement Article] ESTABLISHED UNDER SUBSECTION (A)(2) OF THIS SECTION; and