



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3008

Introduced 2/15/2018, by Sen. Thomas Cullerton

SYNOPSIS AS INTRODUCED:

705 ILCS 505/8	from Ch. 37, par. 439.8
705 ILCS 505/16	from Ch. 37, par. 439.16
705 ILCS 505/18	from Ch. 37, par. 439.18
705 ILCS 505/21	from Ch. 37, par. 439.21
705 ILCS 505/22	from Ch. 37, par. 439.22
705 ILCS 505/24	from Ch. 37, par. 439.24

Amends the Court of Claims Act. Increases the maximum amount of certain claims sounding in tort filed on or after July 1, 2015. Provides that the signature of one judge is binding if a decision is entered in a lapsed appropriation claim in which a motion or stipulation has been filed or a decision is entered on a Crime Victims Compensation Act claim. Deletes language providing that in matters involving the award of emergency funds under the Crime Victims Compensation Act, the decision of one judge is necessary to award emergency funds. Provides that from funds appropriated by the General Assembly, the court may direct immediate payment of claims against the State for unjust imprisonment. Adds applicability language and makes other changes.

LRB100 19688 RLC 34962 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning courts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Court of Claims Act is amended by changing
5 Sections 8, 16, 18, 21, 22, and 24 as follows:

6 (705 ILCS 505/8) (from Ch. 37, par. 439.8)

7 Sec. 8. Court of Claims jurisdiction; deliberation
8 periods. The court shall have exclusive jurisdiction to hear
9 and determine the following matters:

10 (a) All claims against the State founded upon any law of
11 the State of Illinois or upon any regulation adopted thereunder
12 by an executive or administrative officer or agency; provided,
13 however, the court shall not have jurisdiction (i) to hear or
14 determine claims arising under the Workers' Compensation Act or
15 the Workers' Occupational Diseases Act, or claims for expenses
16 in civil litigation, or (ii) to review administrative decisions
17 for which a statute provides that review shall be in the
18 circuit or appellate court.

19 (b) All claims against the State founded upon any contract
20 entered into with the State of Illinois.

21 (c) All claims against the State for time unjustly served
22 in prisons of this State when the person imprisoned received a
23 pardon from the governor stating that such pardon is issued on

1 the ground of innocence of the crime for which he or she was
2 imprisoned or he or she received a certificate of innocence
3 from the Circuit Court as provided in Section 2-702 of the Code
4 of Civil Procedure; provided, the amount of the award is at the
5 discretion of the court; and provided, the court shall make no
6 award in excess of the following amounts: for imprisonment of 5
7 years or less, not more than \$85,350; for imprisonment of 14
8 years or less but over 5 years, not more than \$170,000; for
9 imprisonment of over 14 years, not more than \$199,150; and
10 provided further, the court shall fix attorney's fees not to
11 exceed 25% of the award granted. On or after the effective date
12 of this amendatory Act of the 95th General Assembly, the court
13 shall annually adjust the maximum awards authorized by this
14 subsection (c) to reflect the increase, if any, in the Consumer
15 Price Index For All Urban Consumers for the previous calendar
16 year, as determined by the United States Department of Labor,
17 except that no annual increment may exceed 5%. For the annual
18 adjustments, if the Consumer Price Index decreases during a
19 calendar year, there shall be no adjustment for that calendar
20 year. The transmission by the Prisoner Review Board or the
21 clerk of the circuit court of the information described in
22 Section 11(b) to the clerk of the Court of Claims is conclusive
23 evidence of the validity of the claim. The changes made by this
24 amendatory Act of the 95th General Assembly apply to all claims
25 pending on or filed on or after the effective date.

26 (d) All claims against the State for damages in cases

1 sounding in tort, if a like cause of action would lie against a
2 private person or corporation in a civil suit, and all like
3 claims sounding in tort against the Medical Center Commission,
4 the Board of Trustees of the University of Illinois, the Board
5 of Trustees of Southern Illinois University, the Board of
6 Trustees of Chicago State University, the Board of Trustees of
7 Eastern Illinois University, the Board of Trustees of Governors
8 State University, the Board of Trustees of Illinois State
9 University, the Board of Trustees of Northeastern Illinois
10 University, the Board of Trustees of Northern Illinois
11 University, the Board of Trustees of Western Illinois
12 University, or the Board of Trustees of the Illinois
13 Mathematics and Science Academy; provided, that an award for
14 damages in a case sounding in tort, ~~other than certain cases~~
15 ~~involving the operation of a State vehicle described in this~~
16 ~~paragraph,~~ shall not exceed the sum of \$2,000,000 ~~\$100,000~~ to
17 or for the benefit of any claimant. ~~The \$100,000 limit~~
18 ~~prescribed by this Section does not apply to an award of~~
19 ~~damages in any case sounding in tort arising out of the~~
20 ~~operation by a State employee of a vehicle owned, leased or~~
21 ~~controlled by the State.~~ The defense that the State or the
22 Medical Center Commission or the Board of Trustees of the
23 University of Illinois, the Board of Trustees of Southern
24 Illinois University, the Board of Trustees of Chicago State
25 University, the Board of Trustees of Eastern Illinois
26 University, the Board of Trustees of Governors State

1 University, the Board of Trustees of Illinois State University,
2 the Board of Trustees of Northeastern Illinois University, the
3 Board of Trustees of Northern Illinois University, the Board of
4 Trustees of Western Illinois University, or the Board of
5 Trustees of the Illinois Mathematics and Science Academy is not
6 liable for the negligence of its officers, agents, and
7 employees in the course of their employment is not applicable
8 to the hearing and determination of such claims.

9 (e) All claims for recoupment made by the State of Illinois
10 against any claimant.

11 (f) All claims pursuant to the Line of Duty Compensation
12 Act. A claim under that Act must be heard and determined within
13 one year after the application for that claim is filed with the
14 Court as provided in that Act.

15 (g) All claims filed pursuant to the Crime Victims
16 Compensation Act.

17 (h) All claims pursuant to the Illinois National
18 Guardsman's Compensation Act. A claim under that Act must be
19 heard and determined within one year after the application for
20 that claim is filed with the Court as provided in that Act.

21 (i) All claims authorized by subsection (a) of Section
22 10-55 of the Illinois Administrative Procedure Act for the
23 expenses incurred by a party in a contested case on the
24 administrative level.

25 (j) The changes made to this Section by this amendatory Act
26 of the 100th General Assembly apply only to claims filed on or

1 after July 1, 2015.

2 (Source: P.A. 95-970, eff. 9-22-08; 96-80, eff. 7-27-09.)

3 (705 ILCS 505/16) (from Ch. 37, par. 439.16)

4 Sec. 16. Concurrence of judges. Concurrence of 4 judges is
5 necessary to the decision of any case, except that the
6 signature of one judge is binding if a decision is entered in a
7 lapsed appropriation claim in which a motion or stipulation has
8 been filed or a decision is entered on a Crime Victims
9 Compensation Act claim. The; ~~provided, however, the court in~~
10 its discretion may assign any case to a commissioner for
11 hearing and final decision, subject to whatever right of review
12 the court by rule may choose to exercise. ~~In matters involving~~
13 ~~the award of emergency funds under the Crime Victims~~
14 ~~Compensation Act, the decision of one judge is necessary to~~
15 ~~award emergency funds.~~

16 (Source: P.A. 92-286, eff. 1-1-02.)

17 (705 ILCS 505/18) (from Ch. 37, par. 439.18)

18 Sec. 18. The court shall provide, by rule, for the
19 maintenance of separate records of claims which arise solely
20 due to lapsed appropriations and for claims for which amount of
21 recovery sought is less than \$50,000 ~~\$5,000~~. In all other
22 cases, the court or Commissioner as the case may be, shall file
23 with its clerk a written opinion in each case upon final
24 disposition thereof. All opinions shall be compiled and

1 published annually by the clerk of the court.

2 (Source: P.A. 90-492, eff. 8-17-97.)

3 (705 ILCS 505/21) (from Ch. 37, par. 439.21)

4 Sec. 21. The court is authorized to impose, by uniform
5 rules, a fee of \$15 for the filing of a petition in any case in
6 which the award sought is ~~more than \$50 and~~ less than \$1,000
7 and \$35 in any case in which the award sought is \$1,000 or
8 more; and to charge and collect for copies of opinions or other
9 documents filed in the Court of Claims such fees as may be
10 prescribed by the rules of the Court. All fees and charges so
11 collected shall be forthwith paid into the State Treasury.

12 A petitioner who is a prisoner in an Illinois Department of
13 Corrections facility who files a pleading, motion, or other
14 filing that purports to be a legal document against the State,
15 the Illinois Department of Corrections, the Prisoner Review
16 Board, or any of their officers or employees in which the court
17 makes a specific finding that it is frivolous shall pay all
18 filing fees and court costs in the manner provided in Article
19 XXII of the Code of Civil Procedure.

20 In claims based upon lapsed appropriations or lost warrant
21 or in claims filed under the Line of Duty Compensation Act, the
22 Illinois National Guardsman's Compensation Act, or the Crime
23 Victims Compensation Act or in claims filed by medical vendors
24 for medical services rendered by the claimant to persons
25 eligible for Medical Assistance under programs administered by

1 the Department of Healthcare and Family Services, no filing fee
2 shall be required.

3 The changes made to this Section by this amendatory Act of
4 the 100th General Assembly apply only to claims filed on or
5 after the effective date of this amendatory Act of the 100th
6 General Assembly.

7 (Source: P.A. 95-331, eff. 8-21-07.)

8 (705 ILCS 505/22) (from Ch. 37, par. 439.22)

9 Sec. 22. Every claim cognizable by the Court and not
10 otherwise sooner barred by law shall be forever barred from
11 prosecution therein unless it is filed with the Clerk of the
12 Court within the time set forth as follows:

13 (a) All claims arising out of a contract must be filed
14 within 5 years after it first accrues, saving to minors, and
15 persons under legal disability at the time the claim accrues,
16 in which cases the claim must be filed within 5 years from the
17 time the disability ceases.

18 (b) All claims cognizable against the State by vendors of
19 goods or services under "The Illinois Public Aid Code",
20 approved April 11, 1967, as amended, must file within one year
21 after the accrual of the cause of action, as provided in
22 Section 11-13 of that Code.

23 (c) All claims arising under paragraph (c) of Section 8 of
24 this Act must be automatically heard by the court within 120
25 days after the person asserting such claim is either issued a

1 certificate of innocence from the Circuit Court as provided in
2 Section 2-702 of the Code of Civil Procedure, or is granted a
3 pardon by the Governor, whichever occurs later, without the
4 person asserting the claim being required to file a petition
5 under Section 11 of this Act, except as otherwise provided by
6 the Crime Victims Compensation Act. Any claims filed by the
7 claimant under paragraph (c) of Section 8 of this Act must be
8 filed within 2 years after the person asserting such claim is
9 either issued a certificate of innocence as provided in Section
10 2-702 of the Code of Civil Procedure, or is granted a pardon by
11 the Governor, whichever occurs later.

12 (d) All claims arising under paragraph (f) of Section 8 of
13 this Act must be filed within the time set forth in Section 3
14 of the Line of Duty Compensation Act.

15 (e) All claims arising under paragraph (h) of Section 8 of
16 this Act must be filed within one year of the date of the death
17 of the guardsman or militiaman as provided in Section 3 of the
18 "Illinois National Guardsman's and Naval Militiaman's
19 Compensation Act", approved August 12, 1971, as amended.

20 (f) All claims arising under paragraph (g) of Section 8 of
21 this Act must be filed within one year of the crime on which a
22 claim is based as provided in Section 6.1 of the "Crime Victims
23 Compensation Act", approved August 23, 1973, as amended.

24 (g) All claims arising from the Comptroller's refusal to
25 issue a replacement warrant pursuant to Section 10.10 of the
26 State Comptroller Act must be filed within 5 years after the

1 date of the Comptroller's refusal ~~issue date of such warrant.~~

2 (h) All other claims must be filed within 2 years after it
3 first accrues, saving to minors, and persons under legal
4 disability at the time the claim accrues, in which case the
5 claim must be filed within 2 years from the time the disability
6 ceases.

7 (i) The changes made to this Section by this amendatory Act
8 of the 100th General Assembly apply to claims pending on the
9 effective date of this amendatory Act of the 100th General
10 Assembly and to claims filed thereafter ~~The changes made by~~
11 ~~this amendatory Act of 1989 shall apply to all warrants issued~~
12 ~~within the 5 year period preceding the effective date of this~~
13 ~~amendatory Act of 1989.~~

14 (j) All time limitations established under this Act and the
15 rules promulgated under this Act shall be binding and
16 jurisdictional, except upon extension authorized by law or rule
17 and granted pursuant to a motion timely filed.

18 (Source: P.A. 95-928, eff. 8-26-08; 95-970, eff. 9-22-08;
19 96-328, eff. 8-11-09.)

20 (705 ILCS 505/24) (from Ch. 37, par. 439.24)

21 Sec. 24. Payment of awards.

22 (1) From funds appropriated by the General Assembly for the
23 purposes of this Section the Court may direct immediate payment
24 of:

25 (a) All claims arising solely as a result of the

1 lapsing of an appropriation out of which the obligation
2 could have been paid.

3 (b) All claims pursuant to the Line of Duty
4 Compensation Act.

5 (c) All claims pursuant to the "Illinois National
6 Guardsmen's and Naval Militiaman's Compensation Act",
7 approved August 12, 1971, as amended.

8 (d) All claims pursuant to the "Crime Victims
9 Compensation Act", approved August 23, 1973, as amended.

10 (d-5) All claims against the State for unjust
11 imprisonment as provided in subsection (c) of Section 8 of
12 this Act.

13 (e) All other claims wherein the amount of the award of
14 the Court is less than \$50,000 ~~\$5,000~~.

15 (2) The court may, from funds specifically appropriated
16 from the General Revenue Fund for this purpose, direct the
17 payment of awards less than \$50,000 solely as a result of the
18 lapsing of an appropriation originally made from any fund held
19 by the State Treasurer. For any such award paid from the
20 General Revenue Fund, the court shall thereafter seek an
21 appropriation from the fund from which the liability originally
22 accrued in reimbursement of the General Revenue Fund.

23 (3) In directing payment of a claim pursuant to the Line of
24 Duty Compensation Act, the Court must direct the Comptroller to
25 add an interest penalty if payment of a claim is not made
26 within 6 months after a claim is filed in accordance with

1 Section 3 of the Line of Duty Compensation Act and all
2 information has been submitted as required under Section 4 of
3 the Line of Duty Compensation Act. If payment is not issued
4 within the 6-month period, an interest penalty of 1% of the
5 amount of the award shall be added for each month or fraction
6 thereof after the end of the 6-month period, until final
7 payment is made. This interest penalty shall be added
8 regardless of whether the payment is not issued within the
9 6-month period because of the appropriation process, the
10 consideration of the matter by the Court, or any other reason.

11 (3.5) The interest penalty payment provided for in
12 subsection (3) shall be added to all claims for which benefits
13 were not paid as of the effective date of P.A. 95-928. The
14 interest penalty shall be calculated starting from the
15 effective date of P.A. 95-928, provided that the effective date
16 of P.A. 95-928 is at least 6 months after the date on which the
17 claim was filed in accordance with Section 3 of the Line of
18 Duty Compensation Act. In the event that the date 6 months
19 after the date on which the claim was filed is later than the
20 effective date of P.A. 95-928, the Court shall calculate the
21 interest payment penalty starting from the date 6 months after
22 the date on which the claim was filed in accordance with
23 Section 3 of the Line of Duty Compensation Act. This subsection
24 (3.5) of this amendatory Act of the 96th General Assembly is
25 declarative of existing law.

26 (3.6) In addition to the interest payments provided for in

1 subsections (3) and (3.5), the Court shall direct the
2 Comptroller to add a "catch-up" payment to the claims of
3 eligible claimants. For the purposes of this subsection (3.6),
4 an "eligible claimant" is a claimant whose claim is not paid in
5 the year in which it was filed. For purposes of this subsection
6 (3.6), "'catch-up' payment" is defined as the difference
7 between the amount paid to claimants whose claims were filed in
8 the year in which the eligible claimant's claim is paid and the
9 amount paid to claimants whose claims were filed in the year in
10 which the eligible claimant filed his or her claim. The
11 "catch-up" payment is payable simultaneously with the claim
12 award.

13 (4) From funds appropriated by the General Assembly for the
14 purposes of paying claims under paragraph (c) of Section 8, the
15 court must direct payment of each claim and the payment must be
16 received by the claimant within 60 days after the date that the
17 funds are appropriated for that purpose.

18 (Source: P.A. 95-928, eff. 8-26-08; 95-970, eff. 9-22-08;
19 96-328, eff. 8-11-09; 96-539, eff. 1-1-10.)