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Chapter No. 513

12/SS01/R513SG

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***SENATE BILL NO. 2845***

Originated in Senate

Liz Well

Secretary

SENATE BILL NO. 2845

AN ACT TO AMEND SECTION 11-46-11, MISSISSIPPI CODE OF 1972, TO CLARIFY BOTH THE STATUTE OF LIMITATIONS UNDER THE TORT CLAIMS ACT AND THE NOTICES THAT ARE REQUIRED TO BE PROVIDED AS TO A CLAIM UNDER THAT ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** Section 11-46-11, Mississippi Code of 1972, is amended as follows:

11-46-11. (1) After all procedures within a governmental entity have been exhausted, any person having a claim \* \* \* under \* \* \* this chapter \* \* \* shall proceed as he might in any action at law or in equity \* \* \*, except that at least ninety (90) days before instituting suit, the person must file a notice of claim with the chief executive officer of the governmental entity.

(2) (a) Service of notice of claim shall be made as follows:

(i) For local governments:

1. If the governmental entity is a county, then upon the chancery clerk of the county sued;

2. If the governmental entity is a municipality, then upon the city clerk.

(ii) If the governmental entity to be sued is a state entity as defined in Section 11-46-1(j), or is a political subdivision other than a county or municipality, service of notice of claim shall be had only upon that entity's or political subdivision's chief executive officer. \* \* \* The chief executive officer of a governmental entity \* \* \* participating in a plan administered by the board pursuant to Section 11-46-7(3) \* \* \*

shall notify the board of any claims filed within five (5) days after \* \* \* receipt thereof.

(b) Every notice of claim \* \* \* shall:

(i) Be in writing; \* \* \*

(ii) Be delivered in person or by registered or certified United States mail; and

(iii) \* \* \* Contain a short and plain statement of the facts upon which the claim is based, including the circumstances which brought about the injury, the extent of the injury, the time and place the injury occurred, the names of all persons known to be involved, the amount of money damages sought, and the residence of the person making the claim at the time of the injury and at the time of filing the notice.

(3) (a) All actions brought under \* \* \* this chapter shall be commenced within one (1) year next after the date of the tortious, wrongful or otherwise actionable conduct on which the liability phase of the action is based, and not after \* \* \*, except that \* \* \* filing \* \* \* a notice of claim within the required one-year period will toll the statute of limitations for \* \* \* ninety-five (95) days from the date the chief executive officer of the state entity or \* \* \* the chief executive officer or other statutorily designated official of a \* \* \* political subdivision receives the notice of claim.

(b) \* \* \* No action whatsoever may be maintained by the claimant until the claimant receives a notice of denial of claim or the tolling period expires, whichever comes first, after which the claimant has an additional ninety (90) days to file suit \* \* \*; failure to file within the time allowed is an absolute bar to any further proceedings under this chapter.

(c) All notices of denial of claim shall be served by governmental entities upon claimants by certified mail, return receipt requested, only.

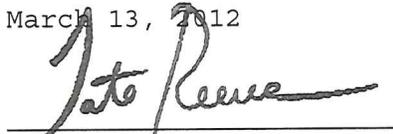
(d) (i) To determine the running of limitations periods under this chapter, service of any notice of claim or notice of denial of claim is effective upon delivery by the methods statutorily designated in this chapter.

(ii) The limitations period provided in this section controls and shall be exclusive in all actions subject to and brought under the provisions of this chapter, notwithstanding the nature of the claim, the label or other characterization the claimant may use to describe it, or the provisions of any other statute of limitations that would otherwise govern the type of claim or legal theory if it were not subject to or brought under the provisions of this chapter.

(4) From and after April 1, 1993, if any person entitled to bring any action under this chapter shall, at the time at which the cause of action accrued, be under the disability of infancy or unsoundness of mind, he may bring the action within the time allowed in this section after his disability shall be removed as provided by law. The savings in favor of persons under disability of unsoundness of mind shall never extend longer than twenty-one (21) years.

**SECTION 2.** This act shall take effect and be in force from and after July 1, 2012.

PASSED BY THE SENATE  
March 13, 2012

  
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PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES  
April 4, 2012

  
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SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

  
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GOVERNOR  
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