

6151

I N S E N A T E

(PREFILED)

January 8, 2014

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the general municipal law, in relation to filing a notice of claim in New York city

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 50-e of the general municipal law
2 is amended by adding a new paragraph (a-1) to read as follows:
3 (A-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-
4 SION, IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, WHERE A PERSON
5 NOTIFIES THE RESPONSIBLE AGENCY IN WRITING WITHIN NINETY DAYS AFTER SUCH
6 CLAIM ARISES, THE TIME OTHERWISE LIMITED FOR FILING THE NOTICE OF CLAIM
7 IS EXTENDED UNTIL SUCH TIME THAT THE RESPONSIBLE AGENCY PROVIDES A
8 DETERMINATION IN WRITING DETAILING WHAT ACTIONS THAT THE AGENCY SHALL
9 TAKE TO RESOLVE THE CLAIM. HOWEVER, THE TIME WITHIN WHICH THE NOTICE OF
10 CLAIM MUST BE FILED SHALL NOT BE EXTENDED BY THIS PROVISION BEYOND ONE
11 YEAR AFTER THE CAUSE OF ACTION ACCRUES.
12 S 2. Subdivision 1 of section 50-i of the general municipal law, as
13 amended by chapter 24 of the laws of 2013, is amended to read as
14 follows:
15 1. No action or special proceeding shall be prosecuted or maintained
16 against a city, county, town, village, fire district or school district
17 for personal injury, wrongful death or damage to real or personal prop-
18 erty alleged to have been sustained by reason of the negligence or
19 wrongful act of such city, county, town, village, fire district or
20 school district or of any officer, agent or employee thereof, including
21 volunteer firemen of any such city, county, town, village, fire district
22 or school district or any volunteer fireman whose services have been
23 accepted pursuant to the provisions of section two hundred nine-i of
24 this chapter, unless, (a) a notice of claim shall have been made and
25 served upon the city, county, town, village, fire district or school
26 district in compliance with section fifty-e of this article, (b) it
27 shall appear by and as an allegation in the complaint or moving papers

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 that at least thirty days have elapsed since the service of such notice,
2 or if service of the notice of claim is made by service upon the secre-
3 tary of state pursuant to section fifty-three of this article, that at
4 least forty days have elapsed since the service of such notice, and that
5 adjustment or payment thereof has been neglected or refused, [and] (c)
6 the action or special proceeding shall be commenced within one year and
7 ninety days after the happening of the event upon which the claim is
8 based; except that wrongful death actions shall be commenced within two
9 years after the happening of the death, AND (C-1) NOTWITHSTANDING THE
10 PROVISIONS OF PARAGRAPH (C) OF THIS SUBDIVISION, IN A CITY WITH A POPU-
11 LATION OF ONE MILLION OR MORE, WHERE A PERSON NOTIFIES THE RESPONSIBLE
12 AGENCY PURSUANT TO PARAGRAPH (A-1) OF SUBDIVISION ONE OF SECTION FIFTY-E
13 OF THIS ARTICLE, THE TIME OTHERWISE LIMITED FOR COMMENCING THE ACTION
14 SHALL BE TWO YEARS AFTER THE CAUSE OF ACTION ACCRUES.
15 S 3. This act shall take effect immediately.