S T A T E O F N E W Y O R K

1093

2015-2016 Regular Sessions

I N S E N A T E

January 8, 2015

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:

Section 1. Subdivision 1 of section 50-e of the general municipal law is amended by adding a new paragraph (a-1) to read as follows:

(A-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION, IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, WHERE A PERSON NOTIFIES THE RESPONSIBLE AGENCY IN WRITING WITHIN NINETY DAYS AFTER SUCH CLAIM ARISES, THE TIME OTHERWISE LIMITED FOR FILING THE NOTICE OF CLAIM IS EXTENDED UNTIL SUCH TIME THAT THE RESPONSIBLE AGENCY PROVIDES A DETERMINATION IN WRITING DETAILING WHAT ACTIONS THAT THE AGENCY SHALL TAKE TO RESOLVE THE CLAIM. HOWEVER, THE TIME WITHIN WHICH THE NOTICE OF CLAIM MUST BE FILED SHALL NOT BE EXTENDED BY THIS PROVISION BEYOND ONE YEAR AFTER THE CAUSE OF ACTION ACCRUES.

S 2. Subdivision 1 of section 50-i of the general municipal law, as amended by chapter 24 of the laws of 2013, is amended to read as follows:

1. No action or special proceeding shall be prosecuted or maintained against a city, county, town, village, fire district or school district for personal injury, wrongful death or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of such city, county, town, village, fire district or school district or of any officer, agent or employee thereof, including volunteer firemen of any such city, county, town, village, fire district or school district or any volunteer fireman whose services have been accepted pursuant to the provisions of section two hundred nine-i of this chapter, unless, (a) a notice of claim shall have been made and served upon the city, county, town, village, fire district or school

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

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district in compliance with section fifty-e of this article, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice, or if service of the notice of claim is made by service upon the secretary of state pursuant to section fifty-three of this article, that at least forty days have elapsed since the service of such notice, and that adjustment or payment thereof has been neglected or refused, [and] (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based; except that wrongful death actions shall be commenced within two years after the happening of the death, AND (C-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (C) OF THIS SUBDIVISION, IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, WHERE A PERSON NOTIFIES THE RESPONSIBLE AGENCY PURSUANT TO PARAGRAPH (A-1) OF SUBDIVISION ONE OF SECTION FIFTY-E OF THIS ARTICLE, THE TIME OTHERWISE LIMITED FOR COMMENCING THE ACTION SHALL BE TWO YEARS AFTER THE CAUSE OF ACTION ACCRUES.

S 3. This act shall take effect immediately.