

# STATE OF NEW YORK

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5097

2017-2018 Regular Sessions

## IN SENATE

March 8, 2017

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Introduced by Sen. MARCHIONE -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, in relation to service of certain notices of claim

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (b) of subdivision 1 of section 50-e of the  
2 general municipal law, as amended by chapter 745 of the laws of 1976, is  
3 amended to read as follows:

4 (b) Service of the notice of claim upon an officer, appointee or  
5 employee of a public corporation shall not be a condition precedent to  
6 the commencement of an action or special proceeding against such person.  
7 If an action or special proceeding is commenced against such person, but  
8 not against the public corporation, service of the notice of claim upon  
9 the public corporation shall be required only if the corporation has a  
10 statutory obligation to indemnify such person under this chapter or any  
11 other provision of law. If an action or special proceeding is commenced  
12 against such person and against the public corporation itself, the  
13 notice of claim need not identify the person by name unless: (1) the  
14 plaintiff knew or with due diligence could have discovered the person's  
15 name within the time allotted for service of the notice of claim; and,  
16 (2) the failure to identify the person by name prejudiced the public  
17 corporation in its investigation of the claim. Nothing in this paragraph  
18 shall affect the claimant's rights as against the public corporation.

19 § 2. Paragraph (c) of subdivision 3 of section 50-e of the general  
20 municipal law, as amended by chapter 745 of the laws of 1976, is amended  
21 to read as follows:

22 (c) (1) If the notice is served within the period specified by this  
23 section, but in a manner not in compliance with the provisions of this  
24 subdivision, the service shall be valid if the public corporation

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

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1 against which the claim is made demands that the claimant or any other  
2 person interested in the claim be examined in regard to it, or if the  
3 notice is actually received by a proper person within the time specified  
4 by this section, and the public corporation [~~fail~~] fails to return the  
5 notice, specifying the defect in the manner of service, within thirty  
6 days after the notice is received.

7 (2) If the notice is served within the period specified by this  
8 section, but not upon the correct public corporation, the service shall  
9 be deemed to have been made upon the correct public corporation if that  
10 corporation was apprised of the notice of claim within the time speci-  
11 fied by this section and the corporation or another entity acting on its  
12 behalf or with its knowledge demands that the claimant or any other  
13 person interested in the claim be examined in regard to it.

14 § 3. This act shall take effect on the first of January next succeed-  
15 ing the date on which it shall have become a law and shall apply to all  
16 notices of claim served on or after that date.