STATE OF NEW YORK

8047

2025-2026 Regular Sessions

IN ASSEMBLY

April 22, 2025

Introduced by M. of A. RAJKUMAR -- read once and referred to the Committee on Judiciary

AN ACT to amend the court of claims act, in relation to permitting amendment of a claim or notice of intention to file a claim to correct jurisdictional pleading defects and to provide for a procedure for the dismissal of a claim based upon claimant's failure to comply with jurisdictional pleading requirements

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

Section 1. Subdivision b of section 11 of the court of claims act, as amended by chapter 606 of the laws of 2007, is amended to read as follows:

b. **(i)** The claim shall state the time when and place where such claim arose, the nature of same, the items of damage or injuries claimed to have been sustained and, except in an action to recover damages for personal injury, medical, dental or podiatric malpractice or wrongful death, the total sum claimed. A claim for the appropriation by the state of lands, or any right, title or interest in or to lands shall include an inventory or itemized statement of fixtures, if any, for which compensation is claimed. The notice of intention to file a claim shall set forth the same matters except that the items of damage or injuries and the sum claimed need not be stated. The claim and notice of intention to file a claim shall be verified in the same manner as a complaint in an action in the supreme court.

(ii) Notwithstanding the failure of a claim to comply with the pleading requirements of paragraph (i) of this subdivision, a claimant, who has filed a claim on or after the effective date of this paragraph, shall be permitted to:

(A) amend the claim to correct any such failure without leave of court within twenty days after its service, or at any time before the period for responding to it expires, or within twenty days after service of a

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

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responsive pleading or motion to dismiss the claim made before service of the responsive pleading that contains an objection or defense based upon the failure to comply with the pleading requirements set forth in paragraph (i) of this subdivision provided that any such amendment shall be filed and served before an action asserting a like claim against a citizen of the state would be barred under the provisions of article two of the civil practice law and rules;

(B) make an application for leave to amend the claim to correct any such failure at any time before an action asserting a like claim against a citizen of the state would be barred under the provisions of article two of the civil practice law and rules, or within forty days after the service of a motion to dismiss that contains an objection or defense based upon the failure of the claim to comply with the pleading requirements set forth in paragraph (i) of this subdivision. Any such application shall be accompanied by the proposed amended claim clearly showing the changes or additions to be made to the claim. In determining whether to grant the application pursuant to this subdivision, the court shall consider, among other factors, whether claimant's failure to comply with the pleading requirements set forth in paragraph (i) of this subdivision was excusable; whether the delay in making the application pursuant to this subparagraph was excusable; whether the state had notice of the essential facts constituting the claim; whether the state had an opportunity to investigate the circumstances underlying the amendments proposed to be made by the amended claim; and whether the failure to file or serve upon the attorney general a claim that complied with the pleading requirements of paragraph (i) of this subdivision resulted in substantial prejudice to the state. Any amendment asserted in an amended claim that is permitted to be filed and served pursuant to this subparagraph is deemed to have been interposed at the time the claim was filed and served, unless the original claim does not provide defendant with notice of the transactions, occurrences or series of transactions or occurrences, to be proved pursuant to the amended claim.

(iii) Notwithstanding the failure of a claim to comply with the pleading requirements of paragraph (i) of this subdivision, a claimant, who has filed a claim before the effective date of this paragraph, shall be permitted to:

(A) where the claim was served less than forty days before the effective date of this paragraph, amend the claim to correct any such failure without leave of court within twenty days after its service, or at any time before the period for responding to it expires, or within twenty days after service of a responsive pleading or motion to dismiss the claim made before service of the responsive pleading that contains an objection or defense based upon the failure to comply with the pleading requirements set forth in this subdivision;

(B) make an application for leave to amend the claim to correct any such failure at any time before an action asserting a like claim against a citizen of the state would be barred under the provisions of article two of the civil practice law and rules, or within one year of the effective date of this paragraph, whichever is later. Any such application shall be accompanied by the proposed amended claim clearly showing the changes or additions to be made to the claim. In determining whether to grant the application pursuant to this subdivision, the court shall consider, among other factors, whether claimant's failure to comply with the pleading requirements set forth in paragraph (i) of this subdivision was excusable; whether the delay in making the application pursuant to this subparagraph was excusable; whether the state had notice of the

essential facts constituting the claim; whether the state had an opportunity to investigate the circumstances underlying the amendments proposed to be made by the amended claim; and whether the failure to file or serve upon the attorney general a claim that complied with the pleading requirements of this subdivision resulted in substantial prejudice to the state. Any amendment asserted in an amended claim that is permitted to be filed and served pursuant to this subparagraph is deemed to have been interposed at the time the claim was filed and served, unless the original claim does not provide defendant with notice of the transactions, occurrences or series of transactions or occurrences, to be proved pursuant to the amended claim.

(iv) A claimant, who has served a notice of intention to file a claim on or after the effective date of this paragraph shall be permitted to amend the notice of intention to file a claim to correct any failure to comply with the pleading requirements of this subdivision at any time within the period of time to serve such notice of intention to file a claim pursuant to section ten of this act.

§ 2. Subdivision c of section 11 of the court of claims act, as amended by chapter 223 of the laws of 2007, is amended to read as follows:

c. (i) Any objection or defense based upon failure to comply with [~~(i)~~] (A) the time limitations contained in section ten of this act, [~~(ii)~~] (B) the manner of service requirements set forth in subdivision a of this section, or [~~(iii)~~] (C) the verification requirements as set forth in subdivision b of this section is waived unless raised, with particularity, either by a motion to dismiss made before service of the responsive pleading is required or in the responsive pleading, and if so waived the court shall not dismiss the claim for such failure. For claims served on or after the effective date of the chapter of the laws of two thousand twenty-five which amended this subdivision, any objection or defense that asserts that the claim fails on its face to comply with the pleading requirements of paragraph (i) of subdivision b of this section, or that the claim fails to include any one of the pleading requirements set forth in paragraph (i) of subdivision b of this section, is waived unless raised, either by a motion to dismiss made before the service of the responsive pleading is required or in the responsive pleading, and if so waived the court shall not dismiss the claim for such failure.

(ii) A motion to dismiss the claim that asserts that the claim or the notice of intention to file a claim fails to comply with the pleading requirements in paragraph (i) of subdivision b of this section must be made no later than one hundred twenty days after the filing of the note of issue, or no earlier than thirty days before trial where a note of issue is not required to be filed.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law.