

STATE OF NEW YORK

8047--B

Cal. No. 321

2025-2026 Regular Sessions

IN ASSEMBLY

April 22, 2025

Introduced by M. of A. RAJKUMAR -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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:

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

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

16 (ii) Notwithstanding the failure of a claim to comply with the plead-
17 ing requirements of paragraph (i) of this subdivision, a claimant who

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

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1 has filed a claim on or after the effective date of this paragraph shall
2 be permitted to:

3 (A) amend the claim to correct any such failure without leave of court
4 within twenty days after its service, or at any time before the period
5 for responding to it expires, or within twenty days after service of a
6 responsive pleading or motion to dismiss the claim made before service
7 of the responsive pleading that contains an objection or defense based
8 upon the failure to comply with the pleading requirements set forth in
9 paragraph (i) of this subdivision, provided that any such amendment
10 shall be filed and served before an action asserting a like claim
11 against a citizen of the state would be barred under the provisions of
12 article two of the civil practice law and rules;

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

38 (iii) Notwithstanding the failure of a claim to comply with the plead-
39 ing requirements of paragraph (i) of this subdivision, a claimant who
40 has filed a claim before the effective date of this paragraph shall be
41 permitted to:

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

50 (B) make an application for leave to amend the claim to correct any
51 such failure at any time before an action asserting a like claim against
52 a citizen of the state would be barred under the provisions of article
53 two of the civil practice law and rules, or within one year of the
54 effective date of this paragraph, whichever is later. Any such applica-
55 tion shall be accompanied by the proposed amended claim clearly showing
56 the changes or additions to be made to the claim. In determining whether

1 to grant the application pursuant to this subdivision, the court shall
2 consider, among other factors, whether claimant's failure to comply with
3 the pleading requirements set forth in paragraph (i) of this subdivision
4 was excusable; whether the delay in making the application pursuant to
5 this subparagraph was excusable; whether the state had notice of the
6 essential facts constituting the claim; whether the state had an oppor-
7 tunity to investigate the circumstances underlying the amendments
8 proposed to be made by the amended claim; and whether the failure to
9 file or serve upon the attorney general a claim that complied with the
10 pleading requirements of this subdivision resulted in substantial preju-
11 dice to the state. Any amendment asserted in an amended claim that is
12 permitted to be filed and served pursuant to this subparagraph is deemed
13 to have been interposed at the time the claim was filed and served,
14 unless the original claim does not provide defendant with notice of the
15 transactions, occurrences or series of transactions or occurrences, to
16 be proved pursuant to the amended claim.

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

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

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

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

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