

# STATE OF NEW YORK

9792

## IN SENATE

April 6, 2026

Introduced by Sen. SEPULVEDA -- read twice and ordered printed, and when printed to be committed 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:

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

20 (A) amend the claim to correct any such failure without leave of court  
21 within twenty days after its service, or at any time before the period  
22 for responding to it expires, or within twenty days after service of a  
23 responsive pleading or motion to dismiss the claim made before service  
24 of the responsive pleading that contains an objection or defense based  
25 upon the failure to comply with the pleading requirements set forth in

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

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1 paragraph (i) of this subdivision, provided that any such amendment  
2 shall be filed and served before an action asserting a like claim  
3 against a citizen of the state would be barred under the provisions of  
4 article two of the civil practice law and rules;

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

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

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

42 (B) make an application for leave to amend the claim to correct any  
43 such failure at any time before an action asserting a like claim against  
44 a citizen of the state would be barred under the provisions of article  
45 two of the civil practice law and rules, or within one year of the  
46 effective date of this paragraph, whichever is later. Any such applica-  
47 tion shall be accompanied by the proposed amended claim clearly showing  
48 the changes or additions to be made to the claim. In determining whether  
49 to grant the application pursuant to this subdivision, the court shall  
50 consider, among other factors, whether claimant's failure to comply with  
51 the pleading requirements set forth in paragraph (i) of this subdivision  
52 was excusable; whether the delay in making the application pursuant to  
53 this subparagraph was excusable; whether the state had notice of the  
54 essential facts constituting the claim; whether the state had an oppor-  
55 tunity to investigate the circumstances underlying the amendments  
56 proposed to be made by the amended claim; and whether the failure to

1 file or serve upon the attorney general a claim that complied with the  
2 pleading requirements of this subdivision resulted in substantial preju-  
3 dice to the state. Any amendment asserted in an amended claim that is  
4 permitted to be filed and served pursuant to this subparagraph is deemed  
5 to have been interposed at the time the claim was filed and served,  
6 unless the original claim does not provide defendant with notice of the  
7 transactions, occurrences or series of transactions or occurrences, to  
8 be proved pursuant to the amended claim.

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

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

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

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

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