

**NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION**

**CHAPTER 617
HOUSE BILL 619**

**AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON
CONCERNING CLAIMS AGAINST THE CITY.**

The General Assembly of North Carolina enacts:

Section 1. Chapter 495, Session Laws of 1977, being the Charter of the City of Wilmington, as amended by Chapter 127, Session Laws of 1979, is amended by rewriting all of Article XXIX of the Charter to read:

"ARTICLE XXIX. CLAIMS AGAINST AND BY THE CITY.

"SUBCHAPTER A. CLAIMS AGAINST THE CITY.

"Sec. 29.1. Presentation of claims; suit upon claims. (a) In order to preserve a claim against the City of Wilmington arising in contract or in tort, notice must be given and the cause of action commenced in accordance with G.S. 1-539.15.

(b) No action shall be instituted against the city on account of damages to or compensation for real property taken or used by the city for any public purpose, or for the ejectment of the city therefrom, or to remove a cloud upon the title thereof, unless within two (2) years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the city council of the claim, stating in the notice the date that the alleged use commenced, a description of property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six (6) months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three (3) years after the happening or the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six (6) months after termination of the incapacity or within three (3) years after the happening or the infliction of the injury complained of, whichever is the longer period. The city may at any time request the appointment of a next friend to represent any person having a potential claim against the city and known to be suffering from physical or mental incapacity.

"Sec. 29.2. Settlement of claims by city manager. The city manager may settle claims against the city for:

(1) Personal injury or for damages to property when the amount involved does not exceed the sum of twenty-five hundred dollars (\$2500), and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expense actually incurred; and

(2) The taking of small portions of private property which are needed for street or utility rights-of-way, or rounding of corners at street intersections, or storm sewer rights-of-way, when the amount involved in any such settlement does not exceed the sum of twenty-five hundred dollars (\$2500), and does not exceed the actual loss sustained.

Settlement of a claim by the city manager pursuant to this section shall constitute a complete release of the city from any and all damages sustained by the person involved in such settlement in any manner arising out of the accident, occasion, or taking complained of. All such releases shall be approved by the city attorney.

"SUBCHAPTER B. CLAIMS BY THE CITY.

"Sec. 29.13. Settlement of claims by the city manager. The city manager is hereby authorized to execute releases of persons, firms and corporations because of damages to personal property belonging to City of Wilmington when the full amount of damages to such property is ascertained and a statement thereof has been furnished to the city manager by the city attorney and the amount of such release does not exceed twenty-five hundred dollars (\$2500). In the event that draft or check is presented to the city which constitutes a release, instead of a regular release form, the city manager is hereby authorized to direct that such draft or check be handled as other payments to the city and, when approved by the city manager, shall constitute a release to the extent stated on the draft or check."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1981.