

2012 -- H 8258

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LC02758  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - PROCEDURE GENERALLY

Introduced By: Representative Michael J. Marcello

Date Introduced: June 11, 2012

Referred To: House Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 9-21-10 of the General Laws in Chapter 9-21 entitled "Judgments,  
2 Orders, and Decrees" is hereby amended to read as follows:

3           **9-21-10. Interest in civil actions.** -- (a) In any civil action in which a verdict is rendered  
4 or a decision made for pecuniary damages, there shall be added by the clerk of the court to the  
5 amount of damages interest at the rate of twelve percent (12%) per annum thereon from the date  
6 the cause of action accrued, which shall be included in the judgment entered therein. Post-  
7 judgment interest shall be calculated at the rate of twelve percent (12%) per annum and accrue on  
8 both the principal amount of the judgment and the prejudgment interest entered therein. This  
9 section shall not apply until entry of judgment or to any contractual obligation where interest is  
10 already provided.

11           (b) Subsection (a) shall not apply in any action filed on or after January 1, 1987, for  
12 personal injury or wrongful death filed against a licensed physician, hospital, clinic, health  
13 maintenance organization, professional service corporation providing health care services, dentist,  
14 or dental hygienist based on professional negligence. In all such medical malpractice actions in  
15 which a verdict is rendered or a decision made for pecuniary damages, there shall be added by the  
16 clerk of the court to the amount of damages interest at the rate of twelve percent (12%) per annum  
17 thereon from the date of written notice of the claim by the claimant or his or her representative to  
18 the malpractice liability insurer, or to the medical or dental health care provider or the filing of  
19 the civil action, whichever first occurs.

1           (c) In any civil action in which a verdict is rendered or a decision made for pecuniary  
2 damages, in whole or in part, against the state, its political subdivisions, and/or employees of said  
3 entities while performing any act or omission under the scope of such employment, there shall be  
4 no award of pre-judgment interest. Post-judgment interest, however, shall be calculated at the rate  
5 of twelve percent (12%) per annum, commencing four (4) weeks after the date the judgment was  
6 entered, and accrue on the principal amount of the judgment. This section shall not apply to any  
7 contractual obligation of such public entity where interest is already provided.

8           SECTION 2. Chapter 9-31 of the General Laws entitled "Governmental Tort Liability" is  
9 hereby amended by adding thereto the following section:

10           **9-31-3.1. Tort liability restrictions - Town, city or fire districts.** – A city, town, or fire  
11 district employee or official may only be sued in his or her individual capacity, if it can be  
12 established that his or her act or omission, upon which the cause of action was based, was not  
13 performed within the scope of his or her employment or involved actual fraud or malice or willful  
14 misconduct.

15           SECTION 3. Sections 9-31-2, 9-31-3 and 9-31-5 of the General Laws in Chapter 9-31  
16 entitled "Governmental Tort Liability" are hereby amended to read as follows:

17           **9-31-2. Limitations of damages -- State.** -- In any tort action against the state of Rhode  
18 Island or any political subdivision thereof, any damages recovered therein shall not exceed the  
19 sum of ~~one hundred thousand dollars (\$100,000)~~ two hundred fifty thousand dollars (\$250,000);  
20 provided, however, that in all instances in which the state was engaged in a proprietary for-profit  
21 function in the commission of the tort, or in any situation whereby the state has agreed to  
22 indemnify the federal government or any agency thereof for any tort liability, the limitation on  
23 damages set forth in this section shall not apply.

24           **9-31-3. Limitation of damages -- Cities, towns, and fire districts.** -- In any tort action  
25 against any city or town or any fire district, any damages recovered therein shall not exceed the  
26 sum of ~~one hundred thousand dollars (\$100,000)~~ two hundred fifty thousand dollars (\$250,000);  
27 provided, however, that in all instances in which the city or town or fire district was engaged in a  
28 proprietary for-profit function in the commission of the tort, the limitation of damages set forth in  
29 this section shall not apply.

30           **9-31-5. Claim appropriations.** -- Notwithstanding the provisions of this chapter, the  
31 general assembly may make such appropriations as it shall deem proper in payment of or  
32 settlement of claims against the state, its employees, agents or departments; provided, however,  
33 that there is hereby appropriated out of any money in the treasury not otherwise appropriated a  
34 sum sufficient to pay claims against the state ~~settled~~ pursuant to the provisions of this chapter,

1 and the state controller is hereby authorized and directed to draw his or her orders upon the  
2 general treasurer for the payment of that sum.

3 SECTION 4. Section 10-6-2 of the General Laws in Chapter 10-6 entitled "Contribution  
4 Among Joint Tortfeasors" is hereby amended to read as follows:

5 **10-6-2. "Joint tortfeasors" defined.** -- For the purposes of this chapter, the term "joint  
6 tortfeasors" means two (2) or more persons jointly or severally liable in tort for the same injury to  
7 person or property, whether or not judgment has been recovered against all or some of them;  
8 provided, however, that a master and servant or principal and agent shall be considered a single  
9 tortfeasor; and provided, further, that joint and several liability shall not apply to the state of  
10 Rhode Island, its political subdivisions and/or any employees or officials of said entities while  
11 performing any act or omission under the scope of such employment unless the proportionate  
12 liability of such public entity or employee is equal to or exceeds twenty-five percent (25%) of the  
13 total judgment. If the percentage of liability attributable to the public entity or its employee is less  
14 than twenty-five percent (25%), then the governmental entity is only responsible for its  
15 proportionate share of the judgment.

16 SECTION 5. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would increase the limit of damages recovered in tort actions against the state of  
2 Rhode Island or any political subdivision from one hundred thousand dollars (\$100,000) to two  
3 hundred fifty thousand dollars (\$250,000).

4           This act would take effect upon passage.

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