



General Assembly

January Session, 2003

Raised Bill No. 978

LCO No. 3424

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING MUNICIPAL LIABILITY FOR RECREATIONAL LAND USE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-557n of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) (1) Except as otherwise provided by law, a political subdivision
4 of the state shall be liable for damages to person or property caused by:
5 (A) The negligent acts or omissions of such political subdivision or any
6 employee, officer or agent thereof acting within the scope of his or her
7 employment or official duties; (B) negligence in the performance of
8 functions from which the political subdivision derives a special
9 corporate profit or pecuniary benefit; and (C) acts of the political
10 subdivision which constitute the creation or participation in the
11 creation of a nuisance; provided, no cause of action shall be
12 maintained for damages resulting from injury to any person or
13 property by means of a defective road or bridge except pursuant to
14 section 13a-149.

15 (2) Except as otherwise provided by law, a political subdivision of

16 the state shall not be liable for damages to person or property caused
17 by: (A) Acts or omissions of any employee, officer or agent which
18 constitute criminal conduct, fraud, actual malice or wilful misconduct;
19 or (B) negligent acts or omissions which require the exercise of
20 judgment or discretion as an official function of the authority expressly
21 or impliedly granted by law.

22 (b) Notwithstanding the provisions of subsection (a) of this section,
23 a political subdivision of the state or any employee, officer or agent
24 thereof acting within the scope of his or her employment or official
25 duties shall not be liable for damages to person or property resulting
26 from: (1) The condition of natural land or unimproved property; (2) the
27 condition of a reservoir, dam, canal, conduit, drain or similar structure
28 when used by a person in a manner which is not reasonably
29 foreseeable; (3) the temporary condition of a road or bridge which
30 results from weather, if the political subdivision has not received
31 notice and has not had a reasonable opportunity to make the condition
32 safe; (4) the condition of an unpaved road, trail or footpath, the
33 purpose of which is to provide access to a recreational or scenic area, if
34 the political subdivision has not received notice and has not had a
35 reasonable opportunity to make the condition safe; (5) the initiation of
36 a judicial or administrative proceeding, provided that such action is
37 not determined to have been commenced or prosecuted without
38 probable cause or with a malicious intent to vex or trouble, as
39 provided in section 52-568; (6) the act or omission of someone other
40 than an employee, officer or agent of the political subdivision; (7) the
41 issuance, denial, suspension or revocation of, or failure or refusal to
42 issue, deny, suspend or revoke, any permit, license, certificate,
43 approval, order or similar authorization, when such authority is a
44 discretionary function by law, unless such issuance, denial, suspension
45 or revocation or such failure or refusal constitutes a reckless disregard
46 for health or safety; (8) failure to make an inspection or making an
47 inadequate or negligent inspection of any property, other than
48 property owned or leased by or leased to such political subdivision, to
49 determine whether the property complies with or violates any law or

50 contains a hazard to health or safety, unless the political subdivision
51 had notice of such a violation of law or such a hazard or unless such
52 failure to inspect or such inadequate or negligent inspection
53 constitutes a reckless disregard for health or safety under all the
54 relevant circumstances; (9) failure to detect or prevent pollution of the
55 environment, including groundwater, watercourses and wells, by
56 individuals or entities other than the political subdivision; or (10)
57 conditions on land sold or transferred to the political subdivision by
58 the state when such conditions existed at the time the land was sold or
59 transferred to the political subdivision.

60 (c) Any person who serves as a member of any board, commission,
61 committee or agency of a municipality and who is not compensated for
62 such membership on a salary or prorated equivalent basis, shall not be
63 personally liable for damage or injury occurring on or after October 1,
64 1992, resulting from any act, error or omission made in the exercise of
65 such person's policy or decision-making responsibilities on such board,
66 commission, committee or agency if such person was acting in good
67 faith, and within the scope of such person's official functions and
68 duties, and was not acting in violation of any state, municipal or
69 professional code of ethics regulating the conduct of such person, or in
70 violation of subsection (a) of section 9-369b or subsection (b) or (c) of
71 section 1-206. The provisions of this subsection shall not apply if such
72 damage or injury was caused by the reckless, wilful or wanton
73 misconduct of such person.

74 (d) Notwithstanding the provisions of subsection (a) of this section,
75 a political subdivision of the state or any employee, officer or agent
76 thereof acting within the scope of his or her employment or official
77 duties shall not be liable for damages to person or property resulting
78 from the use of land owned by or leased to the political subdivision, all
79 or part of which is made available to the public for recreational
80 purposes, unless such damages resulted from the gross negligence or
81 the reckless, wilful or wanton misconduct of the political subdivision
82 or such employee, officer or agent. For the purposes of this subsection,

83 "land" means land, roads, water, watercourses, private ways and
84 buildings, structures, and machinery or equipment when attached to
85 the realty, and "recreational purposes" includes, but is not limited to,
86 one or more of the following: Hunting, fishing, swimming, boating,
87 camping, picnicking, hiking, pleasure driving, nature study, water
88 skiing, snow skiing, ice skating, sledding, hang gliding, sport
89 parachuting, hot air ballooning and viewing or enjoying historical,
90 archaeological, scenic or scientific sites.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>

Statement of Purpose:

To provide that municipalities shall be liable for gross negligence but not ordinary negligence in the case of damages resulting from the use of municipal land made available to the public for recreational purposes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]