



General Assembly

January Session, 2019

Raised Bill No. 7185

LCO No. 4310



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING LIABILITY OF A POLITICAL SUBDIVISION
AND ITS EMPLOYEES, OFFICERS AND AGENTS.***

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 Section 52-557n of the general statutes is repealed and the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, 2019*):

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. (2) Except as otherwise provided by law, a political
15 subdivision of the state shall not be liable for damages to person or

16 property caused by: (A) Acts or omissions of any employee, officer or
17 agent which constitute criminal conduct, fraud, actual malice or wilful
18 misconduct; or (B) negligent acts or omissions which require the
19 exercise of judgment or discretion as an official function of the
20 authority expressly or impliedly granted by law.

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

50 hazard or unless such failure to inspect or such inadequate or
51 negligent inspection constitutes a reckless disregard for health or
52 safety; [under all the relevant circumstances;] (9) failure to detect or
53 prevent pollution of the environment, including groundwater,
54 watercourses and wells, by individuals or entities other than the
55 political subdivision; or (10) conditions on land sold or transferred to
56 the political subdivision by the state when such conditions existed at
57 the time the land was sold or transferred to the political subdivision.
58 For purposes of this subsection, a person acts with reckless disregard,
59 when he or she is aware of and consciously disregards a substantial
60 and unjustifiable risk that an act or omission will harm an identifiable
61 person.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	52-557n

Statement of Purpose:

To clarify the meaning of "acts with reckless disregard" as used in the statute concerning liability of a political subdivision and its employees, officers and agents.

[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.]