



General Assembly

Substitute Bill No. 7185

January Session, 2019



**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 Section 52-557n of the general statutes is repealed and the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, "all the relevant circumstances"
59 includes a consideration of the balance between the magnitude of the
60 danger and the burden of performing an inspection.

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

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

JUD *Joint Favorable Subst.*