

CIVIL PRACTICE AND REMEDIES CODE

TITLE 5. GOVERNMENTAL LIABILITY

CHAPTER 102. TORT CLAIMS PAYMENTS BY LOCAL GOVERNMENTS

Sec. 102.001. DEFINITIONS. In this chapter:

(1) "Employee" includes an officer, volunteer, or employee, a former officer, volunteer, or employee, and the estate of an officer, volunteer, or employee or former officer, volunteer, or employee of a local government. The term includes a member of a governing board. The term does not include a county extension agent.

(2) "Local government" means a county, city, town, special purpose district, including a soil and water conservation district, and any other political subdivision of the state.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., 1st C.S., ch. 2, Sec. 3.07, eff. Sept. 2, 1987; Acts 1999, 76th Leg., ch. 1115, Sec. 1, eff. June 18, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 996 (S.B. [1613](#)), Sec. 1, eff. June 15, 2007.

Sec. 102.002. PAYMENT OF CERTAIN TORT CLAIMS. (a) A local government may pay actual damages awarded against an employee of the local government if the damages:

(1) result from an act or omission of the employee in the course and scope of his employment for the local government; and

(2) arise from a cause of action for negligence.

(b) The local government may also pay the court costs and attorney's fees awarded against an employee for whom the local government may pay damages under this section.

(c) Except as provided by Subsection (e), a local government may not pay damages awarded against an employee that:

(1) arise from a cause of action for official misconduct; or

(2) arise from a cause of action involving a wilful or wrongful act or omission or an act or omission constituting gross

negligence.

(d) A local government may not pay damages awarded against an employee to the extent the damages are recoverable under an insurance contract or a self-insurance plan authorized by statute.

(e) A local government that does not give a bond under Section 1105.101(b), Estates Code, shall pay damages awarded against an employee of the local government arising from a cause of action described by Subsection (c) if the liability results from the employee's appointment as guardian of the person or estate of a ward under the Estates Code and the action or omission for which the employee was found liable was in the course and scope of the person's employment with the local government.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 924, Sec. 3, eff. Sept. 1, 1997.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.007, eff. September 1, 2017.

Sec. 102.003. MAXIMUM PAYMENTS. Payments under this chapter by a local government may not exceed:

(1) \$100,000 to any one person or \$300,000 for any single occurrence in the case of personal injury or death; or

(2) \$10,000 for a single occurrence of property damage, unless the local government is liable in the local government's capacity as guardian under the Estates Code and does not give a bond under Section 1105.101(b), Estates Code, in which event payments may not exceed the amount of the actual property damages.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 924, Sec. 4, eff. Sept. 1, 1997.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.008, eff. September 1, 2017.

Sec. 102.004. DEFENSE COUNSEL. (a) A local government may provide legal counsel to represent a defendant for whom the local government may pay damages under this chapter. The counsel

provided by the local government may be the local government's regularly employed counsel, unless there is a potential conflict of interest between the local government and the defendant, in which case the local government may employ other legal counsel to defend the suit.

(b) Legal counsel provided under this section may settle the portion of a suit that may result in the payment of damages by the local government under this chapter.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 102.005. SECURITY FOR COURT COSTS NOT REQUIRED. In a case defended under this chapter, neither the defendant nor a local government is required to advance security for costs or to give bond on appeal or writ of error.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 102.006. OTHER LAWS NOT AFFECTED. This chapter does not affect:

(1) Chapter 101 of this code (the Texas Tort Claims Act); or

(2) a defense, immunity, or jurisdictional bar available to a local government or an employee.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.