

CIVIL PRACTICE AND REMEDIES CODE

TITLE 5. GOVERNMENTAL LIABILITY

CHAPTER 109. APPROPRIATIONS FOR PAYMENT OF CLAIMS AGAINST STATE
AGENCIES

Sec. 109.001. DEFINITION. In this chapter, "state agency" means any entity that constitutes the state government for purposes of Section 101.001.

Added by Acts 1993, 73rd Leg., ch. 1005, Sec. 1, eff. Sept. 1, 1993.

Sec. 109.002. APPLICABILITY; APPROPRIATIONS AND PAYMENTS FOR CERTAIN CLAIMS. (a) This chapter applies to appropriations and payments made in relation to:

(1) a claim for which the state government is liable under Chapter 101 that results from the conduct of a state agency; and

(2) indemnification of an employee, member of a governing board, or other officer of a state agency under Chapter 104.

(b) Except as provided by Section 109.007, the legislature may not make an appropriation to pay a claim for which the state government is liable under Chapter 101 and that results from the conduct of a state agency except in accordance with Section 109.003.

(c) Except as provided by Section 109.007, the legislature may not make an appropriation to indemnify an employee, member of a governing board, or other officer of a state agency under Chapter 104 except in accordance with Section 109.003.

Added by Acts 1993, 73rd Leg., ch. 1005, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 2001, 77th Leg., ch. 1414, Sec. 1, eff. Sept. 1, 2001.

Sec. 109.003. SOURCE OF APPROPRIATION. An appropriation subject to this chapter shall be made from otherwise unappropriated amounts in a special fund or account that may be appropriated to the affected state agency and that may be used for that purpose, to the extent those amounts are available. To the extent those amounts are

not available, the appropriation may be made from the general revenue fund.

Added by Acts 1993, 73rd Leg., ch. 1005, Sec. 1, eff. Sept. 1, 1993.

Sec. 109.004. PAYMENT OF CLAIM BY AGENCY. (a) This section does not apply to the payment of a claim if the legislature has specifically:

- (1) identified the claim; and
- (2) appropriated money to pay the claim.

(b) Subject to Subsections (c) and (d), a state agency may pay a claim subject to this chapter only from money appropriated to that agency in the General Appropriations Act.

(c) The amount paid under this section by a state agency for a single claim may not exceed a limitation imposed by the General Appropriations Act on the amount that may be paid by the agency on a single claim.

(d) The total of all amounts paid by a state agency from money appropriated to the agency for any fiscal year under this section may not exceed a limitation imposed by the General Appropriations Act on the amount that may be paid under this section by a state agency for that fiscal year.

Added by Acts 1993, 73rd Leg., ch. 1005, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 2001, 77th Leg., ch. 1414, Sec. 2, eff. Sept. 1, 2001.

Sec. 109.005. REPORTS. (a) The comptroller shall notify an affected state agency of:

- (1) each claim subject to this chapter paid by the comptroller under this chapter for that state agency;
- (2) the amount of the claim;
- (3) the amount of the claim paid from a special fund or account; and
- (4) the subject matter of the claim.

(b) Each agency shall summarize the information reported to it by the comptroller under Subsection (a) and report that information as part of the agency's annual report to the budget division of the governor's office and to the Legislative Budget

Board as required by the General Appropriations Act.

Added by Acts 1993, 73rd Leg., ch. 1005, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 2001, 77th Leg., ch. 1414, Sec. 3, eff. Sept. 1, 2001.

Sec. 109.006. APPROPRIATION FOR CLAIM NOT LIMITED. This chapter does not limit the amount the legislature may appropriate to pay claims subject to this chapter.

Added by Acts 1993, 73rd Leg., ch. 1005, Sec. 1, eff. Sept. 1, 1993.

Sec. 109.007. EXCEPTIONS. This chapter does not apply to an appropriation:

(1) to pay or indemnify a person for a negligent act or omission in the diagnosis, care, or treatment of a health care or mental health care patient, without regard to whether the claim is based on tort or contract principles;

(2) to pay a claim based on the conduct of a state medical school or of a hospital affiliated with an institution of higher education of this state;

(3) to pay a claim based on the conduct of an institution of higher education; or

(4) to pay a claim based on the conduct of a state law enforcement agency, including the Texas Department of Public Safety, or of a state corrections agency, including the Texas Department of Criminal Justice and the Board of Pardons and Paroles.

Added by Acts 1993, 73rd Leg., ch. 1005, Sec. 1, eff. Sept. 1, 1993.