

**§8104-B. Immunity notwithstanding waiver**

Notwithstanding section 8104-A, a governmental entity is not liable for any claim which results from: [PL 1987, c. 740, §4 (NEW).]

**1. Undertaking of legislative act.** Undertaking or failing to undertake any legislative or quasi-legislative act, including, but not limited to, the adoption or failure to adopt any statute, charter, ordinance, order, rule, policy, resolution or resolve; [PL 1987, c. 740, §4 (NEW).]

**2. Undertaking of judicial act.** Undertaking or failing to undertake any judicial or quasi-judicial act, including, but not limited to, the granting, granting with conditions, refusal to grant or revocation of any license, permit, order or other administrative approval or denial; [PL 1987, c. 740, §4 (NEW).]

**3. Performing discretionary function.** Performing or failing to perform a discretionary function or duty, whether or not the discretion is abused and whether or not any statute, charter, ordinance, order, resolution or policy under which the discretionary function or duty is performed is valid or invalid, except that if the discretionary function involves the operation of a motor vehicle, as defined in Title 29-A, section 101, subsection 42, this section does not provide immunity for the governmental entity for an employee's negligent operation of the motor vehicle resulting in a collision, regardless of whether the employee has immunity under this chapter; [PL 2005, c. 448, §1 (AMD).]

**4. Performing prosecutorial function.** Performing or failing to perform any prosecutorial function involving civil, criminal or administrative enforcement; [PL 1987, c. 740, §4 (NEW).]

**5. Activities of state military forces.** The activities of the state military forces when on duty pursuant to Title 37-B or 32 United States Code; [PL 1995, c. 196, Pt. D, §2 (AMD).]

**6. Leasing of governmental property.** The leasing of governmental property, including buildings, to other organizations; [PL 1999, c. 456, §1 (AMD).]

**7. Certain services.** A decision not to provide communications, heat, light, water, electricity or solid or liquid waste collection, disposal or treatment services; and [PL 1999, c. 456, §1 (AMD).]

**8. Failure or malfunction of computer.** The direct or indirect failure or malfunction of computer hardware, computer software or any device containing a computer processor or chip that fails to accurately or properly recognize, calculate, display, sort or otherwise process dates or times as a result of the Year 2000 problem. This provision applies to failures or malfunctions occurring before January 2, 2001.

For purposes of this section, the "Year 2000 problem" means complications associated with using a 2-digit field to represent a year and its result on the year change from 1999 to 2000. These complications may include, but are not limited to:

- A. Erroneous date calculations; [PL 1999, c. 456, §2 (NEW).]
- B. An ambiguous interpretation of the term "00"; [PL 1999, c. 456, §2 (NEW).]
- C. The failure to recognize the year 2000 as a leap year; [PL 1999, c. 456, §2 (NEW).]
- D. The use of algorithms that use the term "99" or "00" as a flag for another function; [PL 1999, c. 456, §2 (NEW).]

E. Problems arising from the use of applications, software or hardware that are date sensitive; and [PL 1999, c. 456, §2 (NEW).]

F. The inability to distinguish between centuries. [PL 1999, c. 456, §2 (NEW).]  
[PL 1999, c. 456, §2 (NEW).]

#### SECTION HISTORY

PL 1987, c. 740, §4 (NEW). PL 1995, c. 196, §D2 (AMD). PL 1999, c. 456, §§1,2 (AMD). PL 2005, c. 448, §1 (AMD).

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