

Regular Session, 2012

HOUSE BILL NO. 1077

BY REPRESENTATIVE WESLEY BISHOP

LIABILITY/CIVIL: Provides relative to the La. Governmental Claims Act

1 AN ACT

2 To amend and reenact R.S. 13:5109(C) and to enact R.S. 13:5109(B)(3) and (D), relative to
3 the Louisiana Governmental Claims Act; to provide with respect to liability of
4 certain employees and covered individuals; to provide for limitations; to prohibit
5 seizure of property in certain circumstances; to provide for limitation on the
6 prohibition; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 13:5109(C) is hereby amended and reenacted and R.S. 13:5109(B)(3)
9 and (D) are hereby enacted to read as follows:

10 §5109. Authority to compromise; judgment; notice of judgment; payments; seizure
11 of property prohibited

12 * * *

13 B.

14 * * *

15 (3) If a covered individual, as defined by R.S. 13:5108.1(E), or employee of
16 a political subdivision is found, through judgment or stipulation, to have been acting
17 within the course and scope of his office or employment and performing legitimate
18 duties of his office or employment rendering the political subdivision vicariously
19 liable for his conduct, the property of the covered individual or employee shall not
20 be subject to seizure in the event a judgment is rendered against the covered
21 individual or employee. Any such judgment rendered against the covered individual

1 or employee of a political subdivision shall be exigible, payable, and paid only out
2 of funds appropriated for that purpose by the governing authority of that political
3 subdivision.

4 C.(1) The governing authority of a parish or municipality, upon the advice
5 and the concurrence of the district attorney, parish attorney, or city attorney of that
6 parish or municipality or proper official as the case may be, may compromise or
7 settle any claim against that parish or municipality without the necessity for the filing
8 of a suit against the parish or municipality in the matter. Any such compromise
9 settlement shall be exigible, payable, and paid only out of funds appropriated for that
10 purpose by the governing authority of that parish or municipality. No claim in
11 excess of ten thousand dollars may be compromised or settled as provided herein
12 before ten days have elapsed after the publication of such proposed compromise or
13 settlement in the official journal of the appropriate political subdivision.

14 (2) If a political subdivision enters into a compromise settlement wherein it
15 accepts vicarious liability for a covered individual or employee acting within the
16 course and scope of his office or employment and performing legitimate duties of his
17 office or employment, the property of the covered individual or employee shall not
18 be subject to seizure. Any such compromise settlement which includes the covered
19 individual or employee of a political subdivision shall be exigible, payable, and paid
20 only out of funds appropriated for that purpose by the governing authority of that
21 political subdivision.

22 D. The provisions of Paragraphs (B)(3) and (C)(2) of this Section shall not
23 apply if the injury, death, loss, or damage was caused by the gross negligence or
24 willful or wanton misconduct of the covered individual or employee.

25 Section 2. This Act shall become effective upon signature by the governor or, if not
26 signed by the governor, upon expiration of the time for bills to become law without signature
27 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
28 vetoed by the governor and subsequently approved by the legislature, this Act shall become
29 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Wesley Bishop

HB No. 1077

Abstract: Provides for a limitation of liability under the La. Governmental Claims Act for governmental employees by prohibiting seizure of property under certain circumstances.

Present law provides that under the La. Governmental Claims Act, any judgment or settlement against the state, state agency, or political subdivision, or their officers and employees, shall be payable only out of funds appropriated for that purpose by the legislature or political subdivision.

Proposed law retains present law and provides that if a covered individual or employee of a political subdivision is found to have been acting within the course and scope of his employment through judgment or by compromise and settlement, the property of that covered individual or employee shall not be subject to seizure, unless the injury, death, loss, or damage was caused by the gross negligence or willful or wanton misconduct of the covered individual or employee.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 13:5109(C); Adds R.S. 13:5109(B)(3) and (D))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Deleted the term "personal" with regard to property of the covered individual or employee.
2. Added that the limitation shall not apply if the injury, death, loss, or damage was caused by the gross negligence or willful or wanton misconduct of the covered individual or employee.