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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - PROCEDURE GENERALLY - TORT
LIABILITY

Introduced By: Senators Walaska, and Bates

Date Introduced: March 10, 2011

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 9-21-10 of the General Laws in Chapter 9-21 entitled "Judgments,
2 Orders, and Decrees" is hereby amended to read as follows:

3 **9-21-10. Interest in civil actions.** -- (a) In any civil action in which a verdict is rendered
4 or a decision made for pecuniary damages, there shall be added by the clerk of the court to the
5 amount of damages interest at the rate of twelve percent (12%) per annum thereon from the date
6 the cause of action accrued, which shall be included in the judgment entered therein. Post-
7 judgment interest shall be calculated at the rate of twelve percent (12%) per annum and accrue on
8 both the principal amount of the judgment and the prejudgment interest entered therein. This
9 section shall not apply until entry of judgment or to any contractual obligation where interest is
10 already provided.

11 (b) Subsection (a) shall not apply in any action filed on or after January 1, 1987, for
12 personal injury or wrongful death filed against a licensed physician, hospital, clinic, health
13 maintenance organization, professional service corporation providing health care services, dentist,
14 or dental hygienist based on professional negligence. In all such medical malpractice actions in
15 which a verdict is rendered or a decision made for pecuniary damages, there shall be added by the
16 clerk of the court to the amount of damages interest at the rate of twelve percent (12%) per annum
17 thereon from the date of written notice of the claim by the claimant or his or her representative to
18 the malpractice liability insurer, or to the medical or dental health care provider or the filing of

1 the civil action, whichever first occurs.

2 (c) In any civil action in which a verdict is rendered or a decision made for pecuniary
3 damages, in whole or in part, against the state, its political subdivisions, and/or employees of said
4 entitles while performing any act or omission under the scope of such employment, there shall be
5 no award of pre-judgment interest. Post judgment interest, however, shall be calculated at the rate
6 of twelve percent (12%) commencing four (4) weeks after the date the judgment was entered, per
7 annum and accrue on the principal amount of judgment. This section shall not apply to any
8 contractual obligation of such public entity where interest is already provided.

9 SECTION 2. Chapter 9-31 of the General Laws entitled "Governmental Tort Liability" is
10 hereby amended by adding thereto the following section:

11 **9-31-3.1. Tort liability restrictions - Town, city or fire districts.** – A city, town, or fire
12 district employee or official may be sued in his or her individual capacity, if it can be established
13 that his or her act or omission, upon which the cause of action was based, was not performed
14 within the scope of his or her employment or involved actual fraud or malice or willful
15 misconduct.

16 SECTION 3. Section 10-6-2 of the General Laws in Chapter 10-6 entitled "Contribution
17 Among Joint Tortfeasors" is hereby amended to read as follows:

18 **10-6-2. "Joint tortfeasors" defined.** -- For the purposes of this chapter, the term "joint
19 tortfeasors" means two (2) or more persons jointly or severally liable in tort for the same injury to
20 person or property, whether or not judgment has been recovered against all or some of them;
21 provided, however, that a master and servant or principal and agent shall be considered a single
22 tortfeasor; and provided, further, that joint and several liability shall not apply to the State of
23 Rhode Island, its political subdivisions and/or any employees or officials of said entities while
24 performing any act or omission under the scope of such employment unless the proportionate
25 liability of such public entity or employee is equal to or exceeds twenty-five percent (25%) of the
26 total judgment. If the percentage of liability attributable to the public entity or its employee is less
27 than twenty-five percent (25%), then the governmental entity is only responsible for its
28 proportionate share of the judgment.

29 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would place certain limits on the joint and several liability of the State of Rhode
2 Island and its officials, employees, and political subdivisions. It would also prohibit lawsuits
3 against city, town, or fire district officials or employees in certain situations, and would also
4 prohibit the award of pre-judgment interest on certain awards for damages against the state or
5 employees thereof.

6 This act would take effect upon passage.

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