

GOVERNMENT IMMUNITIES FROM LIABILITY



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LA CONSTITUTION

ARTICLE 12, SECTION 10

- (A) No Immunity in Contract and Tort. **Neither the state, a state agency, nor a political subdivision shall be immune from suit and liability in contract or for injury to person or property.**
- (C) Limitations; Procedure; Judgments. Notwithstanding Paragraph (A) or (B) or any other provision of this constitution, **the legislature by law may limit or provide for the extent of liability of the state, a state agency, or a political subdivision in all cases, including the circumstances giving rise to liability and the kinds and amounts of recoverable damages.**

POLICE/FIREFIGHTERS

La. R.S. 9:2793.1

A. No person shall have a cause of action against a public entity or the officers and employees thereof for damage to property at the site of a crime, accident, or fire, including without limitation the destruction or deterioration of property, caused while the officer or employee was acting within the course and scope of his office or employment and while taking reasonable remedial action which is necessary to abate a public emergency, unless such damage was caused by willful or wanton misconduct or gross negligence.

- **Applies to property damages ONLY**
- **Course and scope at the time of the damage?**
- **Just how big IS the umbrella?**
- **General duty to protect versus specific duty owed to claimant?**

RECREATIONAL USE IMMUNITY

La. R.S. 9:2795: An owner of land who permits with or without charge any person to use his land for recreational purposes does not hereby incur liability for any injury to person or property caused by any defect in the land regardless of whether naturally occurring or man-made.

- **Government proves prima facie immunity components**
- **Burden shifts to claimant to disprove one of those components, or prove that an exception to the immunity applies**

BUILDING OFFICIALS

(1) La. R.S. 40:1730.23 (La. R.S. 9:2798.1):

*C. In connection with the construction of any building, structure, or other improvement to immovable property, **neither the performance of any enforcement procedure nor any provision of a building code shall constitute or be construed as a warranty or guarantee** by a governmental enforcement agency as to durability or fitness, or as a warranty or guarantee by a governmental enforcement official or a third-party provider who contracts with a municipality or parish as provided for in R.S. 40:1730.24(A), that said building, structure, or other improvement to immovable property or any materials, equipment, or method or type of construction used therein is or will be free from defects, will perform in a particular manner, is fit for a particular purpose, or will last in any particular way. **In the enforcement of any provision of a construction code provided for in this Part, or any regulations governed by R.S. 33:4771 et seq., the performance or non performance of any procedure by a governmental enforcement agency, contract employee, or official shall be deemed to be a discretionary act** and shall be subject to the provisions of R.S. 9:2798.1. (Emphasis added)*

BUILDING OFFICIALS

(2) La. R.S. 33:4772

(3) Nothing contained in this Subpart or in any building code shall be construed as establishing or imposing upon a political subdivision a duty, special or otherwise, to or for the benefit of any individual person or group of persons.

(3) La. R.S. 33:4773

*(D) In connection with the construction of any building, structure, or other improvement to the immovable property, **neither the performance of any enforcement procedure nor any provision of a building code shall constitute or be construed as a warranty or guarantee by an enforcement agency** as to durability or fitness, or as a warranty or guarantee by an enforcement agency that said building, structure, or other improvement to immovable property or any material, equipment, or method or type of construction used therein is or will be free from defects, will perform in a particular manner, is fit for a particular purpose, or will last in any particular way.*

TAX COLLECTOR/ASSESSOR IMMUNITY

La. R.S. 47:2124

(A) Tax collectors and tax assessors shall bear no liability, either in their personal or in their official capacity, arising out of any redemption nullity.

(B) Liability shall not be imposed on tax collectors or tax assessors or their employees based upon the exercise or performance or the failure to exercise or perform their duties under this Chapter.

(C) The provisions of Subsection B of this Section are not applicable to acts or omissions which constitute criminal, fraudulent, malicious, intentional, willful, outrageous, reckless, or flagrant misconduct.

INTOXICATED DRIVERS

La. R.S. 9:2798.4

(A) Neither the state, a state agency, or a political subdivision of the state nor any person shall be liable for damages, including those available under Civil Code Article 2315.1 or 2315.2, for injury, death, or loss of the operator of a motor vehicle, aircraft, watercraft, or vessel . . .





DISCRETIONARY IMMUNITY

La. R.S. 9:2798.1

(B) Liability shall not be imposed on public entities or their officers or employees based upon the exercise or performance or the failure to exercise or perform their policymaking or discretionary acts when such acts are within the course and scope of their lawful powers and duties.

“DEFECTIVE THINGS”

La. R.S. 9:2800

(C). . . no person shall have a cause of action based solely upon liability imposed under Civil Code Article 2317 against a public entity for damages caused by the condition of things within its care and custody unless the public entity had actual or constructive notice of the particular vice or defect which caused the damage prior to the occurrence, and the public entity has had a reasonable opportunity to remedy the defect and has failed to do so.

COVID-19 IMMUNITY

La. R.S. 9:2800.25

A. No natural or juridical person, state or local government, or political subdivision thereof shall be liable for any civil damages for injury or death resulting from or related to actual or alleged exposure to COVID-19 in the course of or through the performance or provision of the person's, government's, or political subdivision's business operations unless the person, government, or political subdivision failed to substantially comply with the applicable COVID-19 procedures established by the federal, state, or local agency which governs the business operations and the injury or death was caused by the person's, government's, or political subdivision's gross negligence or wanton or reckless misconduct. If two or more sources of procedures are applicable to the business operations at the time of the actual or alleged exposure, the person, government, or political subdivision shall substantially comply with any one applicable set of procedures.

COVID-19 IMMUNITY

La. R.S. 9:2800.25

B. No natural or juridical person, state or local government, or political subdivision thereof, nor specifically a business event strategist, association meeting planner, corporate meeting planner, independent trade show organizer or owner, or any other entity hosting, promoting, producing or otherwise organizing an event of any kind, shall be held liable for any civil damages for injury or death resulting from or related to actual or alleged exposure to COVID-19 in the course of or through the performance of hosting, promoting, producing or otherwise organizing, planning or owning a tradeshow, convention, meeting, association produced event, corporate event, sporting event, or exhibition of any kind, unless such damages were caused by the gross negligence or willful or wanton misconduct.

QUESTIONS??

THANK YOU!

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