

Effective 5/10/2016

11-13-607 Limitations of liability for directors and officers.

- (1) A director or an officer of a taxed interlocal entity or a segment is not liable to the taxed interlocal entity, the segment, a member of the taxed interlocal entity, a member of the segment, a conservator, receiver, or successor-in-interest of the taxed interlocal entity, or a conservator, receiver, or successor-in-interest of the segment for any action or failure to act as a director or an officer, unless:
 - (a) the director or the officer breaches a fiduciary duty that the director or the officer owes to the taxed interlocal entity, the segment, a member of the taxed interlocal entity, or a member of the segment; and
 - (b) the breach described in Subsection (1)(a) constitutes gross negligence, willful misconduct, or intentional infliction of harm on the taxed interlocal entity, the segment, a member of the taxed interlocal entity, or a member of the segment.
- (2)
 - (a) Except as provided in Subsection (2)(b), a taxed interlocal entity or a segment may limit or eliminate the liability of a director or an officer described in Subsection (1) for monetary damages.
 - (b) A taxed interlocal entity or a segment may not limit or eliminate liability of a director or an officer in accordance with Subsection (2)(a) for monetary damages arising out of:
 - (i) a breach of a fiduciary duty;
 - (ii) an intentional infliction of harm on the taxed interlocal entity, the segment, a member of the taxed interlocal entity, or a member of the segment;
 - (iii) improper financial benefit; or
 - (iv) willful misconduct that constitutes an intentional violation of criminal law.
- (3) The provisions of this section do not affect the liability of a director or an officer for an act or omission that occurred before May 10, 2016.
- (4)
 - (a) The duties owed by a director or an officer of a taxed interlocal entity or a segment consist of the following:
 - (i) any fiduciary duty;
 - (ii) any other duty specified in:
 - (A) the organization agreement or bylaws of the taxed interlocal entity;
 - (B) the organizing resolution or bylaws of the segment; or
 - (C) any contract between the director or the officer and the taxed interlocal entity or the segment; and
 - (iii) each duty that applies to a taxed interlocal entity under Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.
 - (b) Each fiduciary duty of a director or an officer of a segment shall be consistent with the fiduciary duties of a director or an officer of the segment's associated entity.
- (5)
 - (a) Nothing in this section nor any action taken by a taxed interlocal entity, a segment, a director or an officer of a taxed interlocal entity, or a director or an officer of a segment constitutes a waiver of any immunity or defense available under Title 63G, Chapter 7, Governmental Immunity Act of Utah.
 - (b) Subsections (1)(a) and (b) and (2)(b) apply only to the extent that the taxed interlocal entity, the segment, the director or the officer of the taxed interlocal entity, or the director or the officer of the segment is subject to liability under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Enacted by Chapter 382, 2016 General Session