

**Effective 3/14/2023**

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**63G-7-201 Immunity of governmental entities and employees from suit.**

- (1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.
- (2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit:
  - (a) as provided in Section 78B-4-517; and
  - (b) for any injury or damage resulting from the implementation of or the failure to implement measures to:
    - (i) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;
    - (ii) investigate and control suspected bioterrorism and disease as set out in Sections 26B-7-316 through 26B-7-324;
    - (iii) respond to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health related activities, including the use, provision, operation, and management of:
      - (A) an emergency shelter;
      - (B) housing;
      - (C) a staging place; or
      - (D) a medical facility; and
    - (iv) adopt methods or measures, in accordance with Section 26B-1-202, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.
- (3)
  - (a) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:
    - (i) a latent dangerous or latent defective condition of:
      - (A) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or
      - (B) another structure located on any of the items listed in Subsection (3)(a)(i); or
    - (ii) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.
  - (b)
    - (i) As used in this Subsection (3)(b):
      - (A) "Contaminated land" means the same as that term is defined in Section 11-58-102.
      - (B) "Contamination" means the condition of land that results from the placement, disposal, or release of hazardous matter on, in, or under the land, including any seeping or escaping of the hazardous matter from the land.
      - (C) "Damage" means any property damage, personal injury, or other injury or any loss of any kind, however denominated.
      - (D) "Environmentally compliant" means, as applicable, obtaining a certificate of completion from the Department of Environmental Quality under Section 19-8-111 following participation in a voluntary cleanup under Title 19, Chapter 8, Voluntary Cleanup Program, obtaining an administrative letter from the Department of Environmental Quality for a discrete phase of a voluntary cleanup that is conducted under a remedial action plan as

defined in Section 11-58-605, or complying with the terms of an environmental covenant, as defined in Section 57-25-102, signed by an agency, as defined in Section 57-25-102, and duly recorded in the office of the recorder of the county in which the contaminated land is located.

- (E) "Government owner" means a governmental entity, including an independent entity, as defined in Section 63E-1-102, that acquires an ownership interest in land that was contaminated land before the governmental entity or independent entity acquired an ownership interest in the land.
  - (F) "Hazardous matter" means hazardous materials, as defined in Section 19-6-302, hazardous substances, as defined in Section 19-6-302, or landfill material, as defined in Section 11-58-102.
  - (G) "Remediation" means the same as that term is defined in Section 11-58-102.
- (ii)
    - (A) A government owner and the government owner's officers and employees are immune from suit, and immunity is not waived, for any claim for damage that arises out of or in connection with, or results from, contamination of contaminated land.
    - (B) A government owner's ownership of contaminated land may not be the basis of a claim against the government owner for damage that arises out of or in connection with, or results from, contamination of contaminated land.
  - (iii) Subsection (3)(b)(ii) does not limit or affect:
    - (A) the liability of a person that placed, disposed of, or released hazardous matter on, in, or under the land; or
    - (B) a worker compensation claim of an employee of an entity that conducts work on or related to contaminated land.
  - (iv) Immunity under Subsection (3)(b)(ii)(A) is not affected by a government owner's remediation of contaminated land if the government owner is environmentally compliant.
- (4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:
- (a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;
  - (b) except as provided in Subsections 63G-7-301(2)(j), (3), and (4), assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;
  - (c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;
  - (d) a failure to make an inspection or making an inadequate or negligent inspection;
  - (e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;
  - (f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;
  - (g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;
  - (h) the collection or assessment of taxes;
  - (i) an activity of the Utah National Guard;
  - (j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;

- (k) a natural condition on publicly owned or controlled land;
- (l) a condition existing in connection with an abandoned mine or mining operation;
- (m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;
- (n) the operation or existence of a trail that is along a water facility, as defined in Section 73-1-8, stream, or river, regardless of ownership or operation of the water facility, stream, or river, if:
  - (i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;
  - (ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:
    - (A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and
    - (B) the municipality or county where the trail is located; and
  - (iii) the written agreement:
    - (A) contains a plan for operation and maintenance of the trail; and
    - (B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;
- (o) research or implementation of cloud management or seeding for the clearing of fog;
- (p) the management of flood waters, earthquakes, or natural disasters;
- (q) the construction, repair, or operation of flood or storm systems;
- (r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;
- (s) the activity of:
  - (i) providing emergency medical assistance;
  - (ii) fighting fire;
  - (iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;
  - (iv) an emergency evacuation;
  - (v) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service;  
or
  - (vi) intervening during a dam emergency;
- (t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;
- (u) an unauthorized access to government records, data, or electronic information systems by any person or entity;
- (v) an activity of wildlife, as defined in Section 23-13-2, that arises during the use of a public or private road; or
- (w) a communication between employees of one or more law enforcement agencies related to the employment, disciplinary history, character, professional competence, or physical or mental health of a peace officer, or a former, current, or prospective employee of a law enforcement agency, including any communication made in accordance with Section 53-14-103.