

MAINE STATE LEGISLATURE

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JK
A. of S.

L.D. 1461

(Filing No. S- 278)

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STATE OF MAINE
SENATE
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " A" to S.P. 557, L.D. 1461, Bill, "An Act Relating to the Notice of Claim Provisions of the Maine Tort Claims Act"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'14 MRSA §8107, sub-§5 is enacted to read:

5. Definition of good cause. "Good cause" as used in subsection 1 includes but is not limited to any cases in which any official of the governmental entity whose duties and authority include the settlement of tort claims or any tort liability insurer of the governmental entity makes direct oral or written contacts with the claimant or the claimant's personal representative or attorney, including payments to or on behalf of the claimant, that contain or imply a promise of coverage sufficient to cause a reasonable person to believe that the losses for which no timely notice claim is filed would be covered.

If oral or written contact is limited to coverage for specific injuries or damage, a claimant is not excused from filing the notice required by this section in relation to other claims or causes of action permitted by this chapter that arise out of the same incident or event.

Nothing in this subsection prevents the injured party and an agent or insurer of the governmental entity from entering into a consensual agreement pursuant to which the injured party releases the governmental entity from any further liability in exchange for an agreed upon consideration.

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FISCAL NOTE

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STATEMENT OF FACT

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This bill waives the 180-day notice requirement under the Maine Tort Claims Act. The costs associated with the filing of additional notices with the Attorney General by claimants will be absorbed within the budgeted resources of the Department of the Attorney General.'

This amendment replaces the bill. It waives the 180-day notice requirement under the Maine Tort Claims Act for an injured party involved in a situation in which the governmental entity or its tort liability insurer makes direct oral or written contacts with the injured person that contain or imply a promise that the damages will be covered. The contacts may be in the form of payments for damages. The contacts may be made with the injured person's personal representative or attorney. The promise contained or implied in the contacts must be sufficient to cause a reasonable person to believe that no notice need be filed for the damages to be covered.

If the contacts are limited to specific injuries or damages, the injured person must still file a timely notice for all other injuries or damages arising out of the same incident or event.

Nothing prevents the injured party and the governmental entity or insurer from settling the claim.

This amendment specifically prevents behavior such as that occurring in Bruno v. City of Lewiston, Maine, 570, A.2d 1221 (1990).

This amendment includes a fiscal note.

Reported by Senator Gauvreau for the Committee on Judiciary.
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