

THE THIRTY-THIRD LEGISLATURE OF AMERICAN SAMOA

Second Regular Session

Begun and held at Fagatogo, Tutuila, American Samoa
on Monday, the fourteenth day of January
two thousand and thirteen

AN ACT LIMITING THE LIABILITY OF THE GOVERNMENT UNDER THE GOVERNMENT TORT LIABILITY ACT TO \$500,000; AMENDING SECTION 43.1203 A.S.C.A.

Preamble:

WHEREAS, the Government Tort Liability Act presently contains no limit on the exposure of the government to a claim filed under the Act; and

WHEREAS, as time passes and the economy continues to evolve the value that can be placed on potential claims against the government continues to increase; and

WHEREAS, the government serves all the people of American Samoa and must be expected to continue to do so in an uninterrupted manner, notwithstanding the periodic filing of just claims for which it is found to be liable; and

WHEREAS, it is reasonable to place a limit on the liability the government may face for a claim filed under the Government Tort Liability Act, so that the government may be financially able to continue to serve all the people of American Samoa despite facing potential liability for claims in significant dollar amounts.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. 43.1203 is amended to read:

“43.1203 Liability of government--Exceptions.

(a) The government is liable, except as otherwise provided in this chapter, in the same manner and to the same extent as a private individual under like circumstances, but its liability is limited to \$500,000, and it is not

liable for interest prior to judgment or for punitive damages, except that in a case wherein death is caused and the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, the government is liable for actual or compensatory damages, measured by the pecuniary injuries resulting from such death to the persons respectively for whose benefit the action was brought.

(b) The provisions of this chapter do not apply to:

(1) any claim based upon act or omission of an employee of the government exercising due care in the execution of a statute or regulation, whether such statute or regulation is valid;

(2) any claim based upon the exercise or performance of, or the failure to exercise or perform, a discretionary function or duty on the part of an officer or employee, whether or not the discretion involved is abused;

(3) any claim regarding the assessment or collection of any tax or customs duty, or the detention of any goods or merchandise, by any law officer, customs or tax officer, or any other law enforcement officer;

(4) any claim for which a remedy is provided elsewhere in the laws of the government;

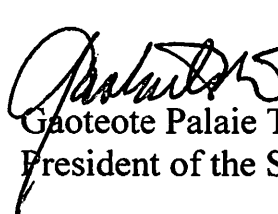
(5) any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit or interference with contract rights;


(6) any claim arising in a foreign country.

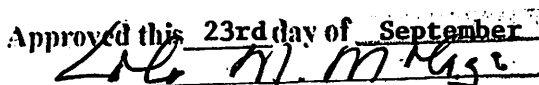
(c) Action under this section may not be instituted for any sum in excess of the amount of the claim presented to the Attorney General under 43.1205, except where the increased amount is based upon newly discovered evidence not reasonably discoverable at the time of presenting the claim to the Attorney General, or upon allegation and proof of intervening facts, relating to the amount of the claim."

Sec 2. Effective date.

In accordance with Article II, Section 19 of the Revised Constitution of American Samoa, this bill shall become effective 60 days after the end of the session at which it has been passed.


Gaoteote Palaie Tofau
President of the Senate


Savali Talavou Ale
Speaker, House of Representatives

Hereby Approved this 23rd day of September 2013

Governor of American Samoa

NOFOAIGA TOLUSEFULU-TOLU FONOFAITULAFONO AMERIKA
SAMOA

Fono Tele Lona Lua

Nofoia ma usuia i Fagatogo, Tutuila, Amerika Samoa
Aso Gafua, aso sefulufa o Ianuari
lua afe ma le sefulu tolu

O SE TULAFONO E FAATAPULAA AI I LE \$500,000 LE TUPE E TOTOGI E
LE MALO I LALO O LE TULAFONO O SE FAAMANU'ALIA O SE TASI
POO SE GAOIOIGA SESE FOI E TUUA'IA AI LE MALO; SUIA AI LE MAGA
43.1203 T.T.A.S.

Faatomuaga:

TALUAI, ona o le taimi nei e leai se tapulaa o tuua i le nofoitalafu o le malo i
se tagi e faia i lalo o lenei Tulafono; ma

TALUAI, a o faasolo pea tausaga ma tupu pea le tamaoaiga ua faapea foi ona
siisii pea i luga le aofai o tagi faasaga i le malo; ma

TALUAI, o le malo e tautuaina tagata uma o Amerika Samoa ma e tatau lava
ona faamoemoe e faaauau pea lea tautua e le motu, e le taulia ai le
molua pea mai lea taimi i lea taimi ona o ni tulaga e ono nofoitalafu
ai; ma

TALUAI, ua alagatatau ona tuu o se tapulaa i le mea e ono totogia e le malo mo
se tagi e faia i lalo o le Tulafono o Mataupu faapea, ina ia mafai ai e le
malo ona faaauau pea ona ia tautuaina tagata uma e ui ina faaono
feagai ai ma ni tagi e manaomia ai ni tupe tetele.

IA FAATULAFONOINA E LE FONOFAITULAFONO O AMERIKA SAMOA:

Maga 1. 43.1203 ua suia e faitauina fa'apea:

“43.1203 Noataga o le malo ia totogi—Tuusaunoaga.

(a) E noatia le malo, sei vagana ai ua aiaia ese ai i lenei mataupu, i le faiga e tutusa ma faapena foi le tele e oo i ai e pei o se tagata tua i lalo o se mataupu e tutusa, ae e fa'atapula'a i le \$500,000 le mea e totogi, ma e le noatia ina totogi pasene tului mo le taimi a o lei aumaia se iuga a le faamasinoga poo se faasalaga foi e faaopoopo ona o le sese o le gaoioiga na fai, vagana ai ua i se mataupu e aafia ai le maliu o se tasi ma o le tulafono a le nofoaga/atunuu lea na tupu ai le faalavelave o loo tagi ai o loo aiaia, poo loo manatu foi o le aiaiga lea, e noatia le malo mo faasalaga e faatatau lava mo le sese na faia, e fuafua i afaina na mafua mai ona o le maliu lea mo tagata na mafua ai ona faauluina o le tagi.

(e) O aiaiga o lenei mataupu e le faaaogaina mo:

(1) soo se tagi e faavae i luga o se gaoioiga poo le le faia foi o se gaoioiga sa tatau ona fai a se tagata faigaluega o le malo e tusa ai ma le faaaogaina/usita'ia o se tulafono poo se tulafono galue, pe mata o loo faaaoga lea tulafono;

(2) soo se tagi e faavae i luga o le faia , poo le le faia foi, o se galuega e tuu i le faitalia poo se tiute o se ofisa poo se tagata faigaluega, pe mata o lea faitalia o le tagata faigaluega o loo soona fai pe leai foi;

(3) soo se tagi e faatatau i se lafoga na tuu atu e totogi mai poo le aoina foi o lea lafoga, poo se tiute a le vaega o le tiute, poo le taofia o ni oloa e se ofisa o le tulafono, tiute poo le lafoga, poo se isi lava ofisa faamalosi tulafono;

(4) soo se tagi e aiaia mai ai se totogi i se isi tulafono a le malo;

(5) soo se tagi e mafua mai se faaoolima, fasi, falepuipui sese, ave faapagota sese, ni faiga ina ia faamanu'alia, soonafai valea o le faagasologa o mea, faaleaga, faata'uvalea, le sa'o o molimau, taufaasese ma le faalavelave fua i aia faakonekarate;

(6) soo se tagi e mafua mai se atunuu ese.

(i) O se tagi i lalo o lenei maga e le mafai ona faia mo se aofaiga e sili atu i le aofai o le tagi na tuuina atu i le Loia Sili i lalo o le 43.1205, sei vagana ai faaopoopoga aofai e faavae i luga o o se faamaoniga ua faato'a maua sa lei maua i le taimi na tuu atu ai le tagi i le Loia Sili, pe faavae foi i tuuaiga ma faamaoniga na maua mulimuli ane, e faatatau i le aofai o le tagi.”

Maga 2. Aso e Tualoa ai

Ina ia tusa ai ma le Mataupu II, Maga 19 o le Faavae Toe Teuteu o Amerika Samoa, o le a aloa'ia lenei pili i le 60 aso talu ona mae'a le tauaofiaga na pasia ai.



Gaoteote Palaie Tofau
Feresetene, Maota Maualuga



Savali Talavou Ale
Fofoga Fetalai, Maota o Sui

Hereby Approved this 23rd day of September 20 13
Lolo M. Maliga
Governor Of American Samoa