

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 324

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
PROVIDING THAT A CIVIL ACTION MAY BE BROUGHT WITHIN THIRTY
YEARS IN CASES OF CATASTROPHIC INJURY OR DEATH; REMOVING
MAXIMUM LIABILITY PROVISIONS UNDER THE TORT CLAIMS ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 37-1-8 NMSA 1978 (being Laws 1880,
Chapter 5, Section 5, as amended) is amended to read:

"37-1-8. ACTIONS AGAINST SURETIES ON FIDUCIARY BONDS--
INJURIES TO PERSON OR REPUTATION--CATASTROPHIC INJURIES.--

A. Actions ~~[must]~~ shall be brought against sureties
on official bonds and on bonds of guardians, conservators,
personal representatives and persons acting in a fiduciary
capacity within two years after the liability of the principal
or the person for whom they are sureties is finally established

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underscored material = new
[bracketed material] = delete

1 or determined by a judgment or decree of the court [~~and~~].

2 B. For an injury to the person or reputation of
3 [~~any~~] a person, an action shall be brought within three years;
4 provided that when there is catastrophic injury or death to the
5 person, an action shall be brought within thirty years.

6 C. As used in this section, "catastrophic injury"
7 means an injury to the person that creates a high probability
8 of death, that causes serious disfigurement or that results in
9 permanent or protracted loss or impairment of the function of
10 any member or organ of the body."

11 SECTION 2. Section 41-4-19 NMSA 1978 (being Laws 1976,
12 Chapter 58, Section 17, as amended) is amended to read:

13 "41-4-19. [~~MAXIMUM LIABILITY~~] INTEREST ON JUDGMENT--NO
14 PUNITIVE DAMAGES.--

15 [~~A. Unless limited by Subsection B of this section,~~
16 ~~in any action for damages against a governmental entity or a~~
17 ~~public employee while acting within the scope of the employee's~~
18 ~~duties as provided in the Tort Claims Act, the liability shall~~
19 ~~not exceed:~~

20 ~~(1) the sum of two hundred thousand dollars~~
21 ~~(\$200,000) for each legally described real property for damage~~
22 ~~to or destruction of that legally described real property~~
23 ~~arising out of a single occurrence;~~

24 ~~(2) the sum of three hundred thousand dollars~~
25 ~~(\$300,000) for all past and future medical and medically~~

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1 ~~related expenses arising out of a single occurrence; and~~
2 ~~(3) the sum of four hundred thousand dollars~~
3 ~~(\$400,000) to any person for any number of claims arising out~~
4 ~~of a single occurrence for all damages other than real property~~
5 ~~damage and medical and medically related expenses as permitted~~
6 ~~under the Tort Claims Act.~~

7 ~~B. The total liability for all claims pursuant to~~
8 ~~Paragraphs (1) and (3) of Subsection A of this section that~~
9 ~~arise out of a single occurrence shall not exceed seven hundred~~
10 ~~fifty thousand dollars (\$750,000).~~

11 ~~G.]~~ A. Interest shall be allowed on judgments
12 against a governmental entity or public employee for a tort for
13 which immunity has been waived under the Tort Claims Act at a
14 rate equal to two percentage points above the prime rate as
15 published in the *Wall Street Journal* on the date of the entry
16 of the judgment. Interest shall be computed daily from the
17 date of the entry of the judgment until the date of payment.

18 ~~[D.]~~ B. No judgment against a governmental entity
19 or public employee for any tort for which immunity has been
20 waived under the Tort Claims Act shall include an award for
21 exemplary or punitive damages or for interest prior to
22 judgment."