

TITLE 7: CIVIL PROCEDURE
DIVISION 2: ACTIONS AND SPECIAL PROCEEDINGS

§ 2202. Limitation of Tort Liability.

(a) The Commonwealth government shall be liable in tort for damages arising from the negligent acts of employees of the Commonwealth acting within the scope of their office or employment; provided, that:

(1) The Commonwealth and any employees engaged in the performance of services on behalf of the Commonwealth shall not be liable in tort for more than \$50,000 in an action for wrongful death. Liability in other tortious occurrences shall be limited to \$100,000 per person, or \$200,000 per occurrence.

(2) The Commonwealth shall not be liable for interest prior to judgment, court fees, witness fees, or for punitive damages.

(3) If the Commonwealth is insured for a greater amount, the governmental liability shall be the same as the insurance coverage.

(4) This section does not in any way impair, limit or modify the rights and obligations under any government insurance policy.

(b) An action shall not be instituted upon a claim against the Commonwealth for money damages for injury or loss of property or personal injury or death caused by the negligent act or omission of any employee of the Commonwealth while acting within the scope of his/her employment, unless the claimant shall have first presented the claim to the Attorney General and the claim shall have been finally denied by the Attorney General, in writing, and the claimant so notified. The failure of the Attorney General to make final disposition of a claim within 90 days after it is presented shall be deemed a final denial of the claim for purposes of this section. The provisions of this section shall not apply to such claims as may be properly asserted as third party complaints, counterclaims, or cross-claims under the Commonwealth Rules of Civil Procedure in a civil action. Every claim shall be presented within the period of limitations provided by statute for civil actions of a like nature.

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

(d) Disposition of any claim by the Attorney General shall not be competent evidence of liability or amount of damages.

(e) There shall be no jury trials of tort actions against the Commonwealth or its employees unless requested, or assented to, by the Commonwealth.

Source: PL 3-51, § 2; amended by PL 15-22, § 5.