

**65.2005 Defense of employee by local government -- Liability of employee.**

- (1) A local government shall provide for the defense of any employee by an attorney chosen by the local government in any action in tort arising out of an act or omission occurring within the scope of his employment of which it has been given notice pursuant to subsection (2) of this section. The local government shall pay any judgment based thereon or any compromise or settlement of the action except as provided in subsection (3) of this section and except that a local government's responsibility under this section to indemnify an employee shall be subject to the limitations contained in KRS 65.2002.
- (2) Upon receiving service of a summons and complaint in any action in tort brought against him, an employee shall, within ten (10) days of receipt of service, give written notice of such action in tort to the executive authority of the local government.
- (3) A local government may refuse to pay a judgment or settlement in any action against an employee, or if a local government pays any claim or judgment against any employee pursuant to subsection (1) of this section, it may recover from such employee the amount of such payment and the costs to defend if:
  - (a) The employee acted or failed to act because of fraud, malice, or corruption;
  - (b) The action was outside the actual or apparent scope of his employment;
  - (c) The employee willfully failed or refused to assist the defense of the cause of action, including the failure to give notice to the executive authority of the local government pursuant to subsection (2) of this section;
  - (d) The employee compromised or settled the claim without the approval of the governing body of the local government; or
  - (e) The employee obtained private counsel without the consent of the local government, in which case, the local government may also refuse to pay any legal fees incurred by the employee.

**Effective:** July 15, 1994

**History:** Amended 1994 Ky. Acts ch. 233, sec. 1, effective July 15, 1994. -- Created 1988 Ky. Acts ch. 224, sec. 20, effective July 15, 1988.