

1 AN ACT relating to the defense of employees of a local government.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 65.2005 is amended to read as follows:

4 (1) A local government shall:

5 (a) Provide for the defense of any employee by an attorney chosen by the local
6 government in any action in tort arising out of an act or omission occurring
7 within the scope of the employee's~~his~~ employment of which it has been
8 given notice pursuant to subsection (2) of this section;~~;~~

9 (b) Not be required to provide a defense for any employee who:

10 1. Willfully fails or refuses to cooperate in the investigation and
11 disposition of the claims brought against the employee; or

12 2. Has been convicted of or pled guilty to a crime arising from an action
13 that led to the claim brought against the employee; and

14 (c) ~~[-The local government shall -]~~Pay any judgment based upon any action
15 under paragraph (a) of this subsection,~~thereon~~ or any compromise or
16 settlement of the action, except:

17 1. As provided in subsection (3) of this section; and

18 2. ~~[-except that -]~~A local government's responsibility under this section to
19 indemnify an employee shall be subject to the limitations contained in
20 KRS 65.2002.

21 (2) Upon receiving service of a summons and complaint in any action in tort brought
22 against him or her, an employee shall, within ten (10) days of receipt of service,
23 give written notice of the~~such~~ action in tort to the executive authority of the local
24 government.

25 (3) A local government may refuse to pay a judgment or settlement in any action
26 against an employee, or if a local government pays any claim or judgment against
27 any employee pursuant to subsection (1) of this section, it may recover from

1 the~~[such]~~ employee the amount of the~~[such]~~ payment and the costs to defend the
2 action, and in either instance the local government may also recover the costs to
3 defend the action if:

- 4 (a) The employee acted or failed to act because of fraud, malice, or corruption;
5 (b) The action was outside the actual or apparent scope of his or her employment;
6 (c) The employee willfully failed or refused to cooperate in the investigation and
7 disposition of the claims brought against him or her~~[assist the defense of the~~
8 ~~cause of action]~~, including the failure to give notice to the executive authority
9 of the local government pursuant to subsection (2) of this section;
10 (d) The employee compromised or settled the claim without the approval of the
11 governing body of the local government;~~[or]~~
12 (e) The employee obtained private counsel without the consent of the local
13 government, in which case, the local government may also refuse to pay any
14 legal fees incurred by the employee; or
15 (f) The employee was convicted of or pled guilty to a crime arising from an
16 action that led to the claim brought against the employee.

- 17 (4) (a) Any claim made by a local government under subsection (3) of this section
18 shall be commended within five (5) years after the cause of action accrued.
19 (b) A cause of action under this subsection shall be deemed to accrue when a
20 court enters a final judgment, order, or other determination that one (1) of
21 the provisions in subsection (3) of this section applies.