



Ohio Revised Code

Section 940.07 Defense of tort actions.

Effective: January 1, 2016

Legislation: House Bill 64 - 131st General Assembly

(A) As used in this section:

(1) "Judgment" includes a consent judgment.

(2) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for a breach of contract or another agreement between persons.

(B) Except as provided in divisions (C) and (D) of this section, the provisions of Chapter 2744. of the Revised Code apply to soil and water conservation districts as political subdivisions of the state and to their supervisors and other officers, employees, and agents as employees of political subdivisions of the state.

(C)(1) The attorney general, an assistant attorney general, or special counsel appointed by the attorney general shall defend a soil and water conservation district in any tort action that is commenced against the district as a political subdivision of the state under or pursuant to Chapter 2744. of the Revised Code, if a written request for the legal representation is submitted to the attorney general by the Ohio soil and water conservation commission. If a request is so submitted, the prosecuting attorney of the county associated with the district does not have legal representation duties in connection with the tort action under section 940.13 of the Revised Code.

(2) The attorney general, an assistant attorney general, or special counsel appointed by the attorney general shall defend a supervisor or other officer, employee, or agent of a soil and water conservation district in any tort action that is commenced against that person and based upon an action or omission allegedly associated with that person's employment or official responsibilities for the district, if both of the following apply:

(a) At the time of the action or omission, the person was not acting manifestly outside the scope of the person's employment or official responsibilities for the district or acting with malicious purpose,



in bad faith, or in a wanton or reckless manner;

(b) A written request for the legal representation is submitted to the attorney general by the Ohio soil and water conservation commission.

(3) If a request for legal representation is submitted to the attorney general pursuant to division (C)(2) of this section, divisions (A)(1) and (C) of section 2744.07 of the Revised Code do not apply to the soil and water conservation district and the defense of its supervisor or other officer, employee, or agent.

(D)(1) The state shall indemnify and hold harmless a soil and water conservation district as follows:

(a) In the amount of any judgment that is rendered against the district in a tort action that is commenced under or pursuant to Chapter 2744. of the Revised Code;

(b) In the amount of any settlement of a tort action against the district as described in division (D)(1)(a) of this section, or of a claim for damages for injury, death, or loss to person or property that could become a basis of a tort action against the district as described in division (D)(1)(a) of this section.

(2) The state shall indemnify and hold harmless a supervisor or other officer, employee, or agent of a soil and water conservation district as follows:

(a) Subject to the limitations specified in division (D)(3) of this section, in the amount of any judgment that is rendered against that person in a tort action based upon an action or omission allegedly associated with the person's employment or official responsibilities for the district;

(b) Subject to the limitations specified in division (D)(3) of this section, in the amount of any settlement of a tort action as described in division (D)(2)(a) of this section or of any settlement of a claim for damages for injury, death, or loss to person or property that could become a basis of a tort action as described in division (D)(2)(a) of this section.

(3)(a) The maximum aggregate amount of indemnification paid directly from state funds to or on



behalf of any supervisor or other officer, employee, or agent of a soil and water conservation district pursuant to divisions (D)(2)(a) and (b) of this section shall be one million dollars per occurrence, regardless of the number of persons who suffer injury, death, or loss to person or property as a result of the action or omission of that person.

(b) An indemnification may be made pursuant to division (D)(2)(a) or (b) of this section only if, at the time of the action or omission, the supervisor or other officer, employee, or agent of a soil and water conservation district was not acting manifestly outside the scope of the supervisor's or other officer's, employee's, or agent's employment or official responsibilities for the district or acting with malicious purpose, in bad faith, or in a wanton or reckless manner.

(c) An indemnification shall not be made pursuant to division (D)(2)(a) or (b) of this section for any portion of a consent judgment or settlement that is unreasonable or for any portion of a judgment that represents punitive or exemplary damages.

(4) Division (A)(2) of section 2744.07 of the Revised Code does not apply to a soil and water conservation district, or to any of its supervisors or other officers, employees, or agents, to the extent that division (D) of this section requires the state to indemnify and hold harmless a supervisor or other officer, employee, or agent of that district.