

**RCW 4.92.130 Tortious conduct of state—Liability account—**

**Purpose.** A liability account in the custody of the treasurer is hereby created as a nonappropriated account to be used solely and exclusively for the payment of liability settlements and judgments against the state under 42 U.S.C. Sec. 1981 et seq. or for the tortious conduct of its officers, employees, and volunteers and all related legal defense costs.

(1) The purpose of the liability account is to: (a) Expeditiously pay legal liabilities and defense costs of the state resulting from tortious conduct; (b) promote risk control through a cost allocation system which recognizes agency loss experience, levels of self-retention, and levels of risk exposure; and (c) establish an actuarially sound system to pay incurred losses, within defined limits.

(2) The liability account shall be used to pay claims for injury and property damages and legal defense costs exclusive of agency-retained expenses otherwise budgeted.

(3) No money shall be paid from the liability account, except for defense costs, unless all proceeds available to the claimant from any valid and collectible liability insurance shall have been exhausted and unless:

(a) The claim shall have been reduced to final judgment in a court of competent jurisdiction; or

(b) The claim has been approved for payment.

(4) The liability account shall be financed through annual premiums assessed to state agencies, based on sound actuarial principles, and shall be for liability coverage in excess of agency-budgeted self-retention levels.

(5) Annual premium levels shall be determined by the risk manager. An actuarial study shall be conducted to assist in determining the appropriate level of funding.

(6) Disbursements for claims from the liability account shall be made to the claimant, or to the clerk of the court for judgments, upon written request to the state treasurer from the risk manager.

(7) The director may direct agencies to transfer moneys from other funds and accounts to the liability account if premiums are delinquent.

(8) The liability account shall not exceed fifty percent of the actuarial value of the outstanding liability as determined annually by the office of risk management. If the account exceeds the maximum amount specified in this section, premiums may be adjusted by the office of risk management in order to maintain the account balance at the maximum limits. If, after adjustment of premiums, the account balance remains above the limits specified, the excess amount shall be prorated back to the appropriate funds. [2011 1st sp.s. c 43 § 513; 2009 c 560 § 15; 2002 c 332 § 14; 1999 c 163 § 1; 1991 sp.s. c 13 § 92; 1989 c 419 § 4; 1985 c 217 § 3; 1975 1st ex.s. c 126 § 3; 1969 c 140 § 1; 1963 c 159 § 7.]

**Effective date—Purpose—2011 1st sp.s. c 43:** See notes following RCW 43.19.003.

**Intent—Effective date—Disposition of property and funds—Assignment/delegation of contractual rights or duties—2009 c 560:** See notes following RCW 18.06.080.

**Intent—Effective date—2002 c 332:** See notes following RCW 43.19.760.

**Transfer of funds—Fund abolished—1999 c 163:** "Moneys in the tort claims revolving fund shall be deposited in the liability account on July 1, 1999, to be used for payment of settlements, judgments, and legal defense costs as provided in RCW 4.92.130." [1999 c 163 § 2.]

**Effective date—1999 c 163:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1999." [1999 c 163 § 10.]

**Effective dates—Severability—1991 sp.s. c 13:** See notes following RCW 18.08.240.

**Transfer of funds—Fund abolished—1989 c 419:** "Moneys in the tort claims revolving fund shall be deposited in the liability account to be used for payment of liabilities incurred before July 1, 1989. The tort claim revolving fund is abolished." [1989 c 419 § 13.]

**Intent—Effective date—1989 c 419:** See notes following RCW 4.92.006.

**Severability—1969 c 140:** "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 c 140 § 5.]

*Actions against regents, trustees, etc., of institutions of higher education or educational boards, payments of obligations from liability account: RCW 28B.10.842.*

*Department of enterprise services to conduct actuarial studies: RCW 43.19.778.*