

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 2.
GOVERNMENT ADMINISTRATION.

CHAPTER 4.
CLAIMS AGAINST DISTRICT.

2001 Edition

DISTRICT OF COLUMBIA OFFICIAL CODE

CHAPTER 4. CLAIMS AGAINST DISTRICT.

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CHAPTER 4. CLAIMS AGAINST DISTRICT.

SUBCHAPTER I. GENERAL PROVISIONS.

§ 2-401. SERVICE OF PROCESS.

In suits commenced after June 20, 1874, against the District of Columbia, process may be served on the Mayor of the District of Columbia, until otherwise provided by law.

(June 20, 1874, 18 Stat. 117, ch. 337, § 2.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1201.

1973 Ed., § 1-901.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 2-402. SETTLEMENT OF CLAIMS AND SUITS AGAINST DISTRICT.

(a) The Mayor of the District of Columbia is empowered to settle, in his discretion, claims and suits, either at law or in equity, against the District of Columbia whenever the cause of action:

(1) Arises out of the negligence or wrongful act, either of commission or omission, of any officer or employee of the District of Columbia for whose negligence or acts the District of Columbia, if a private individual, would be liable prima facie to respond in damages, irrespective of whether such negligence occurred or such acts were done in the performance of a municipal or a governmental function of said District; provided, however, that nothing herein contained shall be construed as depriving the District of Columbia of any defense it may have to any suit, either at law or in equity, which may be instituted against it or to give any person, corporation, partnership, or association any right to institute any suit against the District of Columbia which did not exist prior to June 5, 1930; or

(2) Arises out of the existence of facts and circumstances which place the claim or suit within the doctrines and principles of law decided by the courts in the District of Columbia or by the Supreme Court of the United States to be controlling in the District of Columbia.

(3)(A) In any case, claim, or suit, either at law or in equity, which the Mayor of the District of Columbia is empowered to settle, the payment for such settlement or judgment shall come from the current fiscal year operating budget of the agency or office named in the suit; provided that:

(i) The settlement or judgment is less than \$10,000; and

(ii) The case was originally filed not more than 2 years before the settlement or judgment.

(B) The Mayor may waive this requirement on a case-by-case basis for good cause shown.

(b)(1)(A) The District shall not enter into or execute any settlement agreement related to a contract disapproved by the Council pursuant to § 1-204.51 while the details of the disapproved contract are the subject of an active investigation by the Council, the Office of the District of Columbia Auditor, the Office of

the Inspector General, or the United States Attorneys' Office and, unless otherwise authorized under paragraph (2) of this subsection, until 90 days following the completion of the investigation.

(B) The Office of the Chief Financial Officer, the District of Columbia Housing Authority, or any other District agency or authority shall not:

(i) Approve payment or disburse payment related to a contract disapproved by the Council pursuant to § 1-204.51 while the details of the disapproved contract are the subject of an active investigation by the Council, the Office of the District of Columbia Auditor, the Office of the Inspector General, or the United States Attorneys' Office and, unless otherwise authorized under paragraph (2) of this subsection, until 90 days following the completion of the investigation; or

(ii) Approve payment or disburse payment related to a settlement agreement executed in violation of subparagraph (A) of this subsection.

(2) The Council, by act approved by 2/3rds of its members, may authorize payment otherwise prohibited by paragraph (1) of this subsection within the 90 days following the completion of an investigation.

(Feb. 11, 1929, 45 Stat. 1160, ch. 173, § 1; June 5, 1930, 46 Stat. 500, ch. 400; July 29, 1970, 84 Stat. 575, Pub. L. 91-358, title I, § 157(e)(1); Oct. 19, 2000, D.C. Law 13-172, § 4302, 47 DCR 6308; Oct. 26, 2001, D.C. Law 14-42, § 27, 48 DCR 7612; Mar. 12, 2011, D.C. Law 18-319, § 2, 57 DCR 12433.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1202.

1973 Ed., § 1-902.

Effect of Amendments

D.C. Law 13-172 added par. (3).

D.C. Law 14-42 substituted "settlement or judgment" for "settlement".

D.C. Law 18-319 designated the existing text as subsec. (a); and added subsec. (b).

Emergency Act Amendments

For temporary (90-day) amendment of section, see § 4302 of the Fiscal Year 2001 Budget Support Emergency Act of 2000 (D.C. Act 13-376, July 24, 2000, 47 DCR 6574).

For temporary (90 day) amendment of section, see § 4302 of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000 (D.C. Act 13-438, October 20, 2000, 47 DCR 8740).

For temporary (90 day) amendment of section, see § 27 of Technical Amendments Emergency Act of 2001 (D.C. Act 14-108, August 3, 2001, 48 DCR 7622).

For temporary (90 day) amendment of section, see § 2 of Settlement Payment Integrity Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-14, February 11, 2011, 58 DCR 1438).

Legislative History of Laws

Law 13-172, the "Fiscal Year 2001 Budget Support Act of 2000," was introduced in Council and assigned Bill No. 13-679, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 18, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 26, 2000, it was assigned Act No. 13-375 and transmitted to both Houses of Congress for its review. D.C. Law 13-172 became effective on October 19, 2000.

Law 14-42, the "Technical Correction Amendment Act of 2001", was introduced in Council and assigned Bill No. 14-216, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 5, 2001, and June 26, 2001, respectively. Signed by the Mayor on July 24, 2001, it was assigned Act No. 14-107 and transmitted to both Houses of Congress for its review. D.C. Law 14-42 became effective on October 26, 2001.

Law 18-319, the "Settlement Payment Integrity Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-899, which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on November 9, 2010, and November 23, 2010, respectively. Enacted without signature of the Mayor on December 16, 2010, it was assigned Act No. 18-640 and transmitted to both Houses of Congress for its review. D.C. Law 18-319 became effective on March 12, 2011.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3

of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

Delegation of Authority

Delegation of Authority Pursuant to D.C. Official Code §§ 2-402 (2001) & 1-204.22 (6) (2001), to Delegate Authority to Make All Determinations Regarding Offers of Settlement of Any and All Claims Against the District of Columbia, and The Mayor of the District of Columbia in His Official Capacity in *District Council 20, et al. v. District of Columbia, et al.*, (DDC) (EGS), see Mayor's Order 2001-134, September 13, 2001 (48 DCR 8998).

Re-Delegation of Authority to Settle or Compromise Claim (Office of Corporation Counsel File #77411), see Mayor's Order 2002-174, November 1, 2002 (49 DCR 9882).

Miscellaneous Notes

Civil suits permitted: Act of December 29, 1979, 93 Stat. 1284, Pub. L. 96-170, provided that civil suits under § 1979 of the Revised Statutes (42 U.S.C. § 1983) are permitted against any person acting under color of any law or custom of the District of Columbia who subjects any person within the jurisdiction of the District of Columbia to the deprivation of any right, privilege, or immunity secured by the Constitution and laws occurring after the date of the enactment of Pub. L. 96-170.

Section 137 of Pub. L. 107-96, Dec. 21, 2001, 115 Stat. 923, provides:

"RISK MANAGEMENT FOR SETTLEMENTS AND JUDGMENTS. In addition to any other authority to pay claims and judgments, any department, agency, or instrumentality of the District government may pay the settlement or judgment of a claim or lawsuit in an amount less than \$10,000, in accordance with the Risk Management for Settlements and Judgments Amendment Act of 2000, effective October 19, 2000 (D.C. Law 13-172; D.C. Official Code, Sec. 2-402)."

Section 3 of D.C. Law 18-319 provides:

"Sec. 3. Applicability.

"This act shall apply as of June 30, 2010."

§ 2-403. REFUND WHERE ASSESSMENTS HELD VOID.

(a) The Mayor of the District of Columbia is hereby authorized and empowered to grant relief in claims for refund of taxes paid, or for cancelation of assessments heretofore made and subsequent to September 1, 1916, in such cases where like assessments, or assessments against property of similar character, have been held to be void or erroneous by decision of the courts in the District of Columbia or the Supreme Court of the United States: Provided, that any claims for refunds of taxes paid before February 11, 1929, or for cancellations of assessments before February 11, 1929, shall be filed within 1 year from February 11, 1929.

(b) Nothing contained in §§ 2-402 to 2-405 shall be construed as reducing the period of the statute of limitations.

(Feb. 11, 1929, 45 Stat. 1160, ch. 173, § 2; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 575, Pub. L. 91-358, title I, § 157(e)(2).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1203.

1973 Ed., § 1-903.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government

were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 2-404. REPORT TO CONGRESS; APPROPRIATIONS.

All settlements entered into by the Mayor of the District of Columbia acting under the terms and provisions of §§ 2-402 to 2-405 shall be presented to the Congress, together with a brief statement of the nature of the claim or suit, the amount claimed, and the amount of the settlement, with a summary of the evidence and circumstances under which the settlement was made. Appropriations for the payment of such settlements are hereby authorized, payment thereof to be made in the same manner as are other expenditures for the District of Columbia.

(Feb. 11, 1929, 45 Stat. 1160, ch. 173, § 3; July 31, 1951, 65 Stat. 131, ch. 274, § 1; Feb. 26, 1981, D.C. Law 3-114, § 2(a), 27 DCR 5628.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1204.

1973 Ed., § 1-904.

Legislative History of Laws

Law 3-114 was introduced in Council and assigned Bill No. 3-64, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 12, 1980 and December 9, 1980, respectively. Signed by the Mayor on December 18, 1980, it was assigned Act No. 3-308 and transmitted to both Houses of Congress for its review.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 2-405. EFFECTIVE DATE.

Sections 2-402 to 2-405 shall take effect from and after February 11, 1929, but nothing herein contained shall be construed as prohibiting the Mayor of the District of Columbia from proceeding according to the terms and provisions hereof to settle any claim or suit pending on February 11, 1929, irrespective of the date of presentation of the claim to the Mayor of the District of Columbia or the date of the filing of the suit.

(Feb. 11, 1929, 45 Stat. 1161, ch. 173, § 4.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1205.

1973 Ed., § 1-905.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 2-406. COMPROMISE OF CLAIM OR SUIT.

Upon a report by the Corporation Counsel of the District of Columbia showing in detail the just and true amount and condition of any claim or suit which the District of Columbia may on July 31, 1951, or thereafter have against any person, firm, association, or corporation, and the terms upon which the same may be compromised, and stating that in his opinion a compromise of such claim or suit would be for the best interest of the District of Columbia, the Mayor of the District of Columbia hereby is authorized to compromise such claim or suit accordingly: Provided, that this section shall not apply to claims or suits for taxes or special assessments.

(Feb. 11, 1929, 45 Stat. 1161, ch. 173, § 5; July 31, 1951, 65 Stat. 131, ch. 274, § 2; June 28, 1967, 81 Stat. 81, Pub. L. 90-33, § 1; July 29, 1970, 84 Stat. 577, Pub. L. 91-358, title I, § 158(f); Feb. 26, 1981, D.C. Law 3-114, § 2(b), 27 DCR 5628.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1206.

1973 Ed., § 1-906.

Legislative History of Laws

For legislative history of D.C. Law 3-114, see Historical and Statutory Notes following § 1-1204.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

Miscellaneous Notes

Settlement of Monetary Penalties resulting from Parking Infractions, see Mayor's Order 2011-127, July 29, 2011 (58 DCR 6691).

§ 2-407. DAMAGE TO PERSONAL PROPERTY OF DISTRICT EMPLOYEE INCIDENT TO SERVICE.[REPEALED]

(Aug. 31, 1964, Pub. L. 88-558, § 3(f); Oct. 12, 1968, 82 Stat. 998, Pub. L. 90-561; Sept. 13, 1982, 96 Stat. 877, Pub. L. 97-258, § 5(b).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1207.

1973 Ed., § 1-907.

SUBCHAPTER II. NON-LIABILITY OF DISTRICT EMPLOYEES.

§ 2-411. DEFINITIONS.

As used in this subchapter the term:

- (1) "Mayor" means the Mayor of the District of Columbia, or his designated agent.
- (2) "Court" means the court in the District of Columbia having the necessary civil jurisdiction pursuant to § 11-501 or § 11-921.
- (3) "District" means the government of the District of Columbia, a municipal corporation.

(4) "Emergency run" means the movement of a District-owned vehicle, by direction of the operator or of some other authorized person or agency, under circumstances which lead the operator or such persons or agency to believe that such vehicle should proceed expeditiously upon a particular mission or to a designated location for the purpose of dealing with a supposed fire or other emergency, an alleged violation of a statute or regulation, or other incident requiring emergency action, or the prompt transportation to a place of treatment or greater safety of an alleged sick or injured person.

(5) "Emergency vehicle" means a vehicle assigned:

(A) To the Fire Department of the District or to the Metropolitan Police Department and not designated by the Mayor as a nonemergency vehicle; or

(B) To other departments or officials of the District and designated by the Mayor as an emergency vehicle.

(6) "Employee" means a person serving as an officer or employee of the District, whether or not paid by the District, or a person formerly so engaged, or the representative of a deceased officer or employee of the District.

(7) "Vehicle" means every type of conveyance or machine capable of movement on land, or in water or air, including an animal being ridden and any animal-drawn machinery or conveyance.

(8) "Medical employees of the District of Columbia" shall include physicians, psychologists, dentists, optometrists, podiatrists, nurses, nursing assistants, emergency medical technician, emergency medical technician/intermediate paramedic, emergency medical technician/paramedic, physicians' assistants, laboratory technicians, physical therapists, osteopaths, chiroprodists and chiropractors in the employment of the District of Columbia.

(July 14, 1960, 74 Stat. 519, Pub. L. 86-654, § 2; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 575, Pub. L. 91-358, title I, § 157(h); Mar. 26, 1976, D.C. Law 1-59, § 2, 22 DCR 5473; Sept. 28, 1977, D.C. Law 2-25, § 4, 24 DCR 3718; Aug. 1, 1981, D.C. Law 4-25, § 4, 28 DCR 2622; April 9, 1997, D.C. Law 11-169, § 2, 43 DCR 4478.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1211.

1973 Ed., § 1-921.

Legislative History of Laws

Law 1-59 was introduced in Council and assigned Bill No. 1-204, which was referred to the Committee on the Judiciary and the Committee on Criminal Law. The Bill was adopted on first and second readings on December 2, 1975 and December 16, 1975, respectively. Signed by the Mayor on January 9, 1976, it was assigned Act No. 1-84 and transmitted to both Houses of Congress for its review.

Law 2-25 was introduced in Council and assigned Bill No. 2-136, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 14, 1977 and June 28, 1977, respectively. Signed by the Mayor on July 8, 1977, it was assigned Act No. 2-56 and transmitted to both Houses of Congress for its review.

Law 4-25 was introduced in Council and assigned Bill No. 4-198, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on May 5, 1981, and May 19, 1981, respectively. Signed by the Mayor on June 5, 1981, it was assigned Act No. 4-46 and transmitted to both Houses of Congress for its review.

Law 11-169, the "Commissioner Mental Health Services Psychologists Protection Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-115, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 4, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 19, 1996, it was assigned Act No. 11-316 and transmitted to both Houses of Congress for its review. D.C. Law 11-169 became effective on April 9, 1997.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 2-412. GOVERNMENTAL IMMUNITY FOR NEGLIGENT OPERATION OF VEHICLES BY DISTRICT EMPLOYEES.

Hereafter the District of Columbia shall not assert the defense of governmental immunity in any suit at law in which a claim is asserted against it for money only on account of damage to or loss of property or on account of personal injury or death caused by the negligent or wrongful act or omission of any employee of the District occurring as the result of the operation by such employee, within the scope of his office or employment, of a vehicle owned or controlled by the District: Provided, that in the case of a claim arising out of the operation of an emergency vehicle on an emergency run the District shall be liable only for gross negligence. Nothing contained in this subchapter shall be construed as depriving the District of any other defense in law or equity which it may have to any such action or give to any person, corporation, partnership, or association any right to institute or maintain any suit against the District which it did not have prior to July 14, 1960.

(July 14, 1960, 74 Stat. 519, Pub. L. 86-654, § 3.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1212.

1973 Ed., § 1-922.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2(a) of District of Columbia Employee Non-Liability and Notice of Claim Clarification Emergency Amendment Act of 2002 (D.C. Act 14-499, October 23, 2002, 49 DCR 10022).

§ 2-413. ACTION AGAINST EMPLOYEE BARRED BY JUDGMENT AGAINST DISTRICT; NOTICE OF CLAIM; ADMINISTRATIVE DISPOSITION OF CLAIM AS EVIDENCE.

The judgment in any such action shall constitute a complete bar to any action by the claimant by reason of the same subject matter against the employee of the District whose act or omission gave rise to the claim. No suit shall be instituted involving any claim described in § 2-412 unless the claimant shall have first given notice to the District in accordance with § 12-309 and shall have presented to the District in writing a claim for money damages in connection therewith, and the District has had 6 months from the date of such filing within which to make final disposition of such claim. The administrative disposition of a claim by the District shall not be competent evidence of liability or amount of damages in proceedings on any such claim.

(July 14, 1960, 74 Stat. 519, Pub. L. 86-654, § 4.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1213.

1973 Ed., § 1-923.

§ 2-414. EXCESSIVE VERDICTS.

In any case involving any claim described in § 2-412 in which the trial court shall consider the verdict excessive, the court may order a remittitur of so much of the amount of such verdict or judgment, as the case may be, as it considers excessive, and either permit the party in whose favor the verdict was rendered or the party recovering such judgment, as the case may be, to file a remittitur.

(July 14, 1960, 74 Stat. 520, Pub. L. 86-654, § 5.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1214.

1973 Ed., § 1-924.

§ 2-415. ACTIONS AGAINST DISTRICT EMPLOYEES FOR NEGLIGENT OPERATION OF VEHICLES BARRED; INDEMNIFICATION OF MEDICAL EMPLOYEES; DISCIPLINARY ACTIONS.

(a) After the effective date of this subchapter, no civil action or proceeding shall be brought or be maintained against an employee of the District for loss of or damage to property or for personal injury, including death, resulting from the operation by such employee of any vehicle if it be alleged in the complaint or developed in a later stage of the proceeding that the employee was acting within the scope of his office or employment, unless the District shall, in an action brought against it for such damage or injury, including death, specifically deny liability on the ground that the employee was not, at the time and place alleged, acting within the scope of his office or employment. If in any such civil action or proceeding pending in a court in the District of Columbia as of the effective date of this subchapter the District has not been named as a defendant, said District shall be joined as a defendant and after its answer has been filed and subject to the provisions of the preceding sentence, the action shall be dismissed as to the employee and the case shall proceed as if the District had been a party defendant from the inception thereof.

(b) Whenever in a case in which the District of Columbia is not a party, a final judgment and order to pay money damages is entered against a medical employee of the District of Columbia on account of damage to or loss of property or on account of personal injury or death caused by the negligent act or omission of the medical employee within the scope of his employment and performance of professional responsibilities, the District of Columbia shall, to the extent the medical employee is not covered by appropriate insurance purchased by the District of Columbia, indemnify the employee in the amount of said money damages.

(b-1) The District of Columbia shall defend and indemnify members of the Commission on Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings, established by § 2-1831.06, from claims and suits in law or equity arising from acts or omissions in the course and scope of their official duties, other than willful or bad faith misconduct.

(c) Nothing in this section shall be construed to restrict appropriate disciplinary action by the District of Columbia against any employee for a negligent act or omission.

(July 14, 1960, 74 Stat. 520, Pub. L. 86-654, § 6; Mar. 26, 1976, D.C. Law 1-59, § 3, 22 DCR 5473; Dec. 7, 2004, D.C. Law 15-217, § 2, 51 DCR 9126.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1215.

1973 Ed., § 1-925.

Effect of Amendments

D.C. Law 15-217 added subsec. (b-1).

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2 of the Commission on Selection and Tenure of Administrative Law Judges Non-Liability Temporary Amendment Act of 2004 (D.C. Law 15-169, June 19, 2004, law notification 51 DCR 7334).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2(b) of District of Columbia Employee Non-Liability and Notice of Claim Clarification Emergency Amendment Act of 2002 (D.C. Act 14-499, October 23, 2002, 49 DCR 10022).

For temporary (90 day) amendment of section, see § 2 of Commission on Selection and Tenure of Administrative Law Judges Non-Liability Emergency Amendment Act of 2004 (D.C. Act 15-389, March 18, 2004, 51 DCR 3387).

For temporary (90 day) amendment of section, see § 2 of Commission on Selection and Tenure of Administrative Law Judges Non-Liability Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-444, June 23, 2004, 51 DCR 6556).

Legislative History of Laws

For legislative history of D.C. Law 1-59, see Historical and Statutory Notes following § 2-411.

Law 15-217, the "Office of Administrative Hearings Establishment Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-817, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 29, 2004, and July 13, 2004, respectively. Signed by the Mayor on August 2, 2004, it was assigned Act No. 15-522 and transmitted to both Houses of Congress for its review.

D.C. Law 15-217 became effective on December 7, 2004.

§ 2-416. LIABILITY OF EMPLOYEE TO DISTRICT FOR NEGLIGENT DAMAGE TO ITS PROPERTY.

Nothing in this subchapter shall be construed so as to relieve any District employee from liability to the District for negligent damage to or loss of District property.

(July 14, 1960, 74 Stat. 520, Pub. L. 86-654, § 7.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1216.

1973 Ed., § 1-926.

SUBCHAPTER III. UNJUST IMPRISONMENT.

§ 2-421. RIGHT TO PRESENT CLAIM.

Any person unjustly convicted of and subsequently imprisoned for a criminal offense contained in the District of Columbia Official Code may present a claim for damages against the District of Columbia.

(Mar. 5, 1981, D.C. Law 3-143, § 2, 27 DCR 4656.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1221.

Legislative History of Laws

Law 3-143, the District of Columbia Unjust Imprison Act of 1980, was introduced in Council and assigned Bill No. 3-251, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on July 29, 1980 and September 16, 1980, respectively. Signed by the Mayor on October 14, 1980, it was assigned Act No. 3-264 and transmitted to both Houses of Congress for its review.

§ 2-422. PROOF REQUIRED.

Any person bringing suit under § 2-421 must allege and prove:

- (1) That his conviction has been reversed or set aside on the ground that he is not guilty of the offense of which he was convicted, or on new trial or rehearing was found not guilty of such offense, as appears from the record or certificate of the court setting aside or reversing such conviction, or that he has been pardoned upon the stated ground of innocence and unjust conviction; and
- (2) That, based upon clear and convincing evidence, he did not commit any of the acts charged or his acts or omissions in connection with such charge constituted no offense against the United States or the District of Columbia the maximum penalty for which would equal or exceed the imprisonment served and he did not, by his misconduct, cause or bring about his own prosecution.

(Mar. 5, 1981, D.C. Law 3-143, § 3, 27 DCR 4656.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1222.

Legislative History of Laws

For legislative history of D.C. Law 3-143, see Historical and Statutory Notes following § 2-421.

§ 2-423. DAMAGES.

Upon a finding by the judge of unjust imprisonment in accordance with the standards set by § 2-422, the judge may award damages. Punitive damages may not be awarded.

(Mar. 5, 1981, D.C. Law 3-143, § 4, 27 DCR 4656.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1223.

Legislative History of Laws

For legislative history of D.C. Law 3-143, see Historical and Statutory Notes following § 2-421.

§ 2-424. APPLICATION OF SUBCHAPTER--DATE OF RELEASE.

This subchapter shall apply to any person whose release from unjust imprisonment occurred on or after June 1, 1979: Provided, that the provisions of § 12-309 shall not apply to any cause of action for unjust imprisonment arising prior to the effective date of this subchapter.

(Mar. 5, 1981, D.C. Law 3-143, § 5, 27 DCR 4656.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1224.

Legislative History of Laws

For legislative history of D.C. Law 3-143, see Historical and Statutory Notes following § 2-421.

§ 2-425. APPLICATION OF SUBCHAPTER--ENTRY OF GUILTY PLEA.

This subchapter shall not apply to any person whose conviction resulted from his entering a plea of guilty unless that plea was pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970).

(Mar. 5, 1981, D.C. Law 3-143, § 6, 27 DCR 4656.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1225.

Legislative History of Laws

For legislative history of D.C. Law 3-143, see Historical and Statutory Notes following § 2-421.

SUBCHAPTER IV. RISK MANAGEMENT.

§ 2-431. REPORT BY THE OFFICE OF THE CITY ADMINISTRATOR TO THE COUNCIL ON RISK MANAGEMENT ACTIVITIES.

(a) For the purposes of this section, the term:

(1) "Actual losses sustained" means actual claims, judgements, or settlements paid by the District of Columbia government.

(2) "Administrative costs of risk management" means the actual cost of operating a risk management program.

(3) "Cost of funding losses" means the total cost incurred by the District of Columbia government on an annual basis for funding losses.

(4) "Cost of risk" means the costs of actual losses sustained, administrative costs of the risk management program, costs of funding losses, cost of risk control efforts and other outside service costs.

(5) "Outside service costs" means all funds expended by the District of Columbia government to external entities involved in risk management activities.

(6) "Risk management" means the process of making and implementing decisions to systematically preserve the physical, human, and financial resources of organizations, with the goals of minimizing the adverse effects of accidental losses on organizations and clarifying an organization's understanding of its exposure to risks, including loss of, or damage to, property; liability loss; interrupted revenue; and loss of personnel resources.

(b) On or before February 1 of each year, the Office of the City Administrator, or any successor agency which shall perform its risk management functions, shall provide a report to the Council delineating the savings realized by the District of Columbia as a result of implementing risk management plans and strategies. The report shall:

- (1) Be prepared on an agency-by-agency basis;
- (2) State the itemized cost of risk in the prior fiscal year;
- (3) State the changes in the total cost of risk realized in the prior fiscal year resulting from implementing risk management plans compared to the cost of risk in both the next preceding fiscal year and the baseline fiscal year 2004 (comparative cost of risk information for fiscal years 2002 and 2003 shall be used to the extent that is available); and
- (4) Include all data, on an agency-by-agency basis, reported to the City Administrator by agencies on the Risk Management Council addressing risk within agencies and plans implemented to control those risks.

(Nov. 13, 2003, D.C. Law 15-39, § 2004, 50 DCR 5668.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see §§ 4 and 5 of Disability Compensation Program Transfer and Risk Management Emergency Amendment Act of 2003 (D.C. Act 15-88, May 19, 2003, 50 DCR 4330).

For temporary (90 day) addition, see §§ 4 and 5 of Disability Compensation Program Transfer and Risk Management Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-128, July 29, 2003, 50 DCR 6836).

For temporary (90 day) addition, see §§ 4 and 5 of Disability Compensation Program Transfer and Risk Management Second Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-172, October 6, 2003, 50 DCR 9173).

Legislative History of Laws

For Law 15-39, see notes following § 2-311.03.

Miscellaneous Notes

Section 2005 of Law 15-39 provides:

"Limitation on number of full-time equivalent employees in fiscal year 2004.

"In the performance of its risk management functions, the Office of the City Administrator, or any successor agency, which shall perform such functions shall not employ more than 23 full-time equivalent employees during fiscal year 2004; provided, that if funds become available, new positions created shall be filled first in the Disability Compensation Claims Bureau Unit (3 positions) and Risk Identification and Analysis Division (one position) as funds become available. For the purpose of this section, the term 'risk management' shall have the same meaning as in section 2004(a)(2)."