

TWENTY-FOURTH NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_ Session, 2025

H.B. 24-57

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A BILL FOR AN ACT

To re-establish a Government Liability Cap.

BE IT ENACTED BY THE 24TH NORTHERN MARIANAS  
COMMONWEALTH LEGISLATURE:

1           **Section 1. Findings and Purpose.** Sovereign immunity protects the  
2 government and its employees from being sued in court absent express permission  
3 from the Legislature. In the NMI Supreme Court case of *Maratita v. CHCC*, 2024  
4 MP 10, the Court applied the equal protection clause of the CNMI Constitution and  
5 found insufficient specific support. The Court rejected the Legislature’s statutory  
6 establishment of a cap on damages to be paid by the Commonwealth for the  
7 negligent acts of its employees and created a statutory vacuum. The *Maratita*  
8 decision undermines the separation of powers, damages the principle of sovereign  
9 immunity, and creates an emergency threat to the ongoing fiscal stability of the  
10 CNMI. This Act responds to that portion of the decision concerning government  
11 liability caps.

12           Equal protection, as interpreted in *Maratita*, requires that any liability cap  
13 be supported by factual findings—such as actuarial studies, testimony, or statistical

1 reports—demonstrating that the means chosen are not arbitrary. The Legislature  
2 expressly acknowledges that standard and complies with it here by tying the re-  
3 established caps to concrete fiscal realities.

4       Public fiscal stability requires rational limits. In 1983, when the Legislature  
5 first enacted a limited waiver of sovereign immunity through Public Law 15-22, the  
6 CNMI's total budget was approximately \$51 million. Today, for Fiscal Year 2026,  
7 the Commonwealth identified total budgetary resources of \$179,701,969. After  
8 mandatory earmarks, debt service, and settlement obligations totaling \$41,872,250,  
9 only \$127,455,066 in General Revenues remains available for appropriation.  
10 Annual debt service consumes \$12.9 million, while healthcare (CHCC and  
11 Medicaid) requires over \$141 million and utilities (CUC) require over \$102 million.  
12 These fiscal realities demonstrate that the caps of \$50,000 for wrongful death,  
13 \$100,000 per person, and \$200,000 per occurrence are rationally related to  
14 preserving stability while still providing meaningful recovery.

15       As the Commonwealth budget has grown, so too have governmental  
16 expenses. The CNMI now faces many more employees, larger operational costs,  
17 nondiscretionary obligations, and substantial debt, which has required borrowing  
18 to maintain a balanced budget. Revenue has been inconsistent, disrupted by natural  
19 disasters, a pandemic, and geopolitical changes that have impacted tourism. If there  
20 were not reasonable caps on damages, large judgments could force the government  
21 to furlough or fire employees, eliminate health or retirement benefits, or borrow

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1 unsustainably to cover liabilities.

2 Reasonable caps set forth in this legislation are consistent with national  
3 practice. Massachusetts, with a population of 7 million and a budget of \$60 billion,  
4 applies a \$100,000 cap, upheld under equal protection in *Hallet v. Town of*  
5 *Wrentham*, 499 N.E.2d 1189 (Mass. 1986). Virginia, with a population of 9 million  
6 and a budget of \$83.8 billion, applies caps of \$100,000 or the state's insurance  
7 coverage, whichever is greater. Nevada, a fellow Ninth Circuit jurisdiction with a  
8 population of 3 million and a budget of \$18 billion, applies a \$100,000 cap upheld  
9 multiple times under equal protection, with the Nevada Supreme Court expressly  
10 rejecting heightened scrutiny. *State v. Silva*, 478 P.2d 591 (Nev. 1970); *Arnesano*  
11 *v. State*, 942 P.2d 139 (Nev. 1997). Guam, with a population of 173,000 and a  
12 budget of \$1.3 billion, upheld its caps of \$100,000 for wrongful death and \$300,000  
13 for other tort actions in *Newby v. Gov't of Guam*, 2010 Guam 4, confirming that  
14 such limits do not violate equal protection.

15 Any government that fails to control litigation costs risks catastrophic losses  
16 and disruption of essential services. The Legislature further finds that the costs of  
17 death claims and injury treatment have increased substantially since the original  
18 caps were enacted in 1983, while the number of claimants has also increased with  
19 population and government growth. Without caps, even valid claims could go  
20 unpaid because the government's limited revenues would be overwhelmed.

21 Taxpayer stewardship requires balance. The Legislature has weighed the

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1 need for meaningful recovery against the responsibility to preserve essential  
2 services, respect the separation of powers, maintain sovereign immunity, and  
3 ensure stable operations. The re-established caps reflect that careful balance,  
4 consistent with mainstream American law and with the Commonwealth's fiscal  
5 constraints.

6 Equal branches must respect their constitutional roles. The Legislature  
7 emphasizes that it retains full constitutional authority to waive or withhold  
8 sovereign immunity at its discretion; this exercise of factual detail is provided out  
9 of prudence, not necessity, given the Legislature's absolute authority to enact  
10 legislation. The judiciary may interpret the law, but it cannot dictate it.<sup>1</sup>

11 **Section 2. Amendment.** 7 CMC § 2202 of the Commonwealth Code is  
12 hereby repealed and enacted to read as follows:

13 **§ 2202. Limitation of Tort Liability.**

14 (a) The Commonwealth government shall be liable in tort for damages arising from  
15 the negligent acts of employees of the Commonwealth acting within the scope of  
16 their office or employment; provided, that:

17 (1) The Commonwealth and any employees engaged in the performance  
18 of services on behalf of the Commonwealth shall not be liable in tort

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<sup>1</sup> The judicial branch is also protected by the common law doctrine of judicial immunity, which is typically applied as absolute immunity. There may not be any pending litigation suggesting that such judicial immunity is subject to review as a violation of equal protection, but opinions such as *Maratita* could raise the issue and put the courts in the same exposed position of having no liability caps.

1 for more than \$50,000 in an action for wrongful death. Liability in  
2 other tortious occurrences shall be limited to \$100,000 per person,  
3 or \$200,000 per occurrence. The Commonwealth shall not be liable  
4 for any cause of action arising out of willing and wanton or reckless  
5 conduct of an employee of the Commonwealth.

6  
7 (2) The Commonwealth shall not be liable for interest prior to  
8 judgment, court fees, witness fees, or for punitive damages.

9 (3) If the Commonwealth is insured for a greater amount, the  
10 governmental liability shall be the same as the insurance coverage.

11 (4) This section does not in any way impair, limit or modify the  
12 rights and obligations under any government insurance policy.

13 (5) When the population of the Commonwealth reaches more than  
14 100,000 people according to the Federal census, the amounts set in this  
15 subsection shall be increased by \$50,000 each.

16 (b) An action shall not be instituted upon a claim against the Commonwealth for  
17 money damages for injury or loss of property or personal injury or death caused by  
18 the negligent act or omission of any employee of the Commonwealth while acting  
19 within the scope of his/her employment, unless the claimant shall have first  
20 presented the claim, which shall name the particular employee(s), to the Attorney  
21 General and the claim shall have been finally denied by the Attorney General, in

1 writing, and the claimant so notified. The failure of the Attorney General to make  
2 final disposition of a claim within 90 days after it is presented shall be deemed a  
3 final denial of the claim for purposes of this section. The provisions of this section  
4 shall not apply to such claims as may be properly asserted as third party complaints,  
5 counterclaims, or cross-claims under the Commonwealth Rules of Civil Procedure  
6 in a civil action. Every claim shall be presented within one year after the cause of  
7 action accrues.

8 (c) Action shall not be later instituted for any sum in excess of the amount of the  
9 claim presented to the Attorney General, except where the increased amount is  
10 based upon newly discovered evidence not reasonably discoverable at the time of  
11 presentation of the claim, or upon allegation and proof of intervening facts relating  
12 to the amount of the claim.

13 (d) Disposition of any claim by the Attorney General shall not be competent  
14 evidence of liability or amount of damages.

15 (e) There shall be no jury trials of tort actions against the Commonwealth or its  
16 employees unless the Commonwealth consents in writing before trial.


17 (f) Given the similarity between the federal and CNMI constitutional equal  
18 protection clauses, judicial review, if any, of this section shall apply great weight  
19 to the findings of the legislature and a standard of review consistent with federal  
20 law.

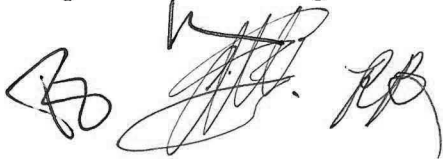
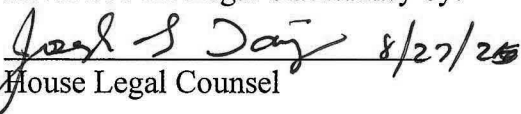
1           **Section 3. Severability.** If any provisions of this Act or the application of  
2 any such provision to any person or circumstance should be held invalid by a court  
3 of competent jurisdiction, the remainder of this Act or the application of its  
4 provisions to persons or circumstances other than those to which it is held invalid  
5 shall not be affected thereby. However, if any provisions of this Act regarding the  
6 caps on the amount of damages shall be declared unconstitutional by a court, the  
7 Legislature intends that any and all waiver of sovereign immunity is withdrawn and  
8 no permission for making a claim or receiving damages is given, thereby rendering  
9 this entire Act void and resulting in the dismissal of any pending and subsequent  
10 claim(s) as a violation of sovereign immunity.

11           **Section 4. Savings Clause.** This Act shall apply immediately to all pending  
12 litigation occurring under the Government Liability Act, 7 CMC §§ 2201, et seq.

13           **Section 5. Effective Date.** This Act shall take effect upon its approval by  
14 the Governor, or it becoming law without such approval.

Prefiled: 8/28/2025

Date: \_\_\_\_\_ Introduced by:   
Rep. Edmund S. Villagomez

Reviewed for Legal Sufficiency by:   
 8/27/25  
House Legal Counsel