

CHAPTER 280

GOVERNMENT - STATE

SENATE BILL 04-220

BY SENATOR(S) Owen and Evans;
also REPRESENTATIVE(S) Stengel.

AN ACT**CONCERNING LEVERAGED LEASING AGREEMENTS INVOLVING QUALIFIED STATE CAPITAL ASSETS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-10-106 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-10-106. Immunity and partial waiver. (1) A public entity shall be immune from liability in all claims for injury which lie in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by the claimant except as provided otherwise in this section. Sovereign immunity is waived by a public entity in an action for injuries resulting from:

(g) THE OPERATION AND MAINTENANCE OF A QUALIFIED STATE CAPITAL ASSET THAT IS THE SUBJECT OF A LEVERAGED LEASING AGREEMENT PURSUANT TO THE PROVISIONS OF PART 10 OF ARTICLE 82 OF THIS TITLE.

SECTION 2. 24-30-1510 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-30-1510. Risk management fund - creation - authorized and unauthorized payments. (3) Expenditures shall be made out of the risk management fund in accordance with subsection (1) of this section only for the following purposes:

(i) TO PAY LIABILITY CLAIMS AND EXPENSES INCURRED PURSUANT TO SECTION 24-82-1005 (2).

SECTION 3. 24-82-1002 (2), Colorado Revised Statutes, is amended to read:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

24-82-1002. Definitions. As used in this part 10, unless the context otherwise requires:

(2) "Qualified state capital asset" or "asset" means ~~any building, structure, facility, utility, transportation infrastructure,~~ qualified technological equipment as defined by section 168 (i) (2) (A) of the federal "Internal Revenue Code of 1986", as amended, or any successor provision thereto. ~~or other equipment owned by or held in trust for the state that becomes a depreciable asset for purposes of income taxation when leased for a term of sufficient length to any private person that does not have tax-exempt status.~~

SECTION 4. 24-82-1003 (1), Colorado Revised Statutes, is amended to read:

24-82-1003. Leveraged leasing. (1) On and after May 14, 2003, the executive director of the department of personnel, with the approval of the director of the office of state planning and budgeting, ~~and the state treasurer,~~ may enter into leveraged leasing agreements on behalf of the state.

SECTION 5. 24-82-1005, Colorado Revised Statutes, is amended to read:

24-82-1005. Liability not created by leveraged leasing agreement - indemnification agreements. (1) The lease of a qualified state capital asset by the state to a private person and the sublease of the asset back to the state by the private person pursuant to a leveraged leasing agreement shall not cause the private person to whom the qualified state capital asset is being leased to incur any liability in ~~any~~ **ANY TYPE OF ACTION** by virtue of the private person's status as a lessor under the leveraged leasing agreement.

(2) **AS PART OF A LEVERAGED LEASING AGREEMENT, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL, WITH THE APPROVAL OF THE DIRECTOR OF THE OFFICE OF STATE PLANNING AND BUDGETING, MAY ENTER INTO AN INDEMNITY AGREEMENT WITH THE PRIVATE PERSON TO WHOM THE QUALIFIED STATE CAPITAL ASSET IS BEING LEASED.**

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 21, 2004