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## **2017 Amendments to the Governmental Immunity Act**

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### HB0399: Three Key Changes

1. Clarifies Scope of Waivers to Address *Barneck v. UDOT*, 2015 UT 50, 353 P.3d 140.
  - a. Adds § 63G-7-101(4), which preserves immunity under § 63G-7-201(3)(latent dangerous conditions) or (4)(discretionary function, assault, etc.), “even if immunity from suit for the injury is waived under Section 63G-7-301” (contractual obligations, quiet title actions, etc.).
2. Defines “Arises out of or in connection with, or results from . . .”
  - a. Section 63G-7-102(1): amended to require a causal relationship between the conduct/condition and the injury which:
    - i. Must be more than just “any causal connection but less than proximate cause,” and
    - ii. Must be “sufficient to conclude that the injury originates with, flows from, or is incident to the conduct or condition.”
3. Changes Statute of Limitations to Address *Craig v. Provo City*, 2016 UT 40, 389 P.3d 423.
  - a. In 2016 the Utah Supreme Court dismissed as time barred a tort claim against Provo City which had been refiled after dismissed without prejudice for failure to file an undertaking. The second lawsuit (filed with an undertaking) was filed more than one year after the claim arose.
    - i. Court held that Governmental Immunity Act statute of limitations is exclusive, and case could not be resurrected by the Savings Statute
  - b. Legislature’s response:
    - i. Adds § 63G-7-403(3)(b): allowing claims made after the 1-yr. time limit if:
      1. Claimant commenced a previous action within the time limit;
      2. The previous action was dismissed for a reason other than the merits; and
      3. The new action is commenced within one year of the dismissal.