

1 **H. B. 2982**

2
3 (By Delegates Iaquina, Longstreth, Pethtel,
4 Rowan, Ferro, Walters, Givens, Jones
5 and Hatfield)

6
7 (By request of the Adjutant General)

8 [Introduced February 1, 2011; referred to the
9 Committee on the Judiciary.]

10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §15-1F-12, relating
12 to limiting the liability of military personnel who respond to
13 local emergencies and calls for assistance.

14 *Be it enacted by the Legislature of West Virginia:*

15 That the Code of West Virginia, 1931, as amended, be amended
16 by adding thereto a new section, designated §15-1F-12, to read as
17 follows:

18 **ARTICLE 1F. PRIVILEGES AND PROHIBITIONS.**

19 **§15-1F-12. Limiting liability of military personnel.**

20 (a) A member of the West Virginia National Guard called to
21 state active duty or active duty under Title 32 of the United
22 States Code in the event of a disaster, emergency or other official
23 duty has the privileges and immunities afforded to state officers
24 and employees as provided in this code, and is not liable for civil
25 damages for any alleged act, to include negligence or omission
26 which is claimed to have occurred during the rendering of that

1 assistance, unless the act is determined to be willful and wanton
2 or constitutes gross negligence.

3 (b) A member of the West Virginia National Guard called to
4 state active duty to aid the civil authorities in executing the
5 laws of the state, suppressing insurrection, repelling invasion or
6 promoting the health, safety and welfare of the citizens of this
7 state is considered a law-enforcement officer and shall be afforded
8 the privileges and immunities afforded law-enforcement officers
9 under this code, and is not liable for civil damages for any
10 alleged act, to include negligence or omission which is claimed to
11 have occurred during the rendering of that assistance, unless that
12 act is determined to be willful and wanton or constitutes gross
13 negligence.

14 (c) A member of a military police organization, military fire
15 department or unit detailed with a similar task, while in a
16 military duty status, who, at the request of a local official,
17 authority or a law-enforcement personnel, responds to a call for
18 assistance, is not liable for civil damages for any alleged act, to
19 include negligence or omission which is claimed to have occurred
20 during the rendering of that assistance, unless that act is
21 determined to be willful and wanton or constitutes gross
22 negligence.

NOTE: The purpose of this bill is to limit the liability of military personnel who respond to local emergencies and calls for assistance.

This section is new; therefore, it has been completely underscored.