

## §175. Protection from liability

**1. Employer protection from liability.** A covered employer or other employer is not and may not be considered a fiduciary in relation to the program or enterprise fund or any other arrangement under the program. A covered employer or other employer is not and may not be liable for and does not and may not bear responsibility for:

A. An employee's decision to participate in or opt out of the program; [PL 2021, c. 356, §1 (NEW).]

B. Investment decisions of the board or any participant; [PL 2021, c. 356, §1 (NEW).]

C. The administration, investment, investment returns or investment performance of the program, including without limitation any interest rate or other rate of return on any contribution or account balance; [PL 2021, c. 356, §1 (NEW).]

D. The program design or the benefits paid to participants; [PL 2021, c. 356, §1 (NEW).]

E. An individual's awareness of or compliance with the conditions and other provisions of the tax laws that determine which individuals are eligible to make tax-favored contributions to an IRA, in what amount and in what time frame and manner; or [PL 2021, c. 356, §1 (NEW).]

F. Any loss, deficiency, failure to realize any gain or any other adverse consequences, including without limitation any adverse tax consequences or loss of favorable tax treatment, public assistance or other benefits, incurred by any person as a result of participating in the program. [PL 2021, c. 356, §1 (NEW).]

[PL 2021, c. 356, §1 (NEW).]

**2. Protection for the State and others.** The State, the board, each member of the board or other state official and any other state board, commission or agency, and any member, officer or employee of any of these entities, and the program:

A. Have no responsibility for compliance by individuals with the conditions and other provisions of the Internal Revenue Code that determine which individuals are eligible to make tax-favored contributions to IRAs, in what amount and in what time frame and manner; [PL 2021, c. 356, §1 (NEW).]

B. Have no duty, responsibility or liability to any party for the payment of any benefits under the program, regardless of whether sufficient funds are available under the program to pay such benefits; [PL 2021, c. 356, §1 (NEW).]

C. Do not and may not guarantee any interest rate or other rate of return on or investment performance of any contribution or account balance; and [PL 2021, c. 356, §1 (NEW).]

D. Are not and may not be liable or responsible for any loss, deficiency, failure to realize any gain or any other adverse consequences, including without limitation any adverse tax consequences or loss of favorable tax treatment, public assistance or other benefits, incurred by any person as a result of participating in the program. [PL 2021, c. 356, §1 (NEW).]

[PL 2021, c. 356, §1 (NEW).]

**3. Debts, contracts and obligations.** The debts, contracts and obligations of the program or the board are not the debts, contracts and obligations of the State, and the faith and credit or the taxing power of the State is not pledged directly or indirectly to the payment of the debts, contracts and obligations of the program or the board.

[PL 2021, c. 356, §1 (NEW).]

**4. Immunity of board members.** The board and its staff are immune from suit on any and all tort claims seeking recovery of damages to the same extent as governmental entities under the Maine Tort Claims Act.

[PL 2021, c. 356, §1 (NEW).]

**5. Legal representation and defense of board.** The Attorney General is legal counsel to the board and shall represent and defend the board, as a group and individually, in connection with any claim, suit or action at law arising out of the performance or nonperformance of any actions related to the program under this chapter to the same extent as provided for governmental entities in the Maine Tort Claims Act.

[PL 2021, c. 356, §1 (NEW).]

#### SECTION HISTORY

PL 2021, c. 356, §1 (NEW).

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