

**§104. Applicability to certain actions and employers; exemptions**

An employer that has secured the payment of compensation in conformity with sections 401 to 407 is exempt from civil actions, either at common law or under sections 901 to 908; Title 14 sections 8101 to 8118; and Title 18-C, section 2-807, involving personal injuries sustained by an employee arising out of and in the course of employment, or for death resulting from those injuries. An employer that uses a private employment agency for temporary help services is entitled to the same immunity from civil actions by employees of the temporary help service as is granted with respect to the employer's own employees as long as the temporary help service has secured the payment of compensation in conformity with sections 401 to 407. "Temporary help services" means a service where an agency assigns its own employees to a 3rd party to work under the direction and control of the 3rd party to support or supplement the 3rd party's workforce in work situations such as employee absences, temporary skill shortages, seasonal workload conditions and special assignments and projects. Except as provided in section 104-A, these exemptions from liability apply to all employees, supervisors, officers and directors of the employer for any personal injuries arising out of and in the course of employment, or for death resulting from those injuries. These exemptions also apply to occupational diseases sustained by an employee or for death resulting from those diseases. These exemptions do not apply to an illegally employed minor as described in section 408, subsection 2. [PL 2023, c. 126, §1 (AMD).]

A design professional acting within the course and scope of providing professional services during the construction, erection or installation of any project or a design professional's employee who is acting within the course and scope of assisting or representing the design professional in the performance of design professional services on or adjacent to the site of the project's construction, erection or installation is immune from liability for any personal injury or death occurring at or adjacent to such a site, if compensation is paid to the injured person or decedent's representative for the injury or death under this Act, and the design professional has no duty under a written contract to assume responsibility for construction site safety. The immunity provided by this section to any design professional does not apply to the negligent preparation of design plans and technical specifications. Except as provided by this section, any waiver, oral or written, express or implied, of the design professional's immunity granted by this section is void and unenforceable as a matter of law. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

**SECTION HISTORY**

PL 1991, c. 885, §A8 (NEW). PL 1991, c. 885, §§A9-11 (AFF). PL 1995, c. 297, §1 (AMD). PL 2017, c. 402, Pt. C, §109 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF). PL 2023, c. 126, §1 (AMD).

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