

RESOLUTION 2011-157

**URGING THE SWIFT PASSAGE OF A-3430, A-3431 AND A-3432
STRENGTHENING THE MUNICIPALITIES IMMUNITY FROM TORT CLAIMS**

WHEREAS, injuries that occur on sidewalks that abut commercial property are the responsibility of the commercial property owner; and

WHEREAS, courts have ruled that injuries that occur on sidewalks that abut residential property are not the responsibility of the homeowner even when the homeowner is responsible for the maintenance and repair of the sidewalk by municipal ordinance; and

WHEREAS, courts have ruled that the municipality, not the homeowner, is liable for accidents on defective sidewalks notwithstanding the municipal ordinance; and

WHEREAS, under the provisions of Title 59, public entities are immune from injury “caused solely by weather” on streets and sidewalks; and

WHEREAS, despite this language, in many cases municipalities and other public entities still have been forced to pay large amounts of money in damages when courts ruled that because other factors contributed to the accident, the Title 59 immunity didn’t apply because the accident was not “solely” caused by weather; and

WHEREAS, municipalities and other public entities have also been forced to pay large amounts of money in damages for accidents occurring on other public property that were substantially caused by weather; and

WHEREAS, also under the provisions of Title 59, public entities are immune from injury “caused by a condition of any unimproved public property, including but not limited to any natural condition of any beach;” and

WHEREAS, despite this language in many cases municipalities still have been forced to pay large amounts of money in damages for claims by swimmers injured in the ocean; and

WHEREAS, public entities have also incurred large costs in defending lawsuits by persons injured while walking on municipal boardwalks; and

WHEREAS, a public entity should be immune from such a suit if it can demonstrate that it was operating under an ongoing maintenance plan calling for periodically reviewing and repairing the boardwalk; and

WHEREAS, Assemblyman Burzichelli has introduced a package of legislation, A-3430, A-3431 and A-3432 to strengthen immunity from tort claims involving weather, sidewalks, beaches, boardwalks and similar public properties.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE TOWNSHIP OF OCEAN, THAT the legislature is urged to pass A-3430, A3431 and A3432 to strengthen municipalities immunity from tort claims.

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to the members of the New Jersey General Assembly, the New Jersey State Senate, the Governor of the State of New Jersey and the New Jersey League of Municipalities

DISTRIBUTION LIST

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CERTIFICATION

I, Diane B. Ambrosio, Clerk of the Township of Ocean, County of Ocean, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of a resolution adopted by the Township Committee on the 14th day of April 2011.

Diane B. Ambrosio, RMC
Township Clerk