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HB 162/95 - JUD

1996 Regular Session
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CF HB 235

By: Senators Hoffman, Boozer, Hollinger, and Ruben

Introduced and read first time: January 24, 1996

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: February 14, 1996

CHAPTER ____

1 AN ACT concerning

2 **Community Associations - Immunity**

3 FOR the purpose of limiting the civil liability of certain community associations and
4 certain agents of community associations under certain circumstances; providing for
5 the application of this Act; and generally relating to immunity from liability for
6 certain associations and organizations and their agents.

7 BY repealing and reenacting, with amendments,
8 Article - Courts and Judicial Proceedings
9 Section 5-312
10 Annotated Code of Maryland
11 (1995 Replacement Volume and 1995 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - Courts and Judicial Proceedings**

15 5-312.

16 (a) (1) In this section the following words have the meanings indicated.

17 (2) (i) "Agent of an association or organization" means a director, officer,
18 trustee, employee, or volunteer of an association or organization who provides services or
19 performs duties on behalf of the association or organization.

20 (ii) "Agent of an association or organization" does not include an
21 independent contractor who provides services or performs duties on behalf of the
22 association or organization on a contractual basis.

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1 (3) "Association or organization" means:

2 (i) An athletic club;

3 (ii) A charitable organization;

4 (iii) A civic league or organization;

5 (IV) A COMMUNITY ASSOCIATION;

6 [(iv)] (V) A cooperative housing corporation as that term is defined
7 under § 5-6B-01 of the Corporations and Associations Article;

8 [(v)] (VI) A council of unit owners of a condominium as that term is
9 defined in § 11-101 of the Real Property Article; or

10 [(vi)] (VII) A homeowners' association.

11 (4) "Athletic club" means a club organized and operated exclusively for
12 recreational purposes, that is exempt from taxation under § 501(c)(7) of the Internal
13 Revenue Code.

14 (5) "Charitable organization" means an organization, institution,
15 association, society, or corporation that is exempt from taxation under § 501(c)(3) of the
16 Internal Revenue Code.

17 (6) "Civic league or organization" means an organization, operated
18 exclusively for the promotion of social welfare, that is exempt from taxation under §
19 501(c)(4) of the Internal Revenue Code.

20 (7) (I) "COMMUNITY ASSOCIATION" MEANS A NONPROFIT
21 ASSOCIATION, CORPORATION, OR OTHER ORGANIZATION THAT IS:

22 1. COMPRISED OF RESIDENTS OF A CONTIGUOUS
23 COMMUNITY THAT IS DEFINED BY SPECIFIC GEOGRAPHIC BOUNDARIES; AND

24 2. OPERATED FOR THE PROMOTION OF THE WELFARE,
25 IMPROVEMENT, AND ENHANCEMENT OF THAT COMMUNITY.

26 (II) "COMMUNITY ASSOCIATION" INCLUDES A NONPROFIT
27 ASSOCIATION, CORPORATION, OR OTHER ORGANIZATION THAT REPRESENTS THE
28 COMMON INTEREST OF MORE THAN ONE COMMUNITY ASSOCIATION.

29 [(7)] (8) "Compensation" does not include actual and necessary expenses
30 that are incurred by a volunteer in connection with the services provided or duties
31 performed by the volunteer on behalf of an association or organization, and that are
32 reimbursed to the volunteer or otherwise paid.

33 [(8)] (9) "Homeowners' association" means a nonprofit association,
34 corporation, or other organization comprised of property owners in a subdivision or group
35 of subdivisions whose purpose is to represent the mutual interests of the property owners
36 regarding the construction, protection, and maintenance of the commonly owned or used
37 property and improvements.

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1 (f) (1) This section does not create, and may not be construed as creating, a
2 new cause of action or substantive legal right against an association or organization or an
3 agent of an association or organization.

4 (2) This section does not affect, and may not be construed as affecting, any
5 immunities from civil liability or defenses established by any other provision of the Code
6 or available at common law, to which an association or organization or an agent of an
7 association or organization may be entitled.

8 (g) This section may be cited as the Maryland Associations, Organizations, and
9 Agents Act.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed
11 retroactively and shall be applied to and interpreted to affect any cause of action against
12 an agent of a community association arising on or after October 1, 1994.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 July 1, 1996.