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SB 244/96 - JPR

1997 Regular Session
7r1314
CF 7r1038

By: Senators Hoffman, Boozer, Ruben, and Hollinger

Introduced and read first time: January 10, 1997

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 20, 1997

CHAPTER ____

1 AN ACT concerning

2 **Community Associations - Civil Liability**

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 1996 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.

2

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) "COMMUNITY ASSOCIATION" MEANS A NONPROFIT ASSOCIATION,
30 CORPORATION, OR OTHER ORGANIZATION THAT:

31 (I) IS COMPRISED OF AT LEAST 25% OF THE ADULT RESIDENTS OF
32 A LOCAL COMMUNITY THAT:

33 1. CONSISTS OF 40 OR MORE INDIVIDUAL HOUSEHOLDS;
34 AND

35 2. IS DEFINED BY SPECIFIC GEOGRAPHIC BOUNDARIES IN
36 THE CHARTER OR BYLAWS OF THE NONPROFIT ASSOCIATION, CORPORATION, OR
37 OTHER ORGANIZATION;

1 (II) REQUIRES, AS A CONDITION OF MEMBERSHIP, THE
2 VOLUNTARY PAYMENT OF MONETARY DUES AT LEAST ANNUALLY;

3 (III) IS OPERATED EXCLUSIVELY FOR THE PROMOTION OF SOCIAL
4 WELFARE AND GENERAL NEIGHBORHOOD IMPROVEMENT AND ENHANCEMENT;
5 AND

6 (IV) IN THE CASE OF A CORPORATION, IS IN GOOD STANDING.

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

11 [(8)] (9) "Homeowners' association" means a nonprofit association,
12 corporation, or other organization comprised of property owners in a subdivision or group
13 of subdivisions whose purpose is to represent the mutual interests of the property owners
14 regarding the construction, protection, and maintenance of the commonly owned or used
15 property and improvements.

16 [(9)] (10) "Suit" means any civil action, except any health care malpractice
17 action, brought against an agent of an association or organization or against the
18 association or organization by virtue of the agent's act or omission in providing services or
19 performing duties on behalf of the association or organization.

20 [(10)] (11) "Volunteer" means an officer, director, trustee, or other person
21 who provides services or performs duties on behalf of an association or organization
22 without receiving compensation.

23 (b) Except as provided in subsection (d) of this section, an agent of an association
24 or organization is not personally liable for damages in any suit if:

25 (1) The association or organization maintains insurance covering liability
26 incurred by the association or organization or its agents, or both, as a result of the acts or
27 omissions of its agents in providing services or performing duties on behalf of the
28 association or organization;

29 (2) The terms of the insurance policy under which the insurance is
30 maintained provide coverage for the act or omission which is the subject matter of the suit
31 and no meritorious basis exists for the denial of the coverage by the insurance carrier; and

32 (3) The insurance has:

33 (i) A limit of coverage of not less than:

34 1. \$200,000 per individual claim, and \$500,000 per total claims
35 that arise from the same occurrence; or

36 2. \$750,000 per policy year, and \$500,000 per total claims that
37 arise from the same occurrence; and

38 (ii) 1. If the insurance has a deductible, a deductible amount not
39 greater than \$10,000 per occurrence; or

