

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 703 (Senator Stone)
Judicial Proceedings

Community Associations - Civil Liability

This bill amends the definition of “community association” for purposes of the Maryland Associations, Organizations, and Agents Act by repealing the requirement that the association be composed of at least 25% of the adult residents of the community.

The bill applies only prospectively to causes of action arising on or after the October 1, 2004 effective date.

Fiscal Summary

State Effect: Any expenditures associated with more community associations being registered with the Office of the Secretary of State could be handled within existing resources.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Current Law: A “community association” qualifies as an “association or organization” for purposes of provisions that limit the liability of associations and organizations and their agents under the Maryland Associations, Organizations, and Agents Act, if it is a nonprofit organization registered with the Secretary of State and is either composed of:

- at least 25% of the adult residents of a local community that: (1) consists of at least 40 households and is defined by specific geographic boundaries; (2) requires

the payment of dues at least annually; (3) promotes social welfare and general civic improvement; and (4) in the case of a corporation, is in good standing; or

- more than one of the organizations described above if each organization meets the requirements described above.

A nonprofit organization that has been in existence for at least five years and promotes social welfare and general civic improvement may register with the Secretary of State as a community association by filing an affidavit that the organization meets the definition of a community association.

Generally, under the Maryland Associations, Organizations, and Agents Act, an agent of an association or organization is not personally liable for damages in any suit if:

- the association or organization maintains insurance covering liability incurred by it or its agents, or both, as a result of the acts or omissions of its agents in providing services or performing duties on behalf of the association or organization;
- the terms of the insurance policy provide coverage for the act or omission that is the subject matter of the suit and there is no meritorious basis for denying coverage by the insurer; and
- the insurance has a coverage limit of at least: (1) \$200,000 per individual claim and \$500,000 per total claims arising from the same occurrence or \$750,000 per policy year and \$500,000 per total claims that arise from the same occurrence; and (2) a deductible amount of no more than \$10,000 per occurrence or a coinsurance rate of no more than 20%, whichever is applicable.

The liability of an association or organization for damages is limited to the extent of the applicable insurance coverage, including any deductible or coinsurance.

Under the Maryland Associations, Organizations, and Agents Act, an association or organization means: (1) an athletic club; (2) a charitable organization; (3) a civic league or organization; (4) a community association; (5) a cooperative housing corporation; (6) a condominium's council of unit owners; or (7) a homeowners' association.

Additional Information

Prior Introductions: None.

Cross File: HB 672 (Delegate Minnick, *et al.*) – Judiciary.

Information Source(s): Secretary of State, Department of Legislative Services

Fiscal Note History: First Reader - February 29, 2004

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