
By: **Delegate Edwards**

Introduced and read first time: February 9, 2005

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Immunity from Civil Liability - Volunteers - Governing Bodies of**
3 **Condominiums, Homeowners Associations, and Cooperative Housing**
4 **Corporations**

5 FOR the purpose of granting immunity from civil liability to volunteers of certain
6 governing bodies in a condominium, homeowners association, or cooperative
7 housing corporation under certain circumstances; prohibiting the naming of a
8 volunteer of certain governing bodies as a party defendant under certain
9 circumstances; providing for a certain exception; providing for the application of
10 this Act; and generally relating to immunity from civil liability for volunteers of
11 certain governing bodies of condominiums, homeowners associations, and
12 cooperative housing corporations.

13 BY repealing and reenacting, with amendments,
14 Article - Courts and Judicial Proceedings
15 Section 5-422
16 Annotated Code of Maryland
17 (2002 Replacement Volume and 2004 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - Real Property
20 Section 14-118
21 Annotated Code of Maryland
22 (2003 Replacement Volume and 2004 Supplement)

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

25 **Article - Courts and Judicial Proceedings**

26 5-422.

27 (a) (1) In this section[, "governing body"] THE FOLLOWING WORDS HAVE
28 THE MEANINGS INDICATED.

1 (2) "COMPENSATION" HAS THE MEANING STATED IN § 14-118 OF THE
2 REAL PROPERTY ARTICLE.

3 (3) "GOVERNING BODY" has the meaning stated in §14-118 of the Real
4 Property Article.

5 (4) "VOLUNTEER" HAS THE MEANING STATED IN § 14-118 OF THE REAL
6 PROPERTY ARTICLE.

7 (b) Subject to the provisions of subsection (c) of this section, a person
8 sustaining an injury as a result of the tortious act of an officer, [or] director, OR
9 VOLUNTEER of a governing body while the officer, [or] director, OR VOLUNTEER is
10 acting within the scope of the officer's, [or] director's, OR VOLUNTEER'S SERVICES OR
11 duties may recover only in an action brought against the governing body for the
12 actual damages sustained.

13 (c) In a proceeding against a governing body, [a] AN OFFICER, director [or
14 officer], OR VOLUNTEER of a governing body may not be held personally liable for
15 injuries sustained by a party if the OFFICER, director [or officer], OR VOLUNTEER:

16 (1) Acted within the scope of the OFFICER'S, director's [or officer's], OR
17 VOLUNTEER'S SERVICES OR duties;

18 (2) Acted in good faith; and

19 (3) Did not act in a reckless, wanton, or grossly negligent manner.

20 (d) (1) Except as provided in paragraph (2) of this subsection, a [claimant
21 shall name only] PLAINTIFF MAY NOT NAME AN OFFICER, DIRECTOR, OR VOLUNTEER
22 OF the governing body as a party defendant.

23 (2) An officer, [or] director, OR VOLUNTEER of a governing body may be
24 named individually only when the governing body for which the officer, [or] director,
25 OR VOLUNTEER was acting cannot be determined at the time an action is instituted
26 under this section.

27 (3) If an officer, [or] director, OR VOLUNTEER is named as an individual
28 defendant under this section, the governing body for which the officer, [or] director,
29 OR VOLUNTEER was acting shall be substituted as the party defendant when its
30 identity reasonably can be determined.

31 **Article - Real Property**

32 14-118.

33 (a) (1) In this section[, "governing body"] THE FOLLOWING WORDS HAVE
34 THE MEANINGS INDICATED.

35 (2) "COMPENSATION" DOES NOT INCLUDE ACTUAL AND NECESSARY
36 EXPENSES THAT ARE INCURRED IN CONNECTION WITH THE SERVICES PROVIDED OR

1 DUTIES PERFORMED ON BEHALF OF A GOVERNING BODY AND THAT ARE
2 REIMBURSED OR OTHERWISE PAID.

3 (3) (I) "GOVERNING BODY" means a person who has the authority to
4 enforce:

5 [(i)] A. The provisions of a declaration, as defined under § 11-103
6 of the Maryland Condominium Act;

7 [(ii)] B. Articles of incorporation of a council of unit owners, of a
8 cooperative housing corporation as defined under the Maryland Cooperative Housing
9 Corporation Act, or of a homeowners association, as defined under the Maryland
10 Homeowners Association Act; or

11 [(iii)] C. The provisions of bylaws, rules, and regulations of a
12 condominium, as defined under the Maryland Condominium Act, of a cooperative
13 housing corporation as defined under the Maryland Cooperative Housing Corporation
14 Act, or of a homeowners association, as defined under the Maryland Homeowners
15 Association Act.

16 [(2)] (II) Governing body includes:

17 [(i)] A. A homeowners association, as defined under the Maryland
18 Homeowners Association Act;

19 [(ii)] B. A council of unit owners of a condominium, as described in
20 the Maryland Condominium Act; or

21 [(iii)] C. A cooperative housing corporation.

22 (4) "VOLUNTEER" MEANS A PERSON WHO PROVIDES SERVICES OR
23 PERFORMS DUTIES ON BEHALF OF A GOVERNING BODY WITHOUT RECEIVING
24 COMPENSATION.

25 (b) A person sustaining an injury as a result of the tortious act of an officer,
26 [or] director, OR VOLUNTEER of a governing body while the officer, [or] director, OR
27 VOLUNTEER is acting within the scope of the officer's, [or] director's, OR
28 VOLUNTEER'S duties may recover only in an action brought against the governing
29 body for the damages described under § 5-422(b) of the Courts and Judicial
30 Proceedings Article.

31 (c) In a proceeding against a governing body, [a] AN OFFICER, director [or
32 officer], OR VOLUNTEER of a governing body shall have the immunity from liability
33 described under § 5-422(c) of the Courts and Judicial Proceedings Article.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
35 construed to apply only prospectively and may not be applied or interpreted to have
36 any effect on or application to any cause of action arising before the effective date of
37 this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2005.