

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senators Stone and Giannetti**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Community Associations - Civil Liability**

3 FOR the purpose of altering the definition of "community association" for purposes of
4 certain provisions of law that limit the civil liability of certain community
5 associations and their agents under certain circumstances; providing for the
6 application of this Act; and generally relating to limiting the civil liability of
7 certain community associations and their agents.

8 BY repealing and reenacting, with amendments,
9 Article - Courts and Judicial Proceedings
10 Section 5-406(a)
11 Annotated Code of Maryland
12 (2002 Replacement Volume and 2004 Supplement)

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

1 **Article - Courts and Judicial Proceedings**

2 5-406.

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

4 (2) (i) "Agent of an association or organization" means a director,
5 officer, trustee, employee, or volunteer of an association or organization who provides
6 services or performs duties on behalf of the association or organization.7 (ii) "Agent of an association or organization" does not include an
8 independent contractor who provides services or performs duties on behalf of the
9 association or organization on a contractual basis.

10 (3) "Association or organization" means:

11 (i) An athletic club;

12 (ii) A charitable organization;

13 (iii) A civic league or organization;

14 (iv) A community association;

15 (v) A cooperative housing corporation as that term is defined under
16 § 5-6B-01 of the Corporations and Associations Article;17 (vi) A council of unit owners of a condominium as that term is
18 defined in § 11-101 of the Real Property Article; or

19 (vii) A homeowners' association.

20 (4) "Athletic club" means a club organized and operated exclusively for
21 recreational purposes that is exempt from taxation under § 501(c)(7) of the Internal
22 Revenue Code.23 (5) "Charitable organization" means an organization, institution,
24 association, society, or corporation that is exempt from taxation under § 501(c)(3) of
25 the Internal Revenue Code.26 (6) "Civic league or organization" means an organization, operated
27 exclusively for the promotion of social welfare, that is exempt from taxation under §
28 501(c)(4) of the Internal Revenue Code.29 (7) "Community association" means a nonprofit association, corporation,
30 or other organization that registers with the Secretary of State under § 7-108 of the
31 State Government Article and:32 (i) 1. Is composed of at least 25% of the adult residents ~~OR AT~~
33 ~~LEAST 100 ADULT RESIDENTS, WHICHEVER IS LESS~~, of a local community that:

- 1 A. Consists of at least 40 households; and
- 2 B. Is defined by specific geographic boundaries in the bylaws
3 or charter of the organization;
- 4 2. At least annually, requires the payment of dues;
- 5 3. Promotes social welfare and general civic improvement;
- 6 and
- 7 4. In the case of a corporation, is in good standing; ~~or~~

8 (II) 1. IS COMPOSED OF AT LEAST 100 ADULT RESIDENTS, BUT
9 LESS THAN 25% OF THE ADULT RESIDENTS OF A LOCAL COMMUNITY THAT:

10 A. CONSISTS OF AT LEAST 40 HOUSEHOLDS; AND

11 B. IS DEFINED BY SPECIFIC GEOGRAPHIC BOUNDARIES IN
12 THE BYLAWS OR CHARTER OF THE ORGANIZATION;

13 2. WAS ORGANIZED ON OR BEFORE JANUARY 1, ~~1980~~ 2000,
14 AND HAS BEEN IN CONTINUOUS OPERATION SINCE THAT DATE; AND

15 3. MEETS THE REQUIREMENTS OF ITEM (I)2, 3, AND 4 OF THIS
16 PARAGRAPH; OR

17 ~~(ii)~~ (III) 1. Is composed of more than one of the organizations
18 described in item (i) OR ITEM (II) of this paragraph; and

19 2. Each of those organizations meets the requirements of
20 item (i) OR ITEM (II) of this paragraph.

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

25 (9) "Homeowners' association" means a nonprofit association,
26 corporation, or other organization comprised of property owners in a subdivision or
27 group of subdivisions whose purpose is to represent the mutual interests of the
28 property owners regarding the construction, protection, and maintenance of the
29 commonly owned or used property and improvements.

30 (10) "Suit" means any civil action, except any health care malpractice
31 action, brought against an agent of an association or organization or against the
32 association or organization by virtue of the agent's act or omission in providing
33 services or performing duties on behalf of the association or organization.

34 (11) "Volunteer" means an officer, director, trustee, or other person who
35 provides services or performs duties on behalf of an association or organization
36 without receiving compensation.

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

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