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By: **Senators Stone and Giannetti**

Introduced and read first time: February 3, 2005

Assigned to: Judicial Proceedings

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A BILL ENTITLED

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:

15 **Article - Courts and Judicial Proceedings**

16 5-406.

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

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

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

24 (3) "Association or organization" means:

25 (i) An athletic club;

26 (ii) A charitable organization;

- 1 (iii) A civic league or organization;
- 2 (iv) A community association;
- 3 (v) A cooperative housing corporation as that term is defined under  
4 § 5-6B-01 of the Corporations and Associations Article;
- 5 (vi) A council of unit owners of a condominium as that term is  
6 defined in § 11-101 of the Real Property Article; or
- 7 (vii) A homeowners' association.

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

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

14 (6) "Civic league or organization" means an organization, operated  
15 exclusively for the promotion of social welfare, that is exempt from taxation under §  
16 501(c)(4) of the Internal Revenue Code.

17 (7) "Community association" means a nonprofit association, corporation,  
18 or other organization that registers with the Secretary of State under § 7-108 of the  
19 State Government Article and:

- 20 (i) 1. Is composed of at least 25% of the adult residents OR AT  
21 LEAST 100 ADULT RESIDENTS, WHICHEVER IS LESS, of a local community that:
- 22 A. Consists of at least 40 households; and
- 23 B. Is defined by specific geographic boundaries in the bylaws  
24 or charter of the organization;
- 25 2. At least annually, requires the payment of dues;
- 26 3. Promotes social welfare and general civic improvement;  
27 and
- 28 4. In the case of a corporation, is in good standing; or
- 29 (ii) 1. Is composed of more than one of the organizations  
30 described in item (i) of this paragraph; and
- 31 2. Each of those organizations meets the requirements of  
32 item (i) of this paragraph.

33 (8) "Compensation" does not include actual and necessary expenses that  
34 are incurred by a volunteer in connection with the services provided or duties

1 performed by the volunteer on behalf of an association or organization, and that are  
2 reimbursed to the volunteer or otherwise paid.

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

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

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

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

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