
By: **Senators Stone and Giannetti**
 Introduced and read first time: February 3, 2005
 Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
 Senate action: Adopted
 Read second time: March 15, 2005

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:

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.

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

4 (3) "Association or organization" means:

5 (i) An athletic club;

6 (ii) A charitable organization;

7 (iii) A civic league or organization;

8 (iv) A community association;

9 (v) A cooperative housing corporation as that term is defined under
10 § 5-6B-01 of the Corporations and Associations Article;

11 (vi) A council of unit owners of a condominium as that term is
12 defined in § 11-101 of the Real Property Article; or

13 (vii) A homeowners' association.

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

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

20 (6) "Civic league or organization" means an organization, operated
21 exclusively for the promotion of social welfare, that is exempt from taxation under §
22 501(c)(4) of the Internal Revenue Code.

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

26 (i) 1. Is composed of at least 25% of the adult residents ~~OR AT~~
27 ~~LEAST 100 ADULT RESIDENTS, WHICHEVER IS LESS,~~ of a local community that:

28 A. Consists of at least 40 households; and

29 B. Is defined by specific geographic boundaries in the bylaws
30 or charter of the organization;

31 2. At least annually, requires the payment of dues;

32 3. Promotes social welfare and general civic improvement;

33 and

1 4. In the case of a corporation, is in good standing; ~~or~~

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

4 A. CONSISTS OF AT LEAST 40 HOUSEHOLDS; AND

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

7 2. WAS ORGANIZED ON OR BEFORE JANUARY 1, 1980, AND
8 HAS BEEN IN CONTINUOUS OPERATION SINCE THAT DATE; AND

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

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

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

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

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

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

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

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

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

