

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 784
Judiciary

(Delegate Edwards)

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

This bill grants immunity from civil liability to a volunteer of a governing body of a condominium, homeowners association, or cooperative housing corporation when the volunteer is acting within the scope of the volunteer's services. A volunteer may not be held personally liable if the volunteer acted in good faith, and did not act in a reckless, wanton, or grossly negligent manner. An action must be brought against the governing body, unless the governing body cannot be determined, at which point the volunteer may be named individually as a party defendant. The governing body must be substituted as the party defendant when its identity is determined.

Fiscal Summary

State Effect: None. The bill would not directly affect State operations or expenditures.

Local Effect: None – see above.

Small Business Effect: None.

Analysis

Current Law: Officers and directors of condominiums, homeowners associations, or cooperative housing corporations are immune from civil liability when acting in the scope of their duties as officers and directors.

An officer or director may not be held personally liable if acting in good faith, and not in a reckless, wanton, or grossly negligent manner. Actions must be brought against the governing body, unless the governing body cannot be determined; at which point, action may be brought against the officer or director. The governing body must be substituted as the party defendant when its identity is determined.

The Maryland Associations, Organizations, and Agents Act provides that an agent of an association or organization is not personally liable for damages in any suit if the association or organization has insurance covering liability 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 coverage must meet specific criteria as outlined in the statute. A plaintiff may recover damages only to the extent of the association's insurance coverage. An agent is liable for damages, to the extent that the judgment for damages exceeds the limits on liability, if it is found that the agent acted with malice or gross negligence.

Association or organization means:

- an athletic club;
- a charitable organization;
- a civic league or organization;
- a community association;
- a cooperative housing corporation as defined under the Corporations and Associations Article;
- a council of unit owners of a condominium as defined in the Real Property Article;
- or
- a homeowners' association.

The Maryland Volunteer Service Act provides that an officer, director, trustee, or other person who provides services or performs duties for an association or organization without receiving compensation ("volunteer") is not liable in damages beyond the limits of the volunteer's personal insurance in any suit that arises from an act or omission of an officer, director, employee, trustee, or another volunteer of the association or organization for which the volunteer performs services, unless:

- the volunteer knew or should have known of an act or omission of a particular officer, director, employee, trustee, or another volunteer, and the volunteer authorizes, approves, or otherwise actively participates in that act or omission; or

- after an act or omission of a particular officer, director, employee, trustee, or another volunteer, the volunteer, with full knowledge of that act or omission, ratifies it.

A volunteer is not liable in damages beyond the limits of the volunteer's personal insurance in any suit that arises from the volunteer's act or omission in connection with any services provided or duties performed by the volunteer on behalf of the association or organization, unless an act or omission of the volunteer constitutes gross negligence, reckless, willful, or wanton misconduct, or intentionally tortious conduct.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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ncs/jr

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