

HOUSE BILL 7

D3

8lr0500

(PRE-FILED)

By: **Delegate Sophocleus**

Requested: August 14, 2007

Introduced and read first time: January 9, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Athletic Associations – Civil Liability**

3 FOR the purpose of limiting the liability of certain athletic associations and agents of
4 athletic associations under certain circumstances; providing for the application
5 of this Act; and generally relating to immunity from civil liability for certain
6 athletic associations and their agents.

7 BY repealing and reenacting, with amendments,
8 Article – Courts and Judicial Proceedings
9 Section 5–406
10 Annotated Code of Maryland
11 (2006 Replacement Volume and 2007 Supplement)

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

14 **Article – Courts and Judicial Proceedings**

15 5–406.

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

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) “Association or organization” means:

2 (I) **AN ATHLETIC ASSOCIATION;**

3 [(i)] (II) An athletic club;

4 [(ii)] (III) A charitable organization;

5 [(iii)] (IV) A civic league or organization;

6 [(iv)] (V) A community association;

7 [(v)] (VI) A cooperative housing corporation as that term is
8 defined under § 5–6B–01 of the Corporations and Associations Article;

9 [(vi)] (VII) A council of unit owners of a condominium as that
10 term is defined in § 11–101 of the Real Property Article; or

11 [(vii)] (VIII) A homeowners’ association.

12 (4) **“ATHLETIC ASSOCIATION” MEANS A NONGOVERNMENTAL**
13 **CLUB, ORGANIZATION, ASSOCIATION, OR CORPORATION THAT:**

14 (I) **IS AND HAS ALWAYS BEEN ORGANIZED AND OPERATED**
15 **EXCLUSIVELY TO FOSTER AMATEUR SPORTS COMPETITION; AND**

16 (II) **HAS BEEN IN CONTINUOUS EXISTENCE FOR AT LEAST 3**
17 **CONSECUTIVE YEARS.**

18 [(4)] (5) “Athletic club” means a club organized and operated
19 exclusively for recreational purposes that is exempt from taxation under § 501(c)(7) of
20 the Internal Revenue Code.

21 [(5)] (6) “Charitable organization” means an organization,
22 institution, association, society, or corporation that is exempt from taxation under §
23 501(c)(3) of the Internal Revenue Code.

24 [(6)] (7) “Civic league or organization” means an organization,
25 operated exclusively for the promotion of social welfare, that is exempt from taxation
26 under § 501(c)(4) of the Internal Revenue Code.

27 [(7)] (8) “Community association” means a nonprofit association,
28 corporation, or other organization that registers with the Secretary of State under
29 § 7–108 of the State Government Article and:

1 (i) 1. Is composed of at least 25% of the adult residents of a
2 local community that:

3 A. Consists of at least 40 households; and

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

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

7 3. Promotes social welfare and general civic
8 improvement; and

9 4. In the case of a corporation, is in good standing;

10 (ii) 1. Is composed of at least 100 adult residents, but less
11 than 25% of the adult residents of a local community that:

12 A. Consists of at least 40 households; and

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

15 2. Was organized on or before January 1, 2000, and has
16 been in continuous operation since that date; and

17 3. Meets the requirements of item (i)2, 3, and 4 of this
18 paragraph; or

19 (iii) 1. Is composed of more than one of the organizations
20 described in item (i) or item (ii) of this paragraph; and

21 2. Each of those organizations meets the requirements of
22 item (i) or item (ii) of this paragraph.

23 [(8)] (9) "Compensation" does not include actual and necessary
24 expenses that are incurred by a volunteer in connection with the services provided or
25 duties performed by the volunteer on behalf of an association or organization, and that
26 are reimbursed to the volunteer or otherwise paid.

27 [(9)] (10) "Homeowners' association" means a nonprofit association,
28 corporation, or other organization comprised of property owners in a subdivision or
29 group of subdivisions whose purpose is to represent the mutual interests of the
30 property owners regarding the construction, protection, and maintenance of the
31 commonly owned or used property and improvements.

1 [(10)] **(11)** “Suit” means any civil action, except any health care
2 malpractice action, brought against an agent of an association or organization or
3 against the association or organization by virtue of the agent’s act or omission in
4 providing services or performing duties on behalf of the association or organization.

5 [(11)] **(12)** “Volunteer” means an officer, director, trustee, or other
6 person who provides services or performs duties on behalf of an association or
7 organization without receiving compensation.

8 (b) Except as provided in subsection (d) of this section, an agent of an
9 association or organization is not personally liable for damages in any suit if:

10 (1) The association or organization maintains insurance covering
11 liability incurred by the association or organization or its agents, or both, as a result of
12 the acts or omissions of its agents in providing services or performing duties on behalf
13 of the association or organization;

14 (2) The terms of the insurance policy under which the insurance is
15 maintained provide coverage for the act or omission which is the subject matter of the
16 suit and no meritorious basis exists for the denial of the coverage by the insurance
17 carrier; and

18 (3) The insurance has:

19 (i) A limit of coverage of not less than:

20 1. \$200,000 per individual claim, and \$500,000 per total
21 claims that arise from the same occurrence; or

22 2. \$750,000 per policy year, and \$500,000 per total
23 claims that arise from the same occurrence; and

24 (ii) 1. If the insurance has a deductible, a deductible amount
25 not greater than \$10,000 per occurrence; or

26 2. If there is coinsurance, a rate of coinsurance not
27 greater than 20 percent.

28 (c) In suits to which the provisions of subsection (b) of this section apply, the
29 plaintiff may recover damages from the association or organization only to the extent
30 of the applicable limit of insurance coverage including any amount for which the
31 association or organization is responsible as a result of any deductible or coinsurance
32 provisions of such insurance coverage.

33 (d) An agent of an association or organization shall be liable for damages in
34 any suit in which it is found that the agent acted with malice or gross negligence, to

1 the extent that the judgment for damages exceeds the limits on liability under
2 subsection (c) of this section.

3 (e) The provisions of this section do not apply to suits brought by the
4 Attorney General upon referral by the Secretary of State in which willful violations of
5 Title 6 of the Business Regulation Article are alleged and proven.

6 (f) (1) This section does not create, and may not be construed as creating,
7 a new cause of action or substantive legal right against an association or organization
8 or an agent of an association or organization.

9 (2) This section does not affect, and may not be construed as affecting,
10 any immunities from civil liability or defenses established by any other provision of
11 the Code or available at common law, to which an association or organization or an
12 agent of an association or organization may be entitled.

13 (g) This section may be cited as the Maryland Associations, Organizations,
14 and Agents Act.

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, 2008.