

Testimony of American Property Casualty Insurance Association (APCIA)

House Judiciary Committee

House 721 Tort Claims Acts – Limits on Liability

February 10, 2021

Letter of Opposition

The American Property Casualty Insurance Association (APCIA) represents more than 1,200 insurers and reinsurers that provide critically important insurance protection throughout the U.S. and world. In combination, our members write 60% of the U.S. property and casualty market policies. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe. In Maryland, our members write 66.6% of all written premium. APCIA appreciates the opportunity to provide comments in opposition of House 721.

House 721 increases the liability of both local governments and the State for claims arising from acts committed by an employee within the scope of employment. This bill dramatically increases the cap on damages for local governments from \$800,000 to \$1,200,000 for each occurrence and from \$400,000 to \$600,00 for each individual claim under the cap. The current cap, increased just four years ago in 2015, already provides a high level of compensation in response to any claims brought against municipalities, while protecting the ability of Maryland's counties and cities to provide the wide range of services that are crucial to their residents. This is a particularly bad time for this change considering the current health and economic crisis Maryland's municipalities are navigating. This is certainly not a time to be putting municipal budgets at risk from mega lawsuits.

Notably, while the bill does not address contractors specifically in this language, it may be presumed that local governments and the State will require contractors to insure up to their occurrence damage cap, as the "maximum" becomes the "minimum" liability requirement for purposes of projecting potential liability. This will cause any project being conducted for a municipal government to be substantially more expensive. This 50% increase in liability will put undue pressure on local governments and cause contracting costs to increase, at a time of great fiscal pressure.

Also, another complication with this abrupt increase in liability is that contractors with current contracts with municipalities have not built this additional cost into their contracts. Cities and counties may need to revisit their municipal contracts. The retroactive liability provided for in this legislation compounds the disruption and unpredictability of the proposal.

For these reasons, the APCIA urges the Committee to provide an unfavorable report on House 721.