WEST VIRGINIA CODE CHAPTER 55 ARTICLE 7C

WV Legislature

§55-7C-1. Findings and declaration of public purpose.

The Legislature hereby finds and declares that the citizens of this state have been and should continue to be well served by those serving without compensation on various boards, commissions, committees, agencies and other organizations of the state, and its political subdivisions, of nonprofit corporations and other organizations engaged in religious, charitable, cultural, benevolent, educational and scientific endeavors, child placement or child care, or indigent or elderly care, and of organizations that advocate the interests of their members with respect to the trades, industries and businesses of the state; that in recent years, the cost of insurance coverage for such persons has risen dramatically while the nature and extent of coverage has diminished; that in order to enable persons to willingly serve as qualified directors, as hereinafter defined, the Legislature must provide those qualified directors with limited immunity from civil liability; and that the enactment of this article serves a necessary public purpose. This article is enacted in view of these findings and shall be liberally construed in the light thereof.

WV Legislature

§55-7C-2. Definitions.

For purposes of this article, unless a different meaning plainly is required:

(1) "Managerial function" means the act or acts of a qualified director, whereby such qualified director, through direction, regulation or administration, exercises government, control, or superintendence of the affairs of a volunteer organization or entity. Managerial functions shall include ministerial acts and acts involving the exercise of discretion and judgment, but shall not include the physical or manual handling or use of tangible property, including, but not limited to, motor vehicles, or the direct guidance or supervision of persons.

(2) "Nonprofit hospital" means a nonprofit organization, the principal purpose or function of which is the providing of medical or hospital care, and includes general, tuberculosis, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home facilities, extended care facilities, facilities related to programs for home health services, self-care units, and central service facilities, operated in connection with hospitals, and also includes education or training facilities for health professional personnel operated as an integral part of a hospital and medical research organizations directly engaged in the continuous active conduct of medical research in conjunction with a hospital, but does not include any hospital furnishing primarily domiciliary care.

(3) "Qualified director" means an individual who serves without compensation for personal services as an officer, member or director of a board, commission, committee, agency or other nonprofit organization which is a volunteer organization or entity. For purposes of this article, "compensation" does not include reimbursement for expenses, incidental meals, lodging or other accommodations, and does not include per diem compensation fixed by statute.

(4) "Volunteer organization or entity" means:

(A) The state or any political subdivision or subdivisions thereof;

(B) Nonprofit corporations as defined in section six, article one, chapter thirty-one of this code, and other nonprofit organizations, which such corporations or organizations provide or promote:

(i) Religion;

(ii) Charity;

(iii) Music, art or other literary or cultural activities;

(iv) Benevolence;

(v) Child placement or child care;

WV Legislature

(vi) Indigent or elderly care;

(vii) Education;

(viii) Scientific activity;

(ix) Community or economic development;

(x) Recreation;

(xi) Maintenance and repair of community owned real property or of real property maintained by a homeowners' association;

(xii) Legal services for the indigent;

(xiii) Conservation of natural resources or animal habitat; or

(xiv) Firefighting services and other public safety services.

(C) Any organization that acts as an advocate for its members and that has as its members individuals or organizations that are:

(i) Members of a particular trade or industry; or

(ii) Members of the business community; or

(iii) Members of armed services veteran associations.

"Volunteer organization or entity" shall not include a nonprofit hospital which maintains one hundred fifty or more beds for hospitalization of the sick or injured.

WV Legislature

§55-7C-3. Limited civil liability of qualified directors.

(a) Notwithstanding any other provision of this code, a qualified director is not personally liable for negligence, either through act or omission, or whether actual or imputed, in the performance of managerial functions performed on behalf of a volunteer organization or entity: Provided, That this section shall not exempt a qualified director from liability when he or she is found to be grossly negligent in the performance of his or her duties.

(b) Notwithstanding any other provision of this code to the contrary, a qualified director is not personally liable for the torts of a volunteer organization or entity, or the torts of the agents or employees of a volunteer organization or entity, unless he or she approved of, ratified, directed, sanctioned, or participated in the wrongful acts.

(c) Nothing in this section relieves a volunteer organization or entity from imputed liability for the negligent acts of a qualified director committed within the scope of the qualified director's duties. Nothing in this article shall be construed as a grant of immunity to any person who, through his or her operation of a motor vehicle, causes any injury or damage to another person.

WV Legislature

§55-7C-4. Applicability of provisions.

The provisions of this article shall not apply to any cause of action arising before July 1, 1988.

WV Legislature