

Act No. 397
Public Acts of 1996
Approved by the Governor
October 8, 1996
Filed with the Secretary of State
October 9, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Rep. Dolan

ENROLLED HOUSE BILL No. 4824

AN ACT to amend section 209 of Act No. 162 of the Public Acts of 1982, entitled "An act to revise, consolidate, and classify the laws relating to the organization and regulation of certain nonprofit corporations; to prescribe their duties, rights, powers, immunities, and liabilities; to provide for the authorization of foreign nonprofit corporations within this state; to impose certain duties on certain state departments; to prescribe fees; to prescribe penalties for violations of this act; and to repeal certain acts and parts of acts," as amended by Act No. 129 of the Public Acts of 1993, being section 450.2209 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 209 of Act No. 162 of the Public Acts of 1982, as amended by Act No. 129 of the Public Acts of 1993, being section 450.2209 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 209. The articles of incorporation may contain any provision consistent with any of the following:

(a) A provision regarding the management of the corporation or creating, defining, limiting, or regulating the powers of the corporation, its directors, officers, members, or shareholders, or a class of shareholders or members.

(b) A provision that is required or permitted under this act to be included in the bylaws of the corporation.

(c) A provision that eliminates the personal liability of a volunteer director or volunteer officer to the corporation, its shareholders, or its members for monetary damages for a breach of the director's or officer's fiduciary duty. The provision does not eliminate or limit the liability of a director or officer for any of the following:

(i) A breach of the director's or officer's duty of loyalty to the corporation, its shareholders, or its members.

(ii) Acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law.

(iii) A violation of section 551(1).

(iv) A transaction from which the director or officer derived an improper personal benefit.

(v) An act or omission occurring before the effective date of the provision granting limited liability.

(vi) An act or omission that is grossly negligent.

(d) For a tax exempt corporation under section 501(c)(3) of the internal revenue code, a provision that the corporation assumes all liability to any person other than the corporation, its shareholders, or its members for all acts or omissions of a volunteer director occurring on or after January 1, 1988 incurred in the good faith performance of the volunteer director's duties.

(e) A provision that a nonprofit corporation assumes the liability for all acts or omissions of a volunteer director, volunteer officer, or other volunteer occurring on or after the effective date of the provision granting limited liability if all of the following are met:

(i) The volunteer was acting or reasonably believed he or she was acting within the scope of his or her authority.

(ii) The volunteer was acting in good faith.

(iii) The volunteer's conduct did not amount to gross negligence or willful and wanton misconduct.

(iv) The volunteer's conduct was not an intentional tort.

(v) The volunteer's conduct was not a tort arising out of the ownership, maintenance, or use of a motor vehicle for which tort liability may be imposed as provided in section 3135 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being section 500.3135 of the Michigan Compiled Laws.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.