



# HOUSE BILL No. 4824

May 16, 1995, Introduced by Rep. Dolan and referred to the Committee on Judiciary and Civil Rights.

A bill to amend section 209 of Act No. 162 of the Public Acts of 1982, entitled "Nonprofit corporation act," 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:**

1 Section 1. Section 209 of Act No. 162 of the Public Acts of  
2 1982, as amended by Act No. 129 of the Public Acts of 1993, being  
3 section 450.2209 of the Michigan Compiled Laws, is amended to  
4 read as follows:

5 Sec. 209. The articles of incorporation may contain any  
6 provision ~~not inconsistent~~ CONSISTENT with any of the  
7 following:

8 (a) A provision ~~of this act or another statute of this~~  
9 ~~state~~ regarding the management of ~~a~~ THE corporation or

1 creating, defining, limiting, or regulating the powers of the  
2 corporation, its directors, OFFICERS, members, or shareholders,  
3 or a class of shareholders or members.

4 (b) A provision that is required or permitted under this act  
5 to be included in the bylaws OF THE CORPORATION.

6 (c) A provision that eliminates the personal liability of a  
7 volunteer director OR A VOLUNTEER OFFICER WHO IS ALSO A VOLUNTEER  
8 DIRECTOR to the corporation, its shareholders, or its members for  
9 monetary damages for a breach of the director's OR OFFICER'S  
10 fiduciary duty. The provision ~~shall~~ DOES not eliminate or  
11 limit the liability of a director OR OFFICER for any of the  
12 following:

13 (i) A breach of the director's OR OFFICER'S duty of loyalty  
14 to the corporation, ~~or~~ its shareholders, or ITS members.

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

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

18 (iv) A transaction from which the director OR OFFICER  
19 derived an improper personal benefit.

20 (v) An act or omission occurring before the effective date  
21 of the provision GRANTING LIMITED LIABILITY.

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

23 (d) ~~For a tax exempt corporation under section 501(c)(3) of~~  
24 ~~the internal revenue code, a~~ A provision that the corporation  
25 assumes all liability to any person other than the corporation,  
26 its shareholders, or its members for all acts or omissions of a  
27 volunteer director OR A VOLUNTEER OFFICER WHO IS ALSO A VOLUNTEER

1 DIRECTOR occurring on or after January 1, 1988 incurred in the  
2 good faith performance of the volunteer director's OR OFFICER'S  
3 duties.

4 (e) A provision that a nonprofit corporation assumes the  
5 liability for all acts or omissions of a nondirector volunteer  
6 occurring on or after the effective date of the provision  
7 GRANTING LIMITED LIABILITY if all of the following are met:

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

10 (ii) The volunteer was acting in good faith.

11 (iii) The volunteer's conduct did not amount to gross negli-  
12 gence or willful and wanton misconduct.

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

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