

§ 58-24-35. No personal liability.

(a) The officers and members of the supreme governing body or any subordinate body of a society shall not be personally liable for any benefits provided by a society.

(b) Any person may be indemnified and reimbursed by any society for expenses reasonably incurred by, and liabilities imposed upon, such person in connection with or arising out of any action, suit or proceeding, whether civil, criminal, administrative or investigative, or threat thereof, in which the person may be involved by reason of the fact that he or she is or was a director, officer, employee or agent of the society or of any firm, corporation or organization which he or she served in any capacity at the request of the society. A person shall not be so indemnified or reimbursed (1) in relation to any matter in such action, suit or proceeding as to which he or she shall finally be adjudged to be or have been guilty of breach of a duty as a director, officer, employee or agent of the society or (2) in relation to any matter in such action, suit or proceeding, or threat thereof, which has been made the subject of a compromise settlement; unless in either such case the person acted in good faith for a purpose the person reasonably believed to be in or not opposed to the best interests of the society and, in a criminal action or proceeding, in addition, had no reasonable cause to believe that his or her conduct was unlawful. The determination whether the conduct of such person met the standard required in order to justify indemnification and reimbursement in relation to any matter described in subpoints (1) or (2) of the preceding sentence may only be made by the supreme governing body or board of directors by a majority vote of a quorum consisting of persons who were not parties to such action, suit or proceeding or by a court of competent jurisdiction. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of no contest, as to such person shall not in itself create a conclusive presumption that the person did not meet the standard of conduct required in order to justify indemnification and reimbursement. The foregoing right of indemnification and reimbursement shall not be exclusive of other rights to which such person may be entitled as a matter of law and shall inure to the benefit of his or her heirs, executors and administrators.

(c) A society shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the society, or who is or was serving at the request of the society as a director, officer, employee or agent of any other firm, corporation, or organization against any liability asserted against such person and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the society would have the power to indemnify the person against such liability under this section.

(d) A person serving as an officer or a member of a supreme governing body of a society shall be immune individually from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act, except where the person:

- (1) Is compensated for his services beyond reimbursement for expenses,
- (2) Was not acting within the scope of his official duties,
- (3) Was not acting in good faith,
- (4) Committed gross negligence or willful or wanton misconduct that resulted in the damage or injury,
- (5) Derived an improper personal financial benefit from the transaction,
- (6) Incurred the liability from the operation of a motor vehicle, or
- (7) Is sued in an action that would qualify as a derivative action if the organization were a for-profit corporation or as a member's or director's derivative action under G.S. 55A-28.1 or G.S. 55A-28.2 if the organization were a nonprofit corporation.

The immunity in this subsection is personal to the individual officers and members of the supreme governing body and does not immunize the organization for the acts or omissions of those officers or members. (1987, c. 483, s. 2, c. 799, s. 2.)