



## Ohio Revised Code

### Section 1729.23 Standard of care for directors.

Effective: September 3, 2004

Legislation: House Bill 288 - 125th General Assembly

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(A) A director shall perform the duties of a director, including duties as a member of any committee of the directors upon which the director serves, in good faith, in a manner the director reasonably believes to be in or not opposed to the best interests of the association, and with the care that an ordinarily prudent person in a like position would use under similar circumstances. In performing these duties, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, that are prepared or presented by any of the following:

(1) One or more directors, officers, or employees of the association whom the director reasonably believes are reliable and competent in the matters prepared or presented;

(2) Counsel, public accountants, or other persons as to matters that the director reasonably believes are within the person's professional or expert competence;

(3) A committee of the directors upon which the director does not serve, established in accordance with the association's articles of incorporation or bylaws, as to matters within its designated authority, provided the director reasonably believes the committee merits confidence.

(B) For purposes of division (A) of this section:

(1) A director shall not be found to have failed to perform the duties in accordance with division (A) of this section, unless it is proved, by clear and convincing evidence, in an action brought against the director that the director has not acted in good faith, in a manner reasonably believed to be in or not opposed to the best interests of the association, or with the care that an ordinarily prudent person in a like position would use under similar circumstances. Such an action includes, but is not limited to, an action that involves or affects any of the following:

(a) A change or potential change in control of the association;



(b) A termination or potential termination of the director's service to the association as a director;

(c) Service in any other position or relationship with the association.

(2) A director shall not be considered to be acting in good faith if the director has knowledge concerning the matter in question that would cause reliance on information, opinions, reports, or statements that are prepared or presented by the persons described in divisions (A)(1) to (3) of this section to be unwarranted.

(3) Division (B) of this section does not limit relief available under section 1729.24 of the Revised Code.

(C)(1) Subject to divisions (C)(2) and (3) of this section, a director is liable in damages for any act that the director takes or fails to take as director only if it is proved, by clear and convincing evidence, in an action brought against the director that the act or omission of the director was undertaken with a deliberate intent to cause injury to the association or was undertaken with a reckless disregard for the best interests of the association.

(2) Division (C)(1) of this section does not affect the liability of a director under section 1729.25 of the Revised Code.

(3) Subject to division (C)(2) of this section, division (C)(1) of this section does not apply if, and only to the extent that, at the time of an act or omission of the director, the association's articles of incorporation or bylaws state, by specific reference to division (C)(1) of this section, that its provisions do not apply to the association.

(D) For purposes of this section and section 1729.031 of the Revised Code, in determining what is reasonably believed to be in or not opposed to the best interests of the association, a director shall consider the purposes of the association and may consider any of the following:

(1) The interests of the employees, suppliers, creditors, and customers of the association;

(2) The economy of this state and of the United States;



(3) Community and societal matters;

(4) The long-term and short-term best interests of the association, including, but not limited to, the possibility that those interests may be best served by the continued independence of the association;

(5) The interests of the members as patrons of the association.

(E) Divisions (B) and (C) of this section do not affect the duties of a director who acts in any capacity other than as a director.