

114TH CONGRESS  
1ST SESSION

# H. R. 2290

To amend the Volunteer Organization Protection Act of 1997, to provide for liability protection for organizations or entities.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2015

Mr. CHABOT (for himself, Mr. FRANKS of Arizona, Mr. FORBES, Mr. KING of Iowa, Mr. ROSKAM, Mr. PETERSON, Mr. MARINO, and Mr. KLINE) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Volunteer Organization Protection Act of 1997, to provide for liability protection for organizations or entities.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Volunteer Organization  
5 Protection Act of 2015”.

6 **SEC. 2. LIABILITY PROTECTION FOR ORGANIZATION OR**  
7 **ENTITY.**

8 The Volunteer Protection Act of 1997, Public Law  
9 105–19, is amended as follows:

1           (1) In section 3(a), by inserting after “relating  
2 to volunteers” the following: “or volunteer nonprofit  
3 organizations”.

4           (2) In section 3(b), in the matter preceding  
5 paragraph (1), by inserting after “against a volun-  
6 teer” the following: “or a volunteer nonprofit organi-  
7 zation”.

8           (3) In section 4, in the heading, by inserting  
9 **“AND VOLUNTEER NONPROFIT ORGANIZA-**  
10 **TIONS”** after **“VOLUNTEERS”**.

11           (4) In section 4, by amending subsection (c) to  
12 read as follows:

13           “(c) LIABILITY PROTECTION FOR ORGANIZATION OR  
14 ENTITY.—

15           “(1) No volunteer nonprofit organization shall  
16 be liable for harm caused by an act or omission of  
17 a volunteer on behalf of the organization unless—

18                   “(A) the organization would be liable for  
19 the act or omission under generally applicable  
20 laws governing the direct or vicarious liability of  
21 organizations; and

22                   “(B) the organization itself has expressly  
23 authorized the specific conduct constituting the  
24 act or omission.

1           “(2) Notwithstanding section 4(c)(1), no volun-  
2           teer nonprofit organization shall be liable for harm  
3           caused by an act or omission of the organization or  
4           of a volunteer acting on behalf of the organization  
5           if—

6                   “(A) the organization or the volunteer en-  
7                   gaged in the act or omission at the request of  
8                   or pursuant to an authorization by a state or  
9                   the united states or any agency or subdivision  
10                  of either; and

11                  “(B) either—

12                          “(i) the requesting or authorizing gov-  
13                          ernmental entity would have been immune  
14                          either from suit or from liability in dam-  
15                          ages if it had engaged in the acts or omis-  
16                          sions itself or through employees or inde-  
17                          pendent contractors; or

18                          “(ii) the governmental employee,  
19                          agent, or contractor who engaged in the  
20                          acts would have been immune either from  
21                          suit or from liability in damages by virtue  
22                          of immunity extended to individual govern-  
23                          mental actors.

24           “(3) Except as provided in paragraphs (1) and  
25           (2), nothing in this section shall be construed to af-

1       fect the liability of any nonprofit organization or  
2       governmental entity with respect to harm caused to  
3       any person.”.

4               (5) In section 4(d), by striking paragraph (2)  
5       and redesignating paragraphs (3) and (4) as para-  
6       graphs (2) and (3), respectively.

7               (6) In section 4(e), in paragraph (1), by adding  
8       the following after the period: “Punitive damages  
9       may not be awarded against a volunteer nonprofit  
10      organization in an action brought for harm based on  
11      the action of a volunteer acting within the scope of  
12      the volunteer’s responsibilities to the organization  
13      unless the claimant establishes by clear and con-  
14      vincing evidence that the organization itself ex-  
15      pressly authorized the volunteer’s action and did so  
16      with a conscious, flagrant indifference to the rights  
17      or safety of the individual harmed.”.

18              (7) In section 4(f), by inserting “or of a volun-  
19      teer nonprofit organization” after “liability of a vol-  
20      unteer”.

21              (8) In section 5—

22                      (A) in subsection (a)—

23                              (i) by inserting “or a volunteer non-  
24                              profit organization” after “action against a  
25                              volunteer”; and

1 (ii) by inserting “or volunteer non-  
2 profit organization” after “liability of the  
3 volunteer”; and

4 (B) in subsection (b)—

5 (i) in paragraph (1), by inserting “or  
6 a volunteer nonprofit organization” after  
7 “who is a volunteer”; and

8 (ii) in paragraph (2), by inserting “or  
9 volunteer nonprofit organization” after  
10 “who is a volunteer”.

11 (9) In section 6, by adding at the end the fol-  
12 lowing:

13 “(7) VOLUNTEER NONPROFIT ORGANIZATION.—  
14 An entity is a ‘volunteer nonprofit organization’ if it  
15 is any one or more of the following:

16 “(A) A nonprofit organization that con-  
17 ducts substantially all of its activities solely  
18 through the actions of volunteers or of inde-  
19 pendent contractors. A nonprofit organization is  
20 conclusively presumed to be a ‘volunteer non-  
21 profit organization’ if the organization has no  
22 employees.

23 “(B) A nonprofit organization is presumed  
24 to be a ‘volunteer nonprofit organization’ if the  
25 organization’s primary office and the majority

1 of its employees function primarily to provide  
2 support to local affiliated organizations that do  
3 not have employees and who act in furtherance  
4 of the organization’s nonprofit mission. This  
5 presumption can be rebutted only by a clear  
6 and convincing showing that the organization’s  
7 board expressly authorized its employees to as-  
8 sert active control over the local affiliated orga-  
9 nization with respect to the act or omission in  
10 question.

11 “(C) A nonprofit organization that has  
12 fewer than 50 employees, that has annual gross  
13 receipts of less than \$200,000, and that is any  
14 of the following:

15 “(i) A public charity that is exempt  
16 from taxation under section 501(c)(3) of  
17 the internal revenue code.

18 “(ii) A private foundation that is ex-  
19 empt from taxation under section  
20 501(c)(3) of the internal revenue code but  
21 that does not qualify as a public charity.

22 “(iii) A social welfare organization  
23 that is exempt from taxation under section  
24 501(c)(4) of the internal revenue code.

1           “(8) A volunteer nonprofit organization acts  
2           ‘itself’ for purposes of this act only when the person  
3           or body who is authorized by the organization’s gov-  
4           erning documents to act in the name of and on be-  
5           half of the organization expressly acts in accordance  
6           with those documents. If the organization’s gov-  
7           erning documents do not identify the person or body  
8           who is authorized to act in the name of and on be-  
9           half of the organization, the organization acts ‘itself’  
10          for the purposes of this Act only when the person or  
11          body whose action is required under the applicable  
12          State law in order to bind the organization acts  
13          strictly in accordance with such State law.”.

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