

BASED ON A FINDING IN THE PROCEEDING THAT THE PERSON'S ACTION, OR FAILURE TO ACT, WAS THE RESULT OF ACTIVE AND DELIBERATE DISHONESTY AND WAS MATERIAL TO THE CAUSE OF ACTION ADJUDICATED IN THE PROCEEDING; OR

(3) WITH RESPECT TO ANY ACTION DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

(B) THIS SECTION DOES NOT APPLY TO AN ACTION BROUGHT BY OR ON BEHALF OF A STATE GOVERNMENTAL ENTITY, RECEIVER, CONSERVATOR, OR DEPOSITOR AGAINST A DIRECTOR OR OFFICER OF:

(1) A BANKING INSTITUTION AS DEFINED IN § 1-101 OF THE FINANCIAL INSTITUTIONS ARTICLE;

(2) A CREDIT UNION AS DESCRIBED IN § 6-201 OF THE FINANCIAL INSTITUTIONS ARTICLE;

(3) A SAVINGS AND LOAN ASSOCIATION AS DEFINED IN § 8-101 OF THE FINANCIAL INSTITUTIONS ARTICLE; OR

(4) A SUBSIDIARY OF A BANKING INSTITUTION, CREDIT UNION, OR SAVINGS AND LOAN ASSOCIATION DESCRIBED IN THIS SUBSECTION.

(C) THIS SECTION MAY NOT BE CONSTRUED TO AFFECT THE LIABILITY OF A PERSON IN ANY CAPACITY OTHER THAN THE PERSON'S CAPACITY AS A DIRECTOR OR OFFICER.

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(b) (1) A corporation may indemnify any director made a party to any proceeding by reason of service in that capacity [if the director:

(i) Acted in good faith;

(ii) Reasonably believed:

1. In the case of conduct in the director's official capacity with the corporation, that the conduct was in the best interests of the corporation; and

2. In all other cases, that the conduct was at least not opposed to the best interests of the corporation; and] UNLESS IT IS PROVED THAT:

(I) THE ACT OR OMISSION OF THE DIRECTOR WAS MATERIAL TO THE CAUSE OF ACTION ADJUDICATED IN THE PROCEEDING; AND

1. WAS COMMITTED IN BAD FAITH; OR