

Breaking News for NC Community Pools: New Law Limiting Liability Signed Today

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Just in Time for Fireworks:

North Carolina Governor Signs into Law Limited Immunity from COVID-19 Related Claims Arising from the Reopening of Community Pools

The Buzz

Part VI, of North Carolina House Bill 902, signed into law by Governor Cooper today, provides protection for community associations and their agents against lawsuits from people seeking damages for injury or death resulting from transmission of COVID-19 as a result of reopening their community association pools. For a better understanding of what a community association is all about, please check out Unwrapping the Riddle: What is a Community Association?

This new law specifically defines "community pools" to include pools owned by an apartment complex, a homeowners association, or a condominium unit owners association.

The Catch

In order for a community association to avail itself of this newly afforded immunity, it must show that it reopened and is operating its community pool **in accordance with the applicable executive orders of the Governor**. Those community associations (and their agents) that have acted in compliance with the relevant executive orders shall not be liable for any claim or action seeking damages for injury or death resulting from transmittal of COVID-19 alleged to have resulted from the reopening of the community pool.

The Exception

However, immunity will not be provided against claims arising from gross negligence, wanton conduct, or intentional wrong doing.

The best way for a community association to avoid claims of gross negligence, wanton conduct, or intentional wrong doing is to either:

- (1) keep its pool closed if it cannot open and operate it consistent with the applicable executive orders,

or

(2) follow the applicable executive orders.

For further information, see our article on community association pool reopening strategies, "Significant Restrictions Imposed on Public and Community Pools for Phase 2 Reopening in NC" from May 21, 2020.

Stay Safe Out There

This law is effective with respect to all claims or actions arising as of July 2, 2020, and expires one year from the date that Governor Cooper's Declaration of State of Emergency (Executive Order 116) expires or is rescinded.

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