AN ACT relating to directors of corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 271B.8-300 is amended to read as follows:

(1) A director shall discharge his duties as a director, including his or her duties as a member of a committee:

(a) In good faith;

(b) On an informed basis; and

(c) In a manner he or she honestly believes to be in the best interests of the corporation.

(2) A director shall be considered to discharge his or her duties on an informed basis if he or she makes, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, inquiry into the business and affairs of the corporation, or into a particular action to be taken or decision to be made.

(3) In discharging his or her duties a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One (1) or more officers or employees of the corporation whom the director honestly believes to be reliable and competent in the matters presented;

(b) Legal counsel, public accountants, or other persons as to matters the director honestly believes are within the person's professional or expert competence; or

(c) A committee of the board of directors of which he or she is not a member, if the director honestly believes the committee merits confidence.

(4) A director shall not be considered to be acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (3) of this section unwarranted.

(5) In addition to any other limitation on a director's liability for monetary damages contained in any provision of the corporation's articles of incorporation adopted in
accordance with subsection (2)(d) of KRS 271B.2-020, any action taken as a
director, or any failure to take any action as a director, shall not be the basis for
monetary damages or injunctive relief unless:

(a) The director has breached or failed to perform the duties of the director's
office in compliance with this section; and

(b) In the case of an action for monetary damages, the breach or failure to perform
constitutes willful misconduct or wanton or reckless disregard for the best
interests of the corporation and its shareholders.

(6) A person bringing an action for monetary damages under this section shall have the
burden of proving by clear and convincing evidence the provisions of subsection
(5)(a) and (b) of this section, and the burden of proving that the breach or failure to
perform was the legal cause of damages suffered by the corporation.

(7) Nothing in this section shall eliminate or limit the liability of any director for any
act or omission occurring prior to July 15, 1988.

(8) In a public benefit corporation:

(a) The board of directors shall manage or direct the business and affairs of the
public benefit corporation in a manner that balances the pecuniary interests of
the stockholders, the best interests of those materially affected by the
corporation's conduct, and the specific public benefit or public benefits
identified in its articles of incorporation;

(b) A director of the public benefit corporation shall not, by virtue of the public
benefit provisions set forth in the corporation's articles of incorporation, have
any duty to any person on account of any interest of the person in the public
benefit or public benefits identified in the articles of incorporation or on
account of any interest materially affected by the corporation's conduct;

(c) With respect to a decision implicating the balance requirement in paragraph
(a) of this subsection, a director shall act in conformity with subsection (1) of
this section; and

(d) The articles of incorporation of a public benefit corporation may include a provision that any disinterested failure to satisfy this subsection shall not constitute an act or omission not in good faith or a breach of the duty of loyalty.