

§857. Indemnification of officers

1. Permissible scope. A corporation may indemnify and advance expenses under this subchapter to an officer of the corporation who is a party to a proceeding because the officer is an officer of the corporation:

A. To the same extent as a director; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. If the officer is an officer but not a director, to such further extent as may be provided by the corporation's articles of incorporation, the bylaws, a resolution of the corporation's board of directors or a contract except for:

(1) Liability in connection with a proceeding by or in the right of the corporation other than for reasonable expenses incurred in connection with the proceeding; or

(2) Liability arising out of conduct that constitutes:

(a) Receipt by the officer of a financial benefit to which the officer is not entitled;

(b) An intentional infliction of harm on the corporation or the shareholders; or

(c) An intentional violation of criminal law. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2003, c. 344, Pt. B, §68 (AMD).]

2. Dual capacity. Subsection 1, paragraph B applies to an officer who is also a director if the basis on which the officer is made a party to the proceeding is an act or omission solely as an officer. [PL 2003, c. 344, Pt. B, §68 (AMD).]

3. Mandatory indemnification. An officer who is not a director is entitled to mandatory indemnification under section 853 and may apply to a court under section 855 for indemnification or an advance for expenses, in each case to the same extent to which a director may be entitled to indemnification or an advance for expenses under those provisions.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §B68 (AMD).

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