

RCW 24.03A.540 Liability of directors. (1) A director of a nonprofit corporation is not liable to the nonprofit corporation for any action taken, or any failure to take any action, as a director, except as provided in subsection (2) or (3) of this section or in the articles or bylaws.

(2) Notwithstanding any provision to the contrary in the articles or bylaws, a director is liable to the corporation for:

(a) The value of any benefit in cash, other property, or services received by the director to which the director is not legally entitled; or

(b) Intentional misconduct or a knowing violation of law, including but not limited to criminal law or this chapter, by the director.

(3) A director is liable to the corporation for a violation of any additional standard of conduct specified in the nonprofit corporation's articles as an exception to the limitation on [the] director's liability.

(4) A director of a nonprofit corporation is not liable to any member of the nonprofit corporation for any action taken, or any failure to take action, as a director, except as provided in subsection (5) of this section.

(5) A director is liable to a member of the corporation only for:

(a) A knowing infliction of harm upon the member; or

(b) An intentional violation of criminal law or this chapter that results in harm or loss to the member.

(6) The party seeking to establish the director's liability to the corporation or any member of the corporation:

(a) For money damages, also has the burden of establishing that:

(i) Harm to the nonprofit corporation or its members has been suffered; and

(ii) The harm suffered was proximately caused by the director's challenged conduct; or

(b) For other money payment under a legal remedy, such as compensation for the unauthorized use of corporate assets, also has whatever burden of persuasion may be called for to establish that the payment sought is appropriate in the circumstances; or

(c) For other money payment under an equitable remedy, such as profit recovery by or disgorgement to the corporation, also has whatever burden of persuasion may be called for to establish that the equitable remedy sought is appropriate in the circumstances.

(7) Nothing contained in this section:

(a) In any instance where fairness is at issue, such as consideration of the fairness of a transaction to the nonprofit corporation under RCW 24.03A.615(1)(c), alters the burden of proving the fact or lack of fairness otherwise applicable;

(b) Alters the fact or lack of liability of a director to the nonprofit corporation under another section of this chapter, such as the provisions governing the consequences of an unlawful distribution under RCW 24.03A.610, a conflicting interest transaction under RCW 24.03A.615, or taking advantage of a business opportunity under RCW 24.03A.620;

(c) Affects any rights to which the corporation or a director or member may be entitled under another statute of this state or the United States; or

(d) Affects the authority of the attorney general to take any action against a director under this chapter or other applicable Washington state law. [2021 c 176 § 2411.]

Effective date—2021 c 176: See note following RCW 24.03A.005.