



SPONSOR: Sen. Bunting  
& Rep. Price

DELAWARE STATE SENATE

140th GENERAL ASSEMBLY

SENATE BILL NO.

AN ACT TO AMEND AN ACT, BEING CHAPTER 166, VOLUME 37, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF SELBYVILLE" TO PROVIDE FOR INDEMNIFICATION OF OFFICERS, AGENTS AND EMPLOYEES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:  
(Two-Thirds of all members elected to each house thereof concurring therein):

Section 1. That Section 4 of Chapter 166, Volume 37, Laws of Delaware, as amended, be and the same is further amended by adding a new subsection to be designated as "25." To read as follows:

"25. Indemnification

a. Indemnification; defense to be provided. The Mayor and Council of the Town of Selbyville shall indemnify, from the general funds of the Town's treasury, to the extent not otherwise covered by the appropriate insurance, any person who is a party to or is threatened to be made a party to any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigate (other than an action by or in the right of the Mayor and Council of the Town of Selbyville itself), by reason of the fact that he or she is or was a Town Council member, Mayor or other duly elected or appointed town official of the Mayor and Council of the Town of Selbyville or arising out of actions taken by each or any of them in connection with the performance of their official duties, against expenses (including attorney's fees), judgments, fines, and amounts paid in settlement, actually and reasonably incurred by him or her in connection with such actions, suit or proceeding, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interest of the Mayor and

Council of the Town, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Mayor and Council of the Town of Selbyville and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

b. Monetary settlement to be approved. In the event of a monetary settlement, the Mayor and Council of the Town of Selbyville shall first approve the amount and terms of the settlement before the right to indemnification shall vest.

c. Determination of town Council. Indemnification, as provided in this chapter, shall be made by the Mayor and Council of the Town of Selbyville only as authorized in the specific case upon a determination that indemnification of the Town Council, Mayor and/or town officer is proper in the circumstances because he or she met the applicable standards of conduct set forth above. Such determination shall be made:

(1) By a majority vote of a quorum of the Mayor and Council of the Town of Selbyville consisting of Council members who were not parties to such action, suit or proceedings; or

(2) If such a quorum is not obtainable, by independent legal counsel in a written option.”

#### SYNOPSIS

This Amendment is intended to provide for indemnification of officers, agents and employees of the Mayor and Council of the Town of Selbyville.

Author: Sen. Bunting