



July 16, 2020

VIA EMAIL: mike.dinnerman@benhillcounty-ga.gov

Mr. Mike Dinnerman
Ben Hill County Manager
402A East Pine Street
Fitzgerald, GA. 31750

Dear Mr. Dinnerman:

Georgia's General Assembly recently passed Senate Bill 359 that will provide immunity for many claims related to COVID-19. It will become effective upon the earlier of the Governor's approval or August 7, 2020 and encompasses causes of action arising between that date and July 14, 2021. In addition to the immunity section, the legislation provides an opportunity for companies, governmental entities, individuals, and healthcare facilities/providers to protect themselves further from COVID-19 claims. A summary of the bill is included below.

I. Immunity

No company, individual, governmental entity, or healthcare facility/provider will be held liable for various COVID-19 claims under Georgia law, unless the claimant is able to prove gross negligence, willful and wanton misconduct, reckless infliction of harm, or intentional infliction of harm. The legislation specifies that this immunity shall be provided in addition to any other state or federal immunity protection.

II. Rebuttable Presumption of Assumption of the Risk

a. Companies, Governmental Entities, or Individuals

O.C.G.A. § 51-16-3 from Senate Bill 359 applies to individuals or entities, which includes, among other things, any company, religious organization, educational organization, political subdivision, or county. This section does not apply to healthcare facilities or providers. It provides two ways for companies, governmental entities, or individuals to further protect themselves from claims related to the transmission of COVID-19 on their premises. A rebuttable presumption of assumption of the risk by the claimant will arise if the company, governmental entity, or individual does one of the following:

TIFTON, GA

- (1) Provides any receipt or proof of purchase for entry to the claimant that includes in at least 10-point Arial font placed apart from other text the following warning:

“Any person entering the premises waives all civil liability against this premises owner and operator for any injuries caused by the inherent risk associated with contracting COVID-19 at public gatherings, except for gross negligence, willful and wanton misconduct, reckless infliction of harm, or intentional infliction of harm, by the individual or entity of the premises.

- (2) Posting at the point of entry to the premises, a sign in at least one-inch Arial font placed apart from other text that contains the following:

“Warning

Under Georgia law, there is no liability for an injury or death of an individual entering these premises if such injury or death results from the inherent risks of contracting COVID-19. You are assuming this risk by entering these premises.”

b. Healthcare Facilities or Providers

O.C.G.A. § 51-16-4 from Senate Bill 359 applies only to healthcare facilities and providers and allows healthcare facilities or providers to obtain the same rebuttable presumption of assumption of the risk by a claimant for claims related to COVID-19. However, a healthcare facility or provider can only post the signage as described in paragraph (2) of Section 3 a above. Option 1 is NOT available to health care facilities or providers.

III. Conclusion

Although this immunity is not absolute and the presumption is rebuttable, this legislation will be significant in deterring COVID-19 claims and should be effective if the actions listed above are taken. We are recommending to all of our clients that they take the appropriate steps to protect themselves from claims related to COVID-19. A copy of Senate Bill 359 is attached to this letter.

Sincerely,



Anthony A. Rowell

AAR/sb