



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

Legislation Text

File #: 230982, Version: 0

December 13, 2023

TO THE PRESIDENT AND MEMBERS OF THE COUNCIL OF THE CITY OF PHILADELPHIA:

I am hereby returning unsigned Bill Number 230740, introduced by Councilmember Curtis Jones, Jr., on behalf of Council President Darrell Clarke, and passed by City Council on November 30, 2023. Bill No. 230740, along with Resolution No. 230750, propose to amend the Philadelphia Home Rule Charter to provide for indemnification and defense by the City in connection with claims made against any registered community organization arising directly out of the lawful participation by such an organization in zoning matters and related land-use process.

I understand and appreciate the impetus for this legislation, namely that registered community organizations (RCOs) are being threatened by lawsuits from developers for not supporting a project or for starting an appeal process. This sort of action is often called a "strategic lawsuit against public participation" or SLAPP for short.

I also appreciate the Council President's willingness to introduce amendments which made explicit that the defense and indemnification of RCOs could be provided for through the purchase of insurance through a grant or similar program. If the City did, with the original language in the legislation, accept the indemnification and defense obligations of RCOs, the legal and financial burdens placed on the City would be significant and potentially extreme. While the amendments could potentially allow for transfer of the liability from the city to insurers, there are still concerns that this is not practical. In order to assume the risks of the RCOs, the insurer would need to gain loss history, financial, and organizational information for each RCO to be covered. In that circumstance, there will likely be organizations that the insurers will decline covering.

Furthermore, the Law Department has advised that the language of state legislation and case law interpretations suggest there may be a preemption risk that could impact the successful implementation of this legislation. In sum, while I understand and appreciate the intent behind this legislation, the financial, legal, and implementation concerns are too great for me to sign this bill.

For these reasons, I am returning Bill Number 230740 unsigned.

Respectfully,
JAMES F. KENNEY
Mayor

