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Testimony of American Property Casualty Insurance Association (APCIA)

House Judiciary Committee

HB 739 Environment - Multidefendant Oil and Hazardous Substance Pollution Cases - Effect of Settlement

February 17, 2021

Letter of Opposition

The American Property Casualty Insurance Association (APCIA) represents more than 1,200 insurers and reinsurers that provide critically important insurance protection throughout the U.S. and world. In combination, our members write 60% of the U.S. property and casualty market policies. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe. In Maryland, our members write 66.6% of all written premium. APCIA appreciates the opportunity to provide comments in opposition of House 739.

House 739 represents a significant departure from Maryland’s law defining liability in tort, which requires legal responsibility to the injured party versus mere “culpability in tort.” This proposal would make environmental suits by the State exempt from Maryland’s current law, the Maryland Uniform Contribution Among Joint Tort-Feasors Act by allowing the finder of fact to use pure comparative fault instead of the normal Joint Tort-Feasor Act provisions. This would allow the fact finder to make a determination of total liability, including damages and other costs, and assign comparative fault to all parties regardless of whether there was joint liability under the Act. This liability would hold a party responsible for the entire cleanup of a discharge site even if the party was found to have had only a small portion of responsibility for the site. This is particularly unfair to defendants which may be found responsible for a tiny percentage of liability but end up financially responsible for the entire clean-up costs. Without corresponding changes to Maryland’s law on joint liability and would represents a significant expansion of liability.

For these reasons, the APCIA urges the Committee to provide an unfavorable report on House 739.