

Loudoun County Chamber of Commerce

LEGAL REFORM

The Chamber firmly supports maintaining Virginia's common sense legal system, which has enabled the Commonwealth to achieve its best-in-class economic environment. The Chamber also firmly opposes measures that would increase the burden of excessive litigation and diminish Virginia's competitive position.

In addition, the Chamber supports the prompt appointment of new judges to replace any retiring judges in the Circuit Court and the appropriation of funding for additional judicial positions in the Circuit Court to accommodate the increasing civil and criminal caseload in the Circuit Court. The Chamber believes this will promote the welfare and public safety of the community and promote business stability by ensuring adequate resources are available to reasonably conclude pending court cases.

Business Courts:

The Chamber supports consideration and study of the merits and costs of establishing a business court system in the Commonwealth that would focus exclusively on business disputes. Such courts have been established in at least 27 states, providing a venue where complex corporate lawsuits may be considered, freeing up the general courts for non-business matters. Efficient resolution of complex business cases can be very positive for both the business community and the judicial system, among other things, making a state more attractive to companies when deciding where to locate.

Frivolous Lawsuits:

Frivolous lawsuits cost the U.S. economy \$264 billion per year. Businesses suffer from the costs of fighting frivolous lawsuits, and consumers and workers suffer as those costs are passed on through higher prices, and lost jobs and benefits. To address this problem, the Chamber supports:

- Preserving the availability of arbitration and other alternative dispute resolution mechanisms that reduce the number of lawsuits and their costs, while ensuring justice is served;
- Class action reform – and opposes efforts to weaken the Class Action Fairness Act; and
- Restoring employers' due process rights by eliminating incentives for officials, regulators, and plaintiff's lawyers to file charges against a company – that may or may not have done something

wrong – merely to press secret financial settlements on those companies in exchange for dropping said charges.

Alternative Dispute Resolution:

Alternative Dispute Resolution (ADR) methods and processes, such as arbitration, mediation, and small claims procedures, provide consumers, employees, and other injured parties with an accessible and fair process for obtaining redress for claims and can in many cases avoid the expense and inefficiency of litigation. The Chamber opposes efforts by the federal Consumer Financial Protection Bureau, Department of Labor, Department of Health and Human Services, Department of Education and other federal agencies to significantly restrict or even ban the use of ADRs.

Data Privacy Breaches:

Currently, American businesses spend on average \$6.5 million to respond to a single data breach, including the price of notifying potentially affected individuals and ensuing legal costs. As the amount of data collected from and about people increases, the number of breaches has also grown. The U.S. has a patchwork of outdated federal laws intended to protect personal information. At the same time, states have passed their own laws, which impose different (and sometimes contradictory) requirements for data privacy. The Chamber supports a standard federal law governing breach notification requirements that addresses real harms and places reasonable limits on businesses' liability while discouraging meritless suits that simply take advantage of businesses.

False Claims Reform:

The federal False Claims Act and Virginia Fraud Against Taxpayers Act allow the government and private litigants to pursue any government contractor suspected of making "false claims" about their goods or services to the government. Although well-intentioned, the laws' broad language and/or overzealous enforcement in recent years, have encouraged significant abuse—turning in some cases simple contractual disagreements and paperwork errors into claims for fraud.

The Chamber supports reasonable reforms to restore fairness and predictability and to prevent inappropriate payments; including:

- Providing a safe harbor for companies with robust compliance programs;

- Creating reasonable whistleblower incentives to ensure that legitimate fraud is reported, while curtailing frivolous or nuisance lawsuits;
- Clarifying the use and meaning of “implied certifications”—the doctrine that says a simple, non-monetary error (such as incorrect paperwork by a government contractor) can be used as the basis for a false claims lawsuit; and
- Limiting the government’s power to bar ethical companies and individuals from federal contracts as a method to coerce settlements.