

By: Lucio
(Lewis)

S.B. No. 1846

A BILL TO BE ENTITLED

AN ACT

relating to organizations that are covered by the Charitable
Immunity and Liability Act of 1987.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivision 1, Section 84.003, Civil Practice
and Remedies Code, is amended to read as follows:

(1) "Charitable organization" means:

(A) any organization exempt from federal income
tax under Section 501(a) of the Internal Revenue Code of 1986 by
being listed as an exempt organization in Section 501(c)(3) or
501(c)(4) of the code, if it is a [~~nonprofit~~] corporation,
foundation, community chest, church, or fund organized and operated
exclusively for charitable, religious, prevention of cruelty to
children or animals, youth sports and youth recreational,
neighborhood crime prevention or patrol, fire protection or
prevention, emergency medical or hazardous material response
services, or educational purposes, including private primary or
secondary schools if accredited by a member association of the
Texas Private School Accreditation Commission but excluding
fraternities, sororities, and secret societies, or is organized and
operated exclusively for the promotion of social welfare by being
primarily engaged in promoting the common good and general welfare
of the people in a community;

(B) any bona fide charitable, religious,

1 prevention of cruelty to children or animals, youth sports and
2 youth recreational, neighborhood crime prevention or patrol, or
3 educational organization, excluding fraternities, sororities, and
4 secret societies, or other organization organized and operated
5 exclusively for the promotion of social welfare by being primarily
6 engaged in promoting the common good and general welfare of the
7 people in a community, and that:

8 (i) is organized and operated exclusively
9 for one or more of the above purposes;

10 (ii) does not engage in activities which in
11 themselves are not in furtherance of the purpose or purposes;

12 (iii) does not directly or indirectly
13 participate or intervene in any political campaign on behalf of or
14 in opposition to any candidate for public office;

15 (iv) dedicates its assets to achieving the
16 stated purpose or purposes of the organization;

17 (v) does not allow any part of its net
18 assets on dissolution of the organization to inure to the benefit of
19 any group, shareholder, or individual; and

20 (vi) normally receives more than one-third
21 of its support in any year from private or public gifts, grants,
22 contributions, or membership fees;

23 (C) a homeowners association as defined by
24 Section 528(c) of the Internal Revenue Code of 1986 or which is
25 exempt from federal income tax under Section 501(a) of the Internal
26 Revenue Code of 1986 by being listed as an exempt organization in
27 Section 501(c)(4) of the code;

1 (D) a volunteer center, as that term is defined
2 by Section 411.126, Government Code; or

3 (E) a local chamber of commerce that:

4 (i) is exempt from federal income tax under
5 Section 501(a) of the Internal Revenue Code of 1986 by being listed
6 as an exempt organization in Section 501(c)(6) of the code;

7 (ii) does not directly or indirectly
8 participate or intervene in any political campaign on behalf of or
9 in opposition to any candidate for public office; and

10 (iii) does not directly or indirectly
11 contribute to a political action committee that makes expenditures
12 to any candidates for public office.

13 SECTION 2. Subsection (g), Section 84.007, Civil Practice
14 and Remedies Code, is amended to read as follows:

15 (g) Sections 84.005 and 84.006 of this Act do not apply to
16 any charitable organization that does not have liability insurance
17 coverage in effect on any act or omission to which this chapter
18 applies. The coverage shall apply to the acts or omissions of the
19 organization and its employees and volunteers and be in the amount
20 of at least \$500,000 for each person and \$1,000,000 for each single
21 occurrence for death or bodily injury and \$100,000 for each single
22 occurrence for injury to or destruction of property. The coverage
23 may be provided under a contract for ~~of~~ insurance, a plan
24 providing for self-insured retention that the charitable
25 organization has fully paid or establishes to a court that it is
26 capable of fully and immediately paying, a Lloyd's plan, an
27 indemnity policy to which all requirements for payment have been or

1 will be met, or other plan of insurance authorized by statute and
2 may be satisfied by the purchase of a \$1,000,000 bodily injury and
3 property damage combined single limit policy. For the purposes of
4 this chapter, coverage amounts are inclusive of a self-insured
5 retention, a Lloyd's plan, or an indemnity policy to which all
6 requirements for payment have been or will be met. Nothing in this
7 chapter shall limit liability of any insurer or insurance plan in an
8 action under Chapter 541 [~~21~~], Insurance Code, or in an action for
9 bad faith conduct, breach of fiduciary duty, or negligent failure
10 to settle a claim.

11 SECTION 3. The change in law made by this Act applies only
12 to a cause of action that accrues on or after the effective date of
13 this Act. A cause of action that accrues before the effective date
14 of this Act is governed by the law in effect immediately before the
15 effective date of this Act, and that law is continued in effect for
16 that purpose.

17 SECTION 4. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2011.