

By: Lucio

S.B. No. 1846

A BILL TO BE ENTITLED

AN ACT

1
2 relating to immunity and liability issues regarding unincorporated
3 charitable organizations, charitable organizations that utilize
4 self-insured retentions in their insurance coverage, and
5 charitable organizations that utilize Lloyd's plans and indemnity
6 policies.

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

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

10 (1) "Charitable organization" means:

11 (A) any organization exempt from federal income
12 tax under Section 501(a) of the Internal Revenue Code of 1986 by
13 being listed as an exempt organization in Section 501(c)(3) or
14 501(c)(4) of the code, if it is a [~~nonprofit~~] corporation,
15 foundation, community chest, church or fund organized and operated
16 exclusively for charitable, religious, prevention of cruelty to
17 children or animals, youth sports and youth recreational,
18 neighborhood crime prevention or patrol, fire protection or
19 prevention, emergency medical or hazardous material response
20 services, or educational purposes, including private primary or
21 secondary schools if accredited by a member association of the
22 Texas Private School Accreditation Commission but excluding
23 fraternities, sororities, and secret societies, or is organized and
24 operated exclusively for the promotion of social welfare by being

1 primarily engaged in promoting the common good and general welfare
2 of the people in a community;

3 (B) any bona fide charitable, religious,
4 prevention of cruelty to children or animals, youth sports and
5 youth recreational, neighborhood crime prevention or patrol, or
6 educational organization, excluding fraternities, sororities, and
7 secret societies, or other organization organized and operated
8 exclusively for the promotion of social welfare by being primarily
9 engaged in promoting the common good and general welfare of the
10 people in a community, and that:

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

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

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

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

20 (v) does not allow any part of the its net
21 assets on dissolution of the organization to insure to the benefit
22 of any group, shareholder, or individual; and

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

26 (C) a homeowners association as defined by
27 Section 528(c) of the Internal Revenue Code of 1986 or which is

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

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

6 (E) a local chamber of commerce that:

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

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

13 (iii) does not directly or indirectly
14 contribute to a political action committee that makes expenditures
15 to any candidates for public office.

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

18 (g) Sections 84.005 and 84.006 of this Act do not apply to
19 any charitable organization that does not have liability insurance
20 coverage in effect on any act or omission to which this chapter
21 applies. The coverage shall apply to the acts or omissions of the
22 organization and its employees and volunteers and be in the amount
23 of at least \$500,000 for each person and \$1,000,000 for each single
24 occurrence for death or bodily injury and \$100,000 for each single
25 occurrence for injury to or destruction of property. The coverage
26 may be provided under a contract for insurance, a plan providing for
27 self-insured retention that the charitable organization has fully

1 paid or establishes to a court of law that it is capable of fully and
2 immediately paying, a Lloyd's plan, a collectible indemnity policy,
3 or other plan of insurance authorized by statute and may be
4 satisfied by the purchase of a \$1,000,000 bodily injury and
5 property damage combined single limit policy. For the purposes of
6 this chapter, coverage amounts are inclusive of a self-insured
7 retention, a Lloyd's plan, or an indemnity policy. [~~The coverage~~
8 ~~may be provided under a contract of insurance or other plan of~~
9 ~~insurance authorized by statute and may be satisfied by the~~
10 ~~purchase of a \$1,000,000 bodily injury and property damage combined~~
11 ~~single limit policy.~~] Nothing in this chapter shall limit
12 liability or any insurer or insurance plan in an action under
13 Chapter 21, Insurance Code, or in an action for bad faith conduct,
14 breach of fiduciary duty, or negligent failure to settle a claim.

15 SECTION 3. This Act take effect immediately if it receives a
16 vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2011.