

1-1 By: Lucio S.B. No. 1846  
1-2 (In the Senate - Filed March 11, 2011; March 24, 2011, read  
1-3 first time and referred to Committee on Business and Commerce;  
1-4 April 7, 2011, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 7, 2011,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1846 By: Lucio

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to organizations that are covered by the Charitable  
1-11 Immunity and Liability Act of 1987.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subdivision 1, Section 84.003, Civil Practice  
1-14 and Remedies Code, is amended to read as follows:

1-15 (1) "Charitable organization" means:

1-16 (A) any organization exempt from federal income  
1-17 tax under Section 501(a) of the Internal Revenue Code of 1986 by  
1-18 being listed as an exempt organization in Section 501(c)(3) or  
1-19 501(c)(4) of the code, if it is a ~~nonprofit~~ corporation,  
1-20 foundation, community chest, church, or fund organized and operated  
1-21 exclusively for charitable, religious, prevention of cruelty to  
1-22 children or animals, youth sports and youth recreational,  
1-23 neighborhood crime prevention or patrol, fire protection or  
1-24 prevention, emergency medical or hazardous material response  
1-25 services, or educational purposes, including private primary or  
1-26 secondary schools if accredited by a member association of the  
1-27 Texas Private School Accreditation Commission but excluding  
1-28 fraternities, sororities, and secret societies, or is organized and  
1-29 operated exclusively for the promotion of social welfare by being  
1-30 primarily engaged in promoting the common good and general welfare  
1-31 of the people in a community;

1-32 (B) any bona fide charitable, religious,  
1-33 prevention of cruelty to children or animals, youth sports and  
1-34 youth recreational, neighborhood crime prevention or patrol, or  
1-35 educational organization, excluding fraternities, sororities, and  
1-36 secret societies, or other organization organized and operated  
1-37 exclusively for the promotion of social welfare by being primarily  
1-38 engaged in promoting the common good and general welfare of the  
1-39 people in a community, and that:

1-40 (i) is organized and operated exclusively  
1-41 for one or more of the above purposes;

1-42 (ii) does not engage in activities which in  
1-43 themselves are not in furtherance of the purpose or purposes;

1-44 (iii) does not directly or indirectly  
1-45 participate or intervene in any political campaign on behalf of or  
1-46 in opposition to any candidate for public office;

1-47 (iv) dedicates its assets to achieving the  
1-48 stated purpose or purposes of the organization;

1-49 (v) does not allow any part of its net  
1-50 assets on dissolution of the organization to inure to the benefit of  
1-51 any group, shareholder, or individual; and

1-52 (vi) normally receives more than one-third  
1-53 of its support in any year from private or public gifts, grants,  
1-54 contributions, or membership fees;

1-55 (C) a homeowners association as defined by  
1-56 Section 528(c) of the Internal Revenue Code of 1986 or which is  
1-57 exempt from federal income tax under Section 501(a) of the Internal  
1-58 Revenue Code of 1986 by being listed as an exempt organization in  
1-59 Section 501(c)(4) of the code;

1-60 (D) a volunteer center, as that term is defined  
1-61 by Section 411.126, Government Code; or

1-62 (E) a local chamber of commerce that:

1-63 (i) is exempt from federal income tax under

2-1 Section 501(a) of the Internal Revenue Code of 1986 by being listed  
 2-2 as an exempt organization in Section 501(c)(6) of the code;  
 2-3 (ii) does not directly or indirectly  
 2-4 participate or intervene in any political campaign on behalf of or  
 2-5 in opposition to any candidate for public office; and  
 2-6 (iii) does not directly or indirectly  
 2-7 contribute to a political action committee that makes expenditures  
 2-8 to any candidates for public office.

2-9 SECTION 2. Subsection (g), Section 84.007, Civil Practice  
 2-10 and Remedies Code, is amended to read as follows:

2-11 (g) Sections 84.005 and 84.006 of this Act do not apply to  
 2-12 any charitable organization that does not have liability insurance  
 2-13 coverage in effect on any act or omission to which this chapter  
 2-14 applies. The coverage shall apply to the acts or omissions of the  
 2-15 organization and its employees and volunteers and be in the amount  
 2-16 of at least \$500,000 for each person and \$1,000,000 for each single  
 2-17 occurrence for death or bodily injury and \$100,000 for each single  
 2-18 occurrence for injury to or destruction of property. The coverage  
 2-19 may be provided under a contract for ~~[of]~~ insurance, a plan  
 2-20 providing for self-insured retention that the charitable  
 2-21 organization has fully paid or establishes to a court that it is  
 2-22 capable of fully and immediately paying, a Lloyd's plan, an  
 2-23 indemnity policy to which all requirements for payment have been or  
 2-24 will be met, or other plan of insurance authorized by statute and  
 2-25 may be satisfied by the purchase of a \$1,000,000 bodily injury and  
 2-26 property damage combined single limit policy. For the purposes of  
 2-27 this chapter, coverage amounts are inclusive of a self-insured  
 2-28 retention, a Lloyd's plan, or an indemnity policy to which all  
 2-29 requirements for payment have been or will be met. Nothing in this  
 2-30 chapter shall limit liability of any insurer or insurance plan in an  
 2-31 action under Chapter 541 ~~[21]~~, Insurance Code, or in an action for  
 2-32 bad faith conduct, breach of fiduciary duty, or negligent failure  
 2-33 to settle a claim.

2-34 SECTION 3. The change in law made by this Act applies only  
 2-35 to a cause of action that accrues on or after the effective date of  
 2-36 this Act. A cause of action that accrues before the effective date  
 2-37 of this Act is governed by the law in effect immediately before the  
 2-38 effective date of this Act, and that law is continued in effect for  
 2-39 that purpose.

2-40 SECTION 4. This Act takes effect immediately if it receives  
 2-41 a vote of two-thirds of all the members elected to each house, as  
 2-42 provided by Section 39, Article III, Texas Constitution. If this  
 2-43 Act does not receive the vote necessary for immediate effect, this  
 2-44 Act takes effect September 1, 2011.

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