

TEXAS CHARITABLE IMMUNITY AND LIABILITY ACT

Scope

The Texas Charitable Immunity and Liability Act serves to protect volunteers from liability exposure in order to encourage volunteer services through nonprofit organizations. This Act does not shield a nonprofit organization or its employees from liability, but it can significantly reduce their exposure.

Volunteer Immunity

All volunteers are immune from civil liability for any act or omission resulting in death, damage, or injury if the volunteer can prove he/she was acting in the course and scope of their duties or functions, including an officer, director, or trustee within the charitable organization. This only applies to those who do not receive compensation, including stipends, for their volunteer services. This immunity does not apply to the liability of the organization for the acts or omissions of volunteers. The major exception to the volunteer immunity rule is when the act or omission involves the operation of a motor vehicle, including an airplane. This immunity does not extend to intentional, willfully or wantonly negligent acts or omissions, or those done with conscious indifference.

Insurance Required

The Act applies to most 501(c)(3) and 501(c)(4) organizations, homeowner associations, and other similarly situated organizations as described within the statute. In order to take advantage of the benefits within the act, a nonprofit must have liability insurance coverage in effect at the time of the act or omission creating the basis of the claim. The coverage must apply to the acts or omissions of the organization, its employees, and its volunteers. The coverage must equal at least \$500,000 for each person and \$1,000,000 for each single occurrence for death or bodily injury, and \$100,000 for each single occurrence of property damage.

Organization and Employee Protection

If the organization qualifies as a nonprofit and has the proper insurance coverage, liability can be limited to money damages in a maximum amount of \$500,000 for each person and \$1,000,000 for each single occurrence of bodily injury or death, and \$100,000 for each single occurrence for injury to or destruction of property. As these are the numbers required for minimum coverage, the liability should not exceed that of the insurance coverage significantly reducing a risk of any excess judgment. These liability limitations do not apply to an act or omission that is intentional, willfully negligent, or done with conscious indifference or reckless disregard for the safety of others.

Hermes Sargent Bates, LLP

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