

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2332

BY: McCORKELL

AS INTRODUCED

AN ACT RELATING TO CORPORATIONS; AMENDING 18 O.S.

1991, SECTIONS 865, 866, AND 867, WHICH RELATE TO
NONPROFIT CORPORATIONS; MODIFYING LEGISLATIVE
FINDING TO INCLUDE OFFICERS AND VOLUNTEERS;
EXEMPTING OFFICERS AND VOLUNTEERS FROM LIABILITY;
INCLUDING OFFICERS AND VOLUNTEERS FOR BREACH OF
FIDUCIARY DUTIES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 18 O.S. 1991, Section 865, is
amended to read as follows:

Section 865. The Legislature finds that nonprofit corporations
serve important functions in providing services and assistance to
persons in the state and that in order for these nonprofit
corporations to function effectively, persons serving on the board
of directors, and persons serving as officers or volunteers should
not be subject to vicarious liability for the negligence of
corporate employees or other directors. The Legislature finds that
potential exposure to vicarious liability has a detrimental effect
on the participation of persons as directors, officers or volunteers
of nonprofit corporations and that providing immunity to directors, officers and volunteers of such corporations for certain types of

liability will promote the general health, safety and welfare of citizens in the state.

SECTION 2. AMENDATORY 18 O.S. 1991, Section 866, is amended to read as follows:

Section 866. A. Except as otherwise provided by this section, no officer, volunteer or member of the board of directors of a nonprofit corporation that holds a valid exemption from federal income taxation issued pursuant to Section 501(a) of the Internal Revenue Code (26 U.S.C. Section 501(a)) and is listed as an exempt organization in Section 501(c) of the Internal Revenue Code (26 U.S.C. Section 501(c)) shall be held personally liable for damages resulting from:

1. any negligent act or omission of an employee or volunteer of the nonprofit corporation; or

2. any negligent act or omission of another director or officer.

B. The immunity provided by subsection A of this section shall not extend to intentional torts or grossly negligent acts or omissions personal to any director, officer or volunteer of the nonprofit corporation.

C. If a nonprofit corporation transfers assets to a member of the board of directors of such corporation or to another nonprofit corporation in order to avoid claims against corporate assets resulting from a judgment rendered as a result of a suit to recover damages for the negligence of the corporation, a corporate employee or a director, the director to whom the asset is transferred or any director of the corporation from which assets are transferred to avoid such claims may be held personally liable for any such judgment rendered and the immunity provided by this section shall be of no force or effect.

D. The provisions of this section shall only apply to suits for recovery of damages based upon causes of action that accrue on or after the effective date of this act.

SECTION 3. AMENDATORY 18 O.S. 1991, Section 867, is amended to read as follows:

Section 867. In addition to the immunity provisions of Section 866 of Title 18 of the Oklahoma Statutes, no member of the board of directors, officer or volunteer of a nonprofit corporation shall be personally liable to the corporation, or members thereof, for monetary damages for breach of fiduciary duty as a director, officer or volunteer, provided that such immunity from liability shall not extend to:

1. any breach of the director's, officer's or volunteer's duty of loyalty to the corporation; or
2. any acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law; or
3. any transaction from which the director, officer or volunteer derived an improper personal benefit.

SECTION 4. This act shall become effective September 1, 1992.

43-2-7069

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