

State of Arkansas

76th General Assembly

Regular Session, 1987 AS ENGROSSED 2/2/87

HOUSE BILL 1077

By: Representative Hinshaw AS ENGROSSED 4/6/87

"AN ACT GRANTING LIMITED TORT IMMUNITY TO DIRECTORS OF
NONPROFIT CORPORATIONS AND MEMBERS OF BOARDS, COMMISSIONS,
AGENCIES, AUTHORITIES, AND OTHER GOVERNING BODIES OF ANY
GOVERNMENTAL ENTITY; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. The General Assembly has determined 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 should not be subject to vicarious liability for the negligence of corporate employees or other directors. The General Assembly has further determined that potential exposure to vicarious liability has a detrimental effect on the participation of persons as directors of nonprofit corporations and that providing immunity to directors of such corporations for certain types of liability will be in the best interest of the State and that the same immunity should be extended to members of governing bodies of governmental entities.

SECTION 2. Except as otherwise provided by this Act, no member of any board, commission, agency, authority, or other governing body of any governmental entity and no member of the board of directors of a nonprofit corporation that holds a valid federal income tax exemption issued by the Internal Revenue Service shall be held personally liable for damages resulting from:

(a) any negligent act or omission of an employee of the nonprofit corporation or governmental entity; or

(b) any negligent act or omission of another director or member of the governing body of the governmental entity.

SECTION 3. The same immunity provided by this Act shall be extended to any athletic official during the officiating of an interscholastic, inter-collegiate, or any other amateur athletic contest being conducted under the auspices of a nonprofit or governmental entity. No official shall be held personally liable in any civil action for damages to a player, participant, or spectator as a result of his acts of commission or omission arising out of officiating duties and activities. Nothing in this Section shall be deemed to grant immunity to any person causing damage by his malicious, willful, wanton, or grossly negligent act.

SECTION 4. The immunity provided by this Act shall not extend to acts or omissions of directors of nonprofit corporations or members of boards, commissions, agencies, authorities or other governing bodies of any governmental entity which constitute ordinary or gross negligence personal to the director or member or to intentional torts committed by a director or member. Provided further that the immunity provided by this Act shall not extend to acts or omissions of directors of nonprofit corporations which are licensed or permitted by the Arkansas Alcoholic Beverage Control to dispense alcoholic beverages, beer or wine.

SECTION 5. 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 Act shall be of no force or effect.

SECTION 6. This Act shall only apply to suits for recovery of damages based upon causes of action that accrue after August 1, 1987.

SECTION 7. Nothing herein shall be construed to limit the liability of a nonprofit corporate entity itself for damages resulting from any negligent act

or omission of an employee of the nonprofit corporation.

SECTION 8. All laws and parts of laws in conflict with this Act are hereby repealed.

/s/ Jerry E. Hinshaw

