

ACT 250

H.B. NO. 2449

A Bill for an Act Relating to Tort Liability.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 90-1, Hawaii Revised Statutes, is amended by amending the definition of “volunteer” to read as follows:

“The term “volunteer” means any person who of the person’s own free will provides goods or services to an agency with no monetary or material gain and includes material donors, occasional-service, regular-service, and stipended volunteers. Without limiting the generality of the foregoing, the term “volunteer” specifically includes any health care provider accepted in writing by the department of health as a “volunteer” who provides free medical or dental treatment, diagnosis, or advice to indigent and medically underserved patients, whether acting individually or in cooperation with a nonprofit organization.”

SECTION 2. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§663- Exemption for providing shelter and subsistence to the needy.** (a) Any charitable or nonprofit organization that in good faith provides shelter or proper means of subsistence to needy persons as part of its bona fide and customary charitable activities, rendered without remuneration or expectation of remuneration, shall be exempt from civil liability for injuries and damages resulting from the organization’s acts or omissions in providing such shelter or subsistence, except for gross negligence or wanton acts or omissions of the organization.

(b) Any person who donates goods, food, materials, or services to a charitable or nonprofit organization described in subsection (a) shall be exempt from civil liability for injuries and damages resulting from the donation, except for gross negligence or wanton acts or omissions.

(c) As used in this section, "needy person" means any person who lacks adequate or proper means of subsistence."

SECTION 3. Section 358D-6, Hawaii Revised Statutes, is amended to read as follows:

**"§358D-6 Exception to liability for donors.** (a) Any donor who gives money to a provider agency, to a homeless facility, to or through the authority, or for any other program for the homeless authorized by this chapter, shall not be liable for any civil damages resulting from the donation.

(b) Any donor who gives land and improvements, or who leases land and improvements at a nominal consideration, to a provider agency, to a homeless facility, to or through the authority, or for any other program for the homeless authorized by this chapter, shall not be liable for any civil damages resulting from the donation except as may result from the donor's gross negligence or wanton acts or omissions; provided that, if the donor at the time of donation gave the authority a full accounting of all the dangers concerning the land and improvements known to the donor, then the donor shall not be liable for any civil damages resulting from the donation.

(c) Any donor who in good faith and without remuneration or expectation of remuneration provides services or materials used to build and construct a<sup>1</sup> facility for the homeless [facility], or who renovates, repairs, or maintains an existing or acquired facility for the homeless, or who provides shelter to homeless persons, shall not be liable for any civil damages resulting from the donor's acts or omissions, except for damages resulting from the donor's gross negligence relating to the donation.

(d) The authority shall be responsible for inspecting, reviewing, analyzing, qualifying, and determining that the land, structures, materials, or services donated to [or through] the authority for use by the [homeless] authority in facilities], or other programs for the homeless,] for the homeless are reasonably safe for public use."

SECTION 4. This Act shall apply only to causes of action based upon acts or omissions occurring on or after its effective date.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 6. This Act shall take effect upon its approval.

(Approved June 29, 1994.)

#### Notes

1. "A" should not be underscored.

2. Edited pursuant to HRS §23G-16.5.