

CIVIL PRACTICE AND REMEDIES CODE

TITLE 4. LIABILITY IN TORT

CHAPTER 78. CERTAIN FIRE FIGHTERS AND FIRE-FIGHTING ENTITIES

SUBCHAPTER A. VOLUNTEER FIRE FIGHTERS AND FIRE DEPARTMENTS

Sec. 78.001. LIABILITY. A volunteer fire fighter or a volunteer fire department is not liable for damage to property resulting from the fire fighter's or the department's reasonable and necessary action in fighting or extinguishing a fire on the property.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER B. MARINE FIRE-FIGHTING SERVICES

Sec. 78.051. DEFINITIONS. In this subchapter:

(1) "Fire emergency" means an emergency response involving fire protection or prevention, rescue, emergency medical, or hazardous material response services.

(2) "Fire fighter" means an employee of a nonprofit fire department.

(3) "Governmental unit" has the meaning assigned by Chapter 101.

(4) "Nonprofit fire department" means a nonprofit organization that is:

(A) exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 501(a)) by being listed as an exempt organization in Section 501(c)(4) of that code;

(B) composed of member owners; and

(C) organized to offer and provide:

(i) fire protection, prevention, and inspection services; and

(ii) emergency response services, including rescue, emergency medical, and hazardous material response services.

Added by Acts 1997, 75th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1997.

Sec. 78.052. APPLICABILITY OF SUBCHAPTER: MARINE FIRE EMERGENCY. This subchapter applies only to damages for personal injury, death, or property damage arising from an error or omission of:

(1) a nonprofit fire department providing services to respond to marine fire emergencies under contract to a governmental unit, if the error or omission occurs in responding to a marine fire emergency:

(A) on the navigable waters of this state;

(B) in any place into which a vessel enters or from which a vessel departs the waterway leading to that place from the Gulf of Mexico or the Gulf Intracoastal Waterway;

(C) on property owned or under the control of the governmental unit; or

(D) at the request of the governmental unit in the interest of public safety; or

(2) a fire fighter providing services described by Subdivision (1).

Added by Acts 1997, 75th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1997.

Sec. 78.053. LIABILITY. (a) A nonprofit fire department is liable for damages described by Section 78.052 only to the extent that the governmental unit with which the nonprofit fire department is contracting would be liable under Chapter 101.

(b) Section 101.106 applies to a claimant in a suit against a fire fighter as if the fire fighter were an employee of a governmental unit and the nonprofit fire department were a governmental unit.

Added by Acts 1997, 75th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1997.

Sec. 78.054. INDIVIDUAL IMMUNITIES. A fire fighter is liable for damages described by Section 78.052 only to the extent an analogous employee of the governmental unit with which the nonprofit fire department is contracting would be liable and is entitled to the common law immunities applicable to the employee of

the governmental unit.

Added by Acts 1997, 75th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER C. FIRE-FIGHTING SERVICES

Sec. 78.101. DEFINITIONS. In this subchapter:

(1) "Emergency response" means a response involving fire protection or prevention, rescue, emergency medical, or hazardous material response services.

(2) "Volunteer fire department" means a nonprofit organization that is:

(A) operated by its members;

(B) exempt from the state sales tax under Section 151.310, Tax Code, or the state franchise tax under Section 171.083, Tax Code; and

(C) organized to provide an emergency response.

(3) "Volunteer fire fighter" means a member of a volunteer fire department.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 19.02, eff. Sept. 1, 2003.

Sec. 78.102. APPLICABILITY OF SUBCHAPTER: EMERGENCY RESPONSE. This subchapter applies only to damages for personal injury, death, or property damage, other than property damage to which Subchapter A applies, arising from an error or omission of:

(1) a volunteer fire department while involved in or providing an emergency response; or

(2) a volunteer fire fighter while involved in or providing an emergency response as a member of a volunteer fire department.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 19.02, eff. Sept. 1, 2003.

Sec. 78.103. LIABILITY OF VOLUNTEER FIRE DEPARTMENT. A volunteer fire department is:

(1) liable for damages described by Section 78.102 only to the extent that a county providing the same or similar

services would be liable under Chapter 101; and

(2) entitled to the exclusions, exceptions, and defenses applicable to a county under Chapter 101 and other statutory or common law.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 19.02, eff. Sept. 1, 2003.

Sec. 78.104. LIABILITY OF VOLUNTEER FIRE FIGHTER. A volunteer fire fighter is:

(1) liable for damages described by Section 78.102 only to the extent that an employee providing the same or similar services for a county would be liable; and

(2) entitled to the exclusions, exceptions, immunities, and defenses applicable to an employee of a county under Chapter 101 and other statutory or common law.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 19.02, eff. Sept. 1, 2003.

SUBCHAPTER D. LIABILITY FOR TRAINING EXERCISES

Sec. 78.151. LIABILITY FOR TRAINING EXERCISES. A person is not liable for damages resulting from the person's execution of a training exercise intended to prepare the person to respond to a fire or emergency to which this chapter applies to the same extent that the person would not be liable under this chapter for damages resulting from the person's actions in responding to a fire or emergency.

Added by Acts 2015, 84th Leg., R.S., Ch. 1039 (H.B. 1666), Sec. 1, eff. September 1, 2015.