

Title: Indemnification

Question: Why have an indemnification statement in your by-laws or constitution?

Explanation: Richard R Hammar, author of Pastor, Church & Law, urges churches to make sure that legal language is used in their by-laws to protect themselves in a court of law. Here we look at what an Indemnity Clause can do for a churches by-laws. An Indemnity clause is a crucial aspect of all church by-laws. An indemnity clause allows for church staff and ministry leaders to not be held financially responsible if a lawsuit is brought against the church. Brotherhood mutual says this “The purpose of an indemnification provision is to protect individuals who are working for the ministry from incurring out-of-pocket costs if they’re sued in connection with their work on behalf of the organization.” The clause will protect who it outlines, but most recommend Pastoral Staff and Elders, with an option to include properly vetted Ministry Volunteers. Indemnity Clauses can be worded where the governing board of the Church gets to decide if the Indemnity clause applies to the specific party, protecting a church from being responsible for paying for wrongful or criminal acts. Legal websites recommend that indemnity clauses be added to all church by-laws.

Sample Statement: Indemnification

11.1 *Members, Elders, and Deacons.* *The Church shall indemnify any person who was or is a party, or is threatened to be made a party to or witness in, any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that the person is or was a Member, Elder, Deacon, or Assistant Deacon, against expenses (including attorneys’ fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by that person in connection with such action, suit, or proceeding to the fullest extent and in the manner set forth in and permitted by the Act and any other applicable law, as from time-to-time in effect. Such right of indemnification shall not be deemed exclusive of any other rights to which such Member, Elder, Deacon, or Assistant Deacon may be entitled apart from the foregoing provision. The foregoing provision of this Article shall be deemed to be a contract between the Church and each Member, Elder, Deacon, and/or Assistant Deacon who serves in such capacity at any time while this Article and the relevant provisions of the Act and other applicable law, if any, are in effect, and any repeal or modification thereof shall not affect any rights or obligations then existing, with respect to any state of facts then or theretofore existing, or any action, suit, or proceeding theretofore, or thereafter, brought or threatened based in whole or in part on any such state of facts.*

11.2 *Employees and Agents.* *The Church may indemnify any person who was or is a party, or is threatened to be made a party to or witness in, any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that the person is or was an employee or agent of the Church, against expenses (including attorneys’ fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by that person in connection with such action, suit, or proceeding to the extent and in the manner set forth in and permitted by the Act and any other applicable law, as from time-to-time in effect. Such right of indemnification shall not be deemed exclusive of any other rights to which any such person may be entitled apart from the foregoing provisions.*