



# Sanctuary Church for Immigrants

*The Insurance Board has received numerous inquiries related to insurance and risk management implications associated with the sanctuary movement in churches. The discussion that follows does not address the legal implications of the sanctuary movement. We recommend that any faith group, faith leader, or congregation member who is considering engaging in “sanctuary” activities consult a lawyer.*

*Be aware that interpretation of insurance coverage at the time of a claim is highly dependent on the facts specific to that claim. And interpretation is subject to changes in statutory and case law; and to conflicting interpretation in different jurisdictions. What follows is intended to be general information only.*

## **The Sanctuary Movement**

Traditionally, “sanctuary” is a term that has been used to describe the protection of individuals in a place of worship. Sanctuary is generally considered to involve providing comfort and assistance to immigrants and their family members who are at risk of apprehension by federal immigration authorities or mistreatment by others. The sanctuary movement may call on faith communities to house and/or provide other services such as transportation to undocumented immigrants, with the goal to prevent their arrest and/or deportation.

The federal criminal harboring law prohibits the actual or attempted concealing, harboring, or shielding of an undocumented immigrant from detection by the authorities, when done with knowledge or reckless regard of the immigrant’s unlawful status. The federal criminal transporting law pro-

hibits the actual or attempted transporting or moving of an undocumented immigrant from one place to another, with knowledge or reckless disregard of the fact of the immigrant’s unlawful status, where the transportation helps the immigrant remain in the United States unlawfully.

Federal courts across the Country have approached conviction of a person for harboring in different ways, and have applied different standards. Whether a certain action places one at risk for a criminal conviction varies throughout the country.

## **Insurance Implications**

The coverages provided by the Insurance Board Program are broad and may be expected to respond to most issues related to providing “sanctuary” subject to usual policy terms and conditions. But, there are a few provisions in commercial insurance policies that address Governmental Action and/or Criminal Acts. These provisions include the following:

- **Property coverage** – A coverage exclusion for seizure or destruction of property by order of governmental authority.
- **Liability coverage** – A coverage exclusion for allegations of false arrest; invasion of privacy, etc. arising out of a criminal act committed by or at the direction of the insured.
- **Nurses Professional, Pastoral and Counseling Liability** – excludes loss arising out of any criminal act.
- **Directors & Officers Liability** – A Conduct Clause excludes a deliberate criminal act by the insured, if estab-

lished by final adjudication; also, loss shall not include civil or criminal fines or penalties.

Determining in advance how the insurance will respond is uncertain based on the different standards for criminal prosecution, as described above.

## **Risk Mgmt/Loss Control Implications**

Some loss control concerns should be evaluated, should you decide to provide sanctuary. The National Fire Protection Association (NFPA) has fire codes, based on occupancy. Churches mainly fall under the classification of Assembly. If people sleep overnight, the occupancy would be considered Lodging or Rooming House (for 16 or fewer persons, transient or permanent). Emergency lighting and smoke detectors are essential. If the smoke detectors are not hard wired, the facility **must** demonstrate the testing, maintenance, and battery replacement program to ensure the reliability of the smoke detectors. A secondary means of egress is also essential. Additionally, if there are fuel burning appliances or fireplaces or an attached garage, then carbon monoxide detectors should be installed.

In addition to life safety issues, health and environmental concerns should be evaluated. Some factors may include sleeping facilities, security, food preparation, sanitation, illness, medical care, cleanliness, and childcare. Following is a link to a CDC Environmental Health Assessment Form for Shelters which can be a useful tool when planning to use your church as housing.

<https://emergency.cdc.gov/shelterassessment/pdf/shelter-tool-form.pdf>