

Bill No. SB 2406

Amendment No. 1 Barcode 622790

CHAMBER ACTION

Senate

House

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The Committee on Natural Resources recommended the following amendment:

Senate Amendment (with title amendment)

On page 1, between lines 27 and 28,

insert:

Section 2. Section 260.0125, Florida Statutes, is amended to read:

260.0125 Limitation on liability of private landowners whose property is designated as part of the statewide or local government system of greenways and trails.--

(1)(a) A private landowner whose land is designated as part of the statewide system of greenways and trails pursuant to s. 260.016(2)(d) or designated as part of any local trail system owned by a local government, including a person holding a subservient interest, owes no duty of care to keep that land safe for entry or use by others or to give warning to persons entering that land of any hazardous conditions, structures, or activities thereon. Such landowner shall not:

- 1. Be presumed to extend any assurance that such land

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1 is safe for any purpose;

2 2. Incur any duty of care toward a person who goes on
3 the land; or

4 3. Become liable or responsible for any injury to
5 persons or property caused by the act or omission of a person
6 who goes on the land.

7 (b) The provisions of paragraph (a) apply whether the
8 person going on the designated greenway or trail is an
9 invitee, licensee, trespasser, or otherwise.

10 (2) Any private landowner who consents to designation
11 of his or her land as part of the statewide system of
12 greenways and trails pursuant to s. 260.016(2)(d) without
13 compensation shall be considered a volunteer, as defined in s.
14 110.501, and shall be covered by state liability protection
15 pursuant to s. 768.28, including s. 768.28(9).

16 (3)(a) The provisions of subsection (1) shall not
17 apply if there is any charge made or usually made by the
18 landowner for entering or using the land designated as a
19 greenway or trail, or any part thereof, or if any commercial
20 or other activity whereby profit is derived by the landowner
21 from the patronage of the general public is conducted on the
22 land so designated or any part thereof.

23 (b) Incentives granted by any unit of government to
24 the private landowner, including tax incentives, grants, or
25 other financial consideration specific to the development or
26 management of designated greenways and trails, shall not be
27 construed as a charge for use or profit derived from patronage
28 for purposes of this subsection and shall not be construed as
29 monetary or material compensation for purposes of subsection
30 (2).

31 (4) The provisions of subsection (1) shall also apply

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1 to adjacent land owned by the private landowner who consents
 2 to designation of a greenway or trail where such adjacent land
 3 is accessed through the land so designated.

4 (5)(a) When a private landowner agrees to make his or
 5 her land available for public use as a designated greenway or
 6 trail, the agency or governmental entity responsible for
 7 managing the trail ~~department or its designee~~ shall post
 8 notices at the entrances ~~along the boundary~~ of the designated
 9 greenway or trail which inform the public that the land
 10 adjacent to the greenway or trail is private property upon
 11 which unauthorized entry for any purpose is prohibited and
 12 constitutes trespassing.

13 (b) Such notices must comply with s. 810.011(5) and
 14 shall constitute a warning to unauthorized persons to remain
 15 off the private property and not to depart from the designated
 16 greenway or trail. Any person who commits such an unauthorized
 17 entry commits a trespass as provided in s. 810.09.

18 (6) If agreed to by the department and the landowner
 19 in the designation agreement, a landowner whose land is
 20 designated as part of the statewide system of greenways and
 21 trails pursuant to s. 260.016(2)(d) shall be indemnified for:

22 (a) Any injury or damage incurred by a third party
 23 arising out of the use of the designated greenway or trail;

24 (b) Any injury or damage incurred by a third party on
 25 lands adjacent to and accessed through the designated greenway
 26 or trail; and

27 (c) Any damage to the landowner's property, including
 28 land adjacent to and accessed through the designated greenway
 29 or trail, caused by the act or omission of a third person
 30 resulting from any use of the land so designated.

31 (7) This section does not relieve any person of

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1 liability that would otherwise exist for deliberate, willful,
2 or malicious injury to persons or property. The provisions of
3 this section shall not be deemed to create or increase the
4 liability of any person.

5 (8) Any person who brings suit against a private land
6 owner who has allowed his property to be used as a greenway or
7 trail pursuant to this section shall be liable for attorney's
8 fees and costs if that person fails to prevail in the filed
9 action. Any attorney who knowingly files suit on behalf of any
10 person who has been injured using a trail or greenway
11 established by state or local government when such injury was
12 not caused by deliberate, willful, or malicious actions of the
13 person against whom the suit is brought shall also be liable
14 for all fees and costs if the person injured does not prevail.

15 Section 3. Subsection (6) of section 260.0142, Florida
16 Statutes, is amended to read:

17 260.0142 Florida Greenways and Trails Council;
18 composition; powers and duties.--

19 (6) A vacancy on the council shall be filled for the
20 remainder of the unexpired term in the same manner as the
21 original appointment. Members whose terms have expired may
22 continue to serve until replaced or reappointed. ~~No member~~
23 ~~shall serve on the council for more than two consecutive~~
24 ~~terms.~~

25
26 (Redesignate subsequent sections.)
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29 ===== T I T L E A M E N D M E N T =====

30 And the title is amended as follows:

31 On page 1, line 7, after the semicolon

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1 insert:

2 amending s. 260.0125, F.S.; limiting the
3 liability of landowners whose property is
4 designated as part of a local government system
5 of greenways and trails; providing for
6 attorney's fees and costs in favor of such a
7 landowner in specified circumstances; amending
8 s. 260.0142, F.S.; deleting a limitation on
9 service on the Florida Greenways and Trails
10 Council;

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