

HB 1573

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1 A bill to be entitled

2 An act relating to street lighting; creating s. 768.1382,
3 F.S.; limiting liability for persons or political
4 subdivisions providing street lights, security lights, or
5 other similar illumination; providing that certain
6 entities do not owe duty to the public to provide,
7 operate, or maintain illumination; providing for
8 application; providing an effective date.

9
10 WHEREAS, the Legislature finds that the majority opinion in
11 Clay Electric v. Johnson was wrongly decided on public policy
12 and legal grounds, and, if the decision remains valid, it will
13 dramatically decrease public safety in Florida, and

14 WHEREAS, as noted by the dissenting opinion, the majority
15 opinion would place Florida among a small minority of states
16 that would impose liability on a utility to third parties for
17 injuries caused by nonfunctioning street lights, and

18 WHEREAS, states such as California, Georgia, New Jersey,
19 Louisiana, Maryland, New York, Ohio, Utah, Pennsylvania, and
20 Rhode Island have declined to impose a duty on utilities to
21 third parties to maintain street lights, and

22 WHEREAS, there is no sound public policy that would justify
23 imposing such a duty in Florida on utilities or other persons,
24 corporations, municipalities, or entities, and

25 WHEREAS, the Legislature finds that if the majority opinion
26 remained law, it is highly likely that the state courts would
27 also impose a duty and liability on homeowners' associations,
28 small businesses, related persons, corporations, municipalities,
29 and other entities to maintain street lights and similar

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30 illumination and the effect of this liability would deter
 31 utilities and other persons, corporations, municipalities, and
 32 entities from constructing or maintaining street lights and
 33 similar illumination for fear of liability to third parties, and

34 WHEREAS, the Legislature finds that the majority of states
 35 follow Justice Cardozo's opinion in H.R. Moch Co. v. Rensselaer
 36 Water Co. 159 N.E. 896 (N.Y. 1928) and view street lights as a
 37 mere benefit, the deprivation of which does not result in
 38 liability, and

39 WHEREAS, the Legislature also finds that the dissenting
 40 opinion properly states the appropriate public policy rationale
 41 and proper legal analysis, and

42 WHEREAS, the Legislature hereby rejects the majority
 43 opinion in Clay Electric v. Johnson and adopts the dissenting
 44 opinion, and

45 WHEREAS, the Legislature declares that there shall be no
 46 duty on persons, corporations, municipalities, or other entities
 47 to maintain street lights or similar illumination for the
 48 benefit of third parties, NOW, THEREFORE,

49

50 Be It Enacted by the Legislature of the State of Florida:

51

52 Section 1. Section 768.1382, Florida Statutes, is created
 53 to read:

54 768.1382 Limitation on liability for persons or political
 55 subdivisions providing street lights, security lights, or other
 56 similar illumination; no duty owed to provide, operate, or
 57 maintain illumination.--Any person, as defined in s. 1.01, or
 58 political subdivision, as defined in s. 1.01, that provides,

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59 operates, or maintains street lights, security lights, or other
60 similar illumination shall not be held liable for any civil
61 damages for injury or death affected or caused by the adequacy
62 or failure of illumination of such lights, regardless of whether
63 the adequacy or failure of illumination is alleged or
64 demonstrated to have contributed in any manner to the injury or
65 death. No person, corporation, municipality, political
66 subdivision, or other entity that provides, operates, or
67 maintains a manner of illumination described in this section
68 owes a duty to the public to provide, operate, or maintain the
69 illumination in any manner.

70 Section 2. This act shall take effect upon becoming a law
71 and shall apply to all cases pending or filed on or after the
72 effective date of this act.