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1  
2 An act relating to the limitation of liability of  
3 water management districts; amending s. 373.1395,  
4 F.S.; applying the limitation of liability of a water  
5 management district to the water areas of the  
6 district; providing that certain commercial activities  
7 do not terminate the limitation of liability of a  
8 water management district; providing that the  
9 protections, immunities, and limitations of liability  
10 provided to a water management district apply  
11 regardless of whether any claimant or person was  
12 engaged in an outdoor recreational purpose at the time  
13 of an accident or occurrence; providing liability  
14 protection to an owner of private land used as an  
15 easement or other right by a water management district  
16 for the purpose of providing access to lands or water  
17 areas that the water management district makes  
18 available to the public for outdoor recreational  
19 activities; defining the term "park area, district or  
20 other lands, or water areas"; providing an effective  
21 date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Section 373.1395, Florida Statutes, is amended  
26 to read:

27 373.1395 Limitation on liability of water management  
28 district with respect to areas made available to the public for  
29 recreational purposes without charge.-

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30 (1) The purpose of this section is to encourage water  
31 management districts to make available land, water areas, and  
32 park areas to the public for outdoor recreational purposes by  
33 limiting their liability to persons going thereon and to third  
34 persons who may be damaged by the acts or omissions of persons  
35 going thereon.

36 (2) Except as provided in subsection (6) ~~(4)~~, a water  
37 management district that provides the public with a park area or  
38 other land or water area for outdoor recreational purposes, or  
39 allows access over or the use of district or other lands or  
40 water areas for recreational purposes, owes no duty of care to  
41 keep that park area, district or other lands, or water areas  
42 ~~land~~ safe for entry or use by others or to give warning to  
43 persons entering or going on that park area, district or other  
44 lands, or water areas ~~land~~ of any hazardous conditions,  
45 structures, or activities thereon. A water management district  
46 that provides the public with a park area, district or other  
47 lands, or water areas ~~land~~ for outdoor recreational purposes, or  
48 that allows access over or the use of a park area, district or  
49 other lands, or water areas, does not, by providing that park  
50 area, district or other lands, or water areas or by allowing  
51 access over or the use of that park area, district or other  
52 lands, or water areas ~~or land~~, extend any assurance that such  
53 park area, district or other lands, or water areas ~~are or land~~  
54 ~~is~~ safe for any purpose, does not incur any duty of care toward  
55 a person who goes on that park area, district or other lands, or  
56 water areas ~~or land~~, and is not responsible for any injury to  
57 persons or property caused by an act or omission of a person who  
58 goes on that park area, district or other lands, or water areas

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59 ~~er land~~. This subsection does not apply if there is any charge  
60 made or usually made for entering or using the park area,  
61 district or other lands, or water areas ~~er land~~, or if any  
62 commercial or other activity from which profit is derived from  
63 the patronage of the public, excluding the temporary sale of  
64 food, beverages, plants, or tee shirts at temporary special  
65 events or nonprofit organizational activities associated with  
66 temporary special events, is conducted on such park area,  
67 district or other lands, or water areas ~~er land~~ or any part  
68 thereof.

69 (3) (a) This section applies to any park area, district or  
70 other lands, or water areas whether the person goes on as an  
71 invitee, licensee, or trespasser or otherwise.

72 (b) The protections, immunities, and limitations of  
73 liability provided in this section to water management districts  
74 apply regardless of whether any claimant or person was engaged  
75 in an outdoor recreational purpose at the time of an accident or  
76 occurrence and applies to park areas, district or other lands,  
77 and water areas actually used by the public for recreational  
78 activities regardless of whether the park area, district or  
79 other lands, or water areas were made available to the public at  
80 the time of the accident or occurrence.

81 (4) (3) (a) Except as provided in subsection (6) (4), a water  
82 management district that leases any land or water area to the  
83 state for outdoor recreational purposes, or for access to  
84 outdoor recreational purposes, owes no duty of care to keep that  
85 land or water area safe for entry or use by others or to give  
86 warning to persons entering or going on that land or water of  
87 any hazardous conditions, structures, or activities thereon. A

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88 water management district that leases a land or water area to  
89 the state for outdoor recreational purposes does not, by giving  
90 such lease, extend any assurance that such land or water area is  
91 safe for any purpose, incur any duty of care toward a person who  
92 goes on the leased land or water area, and is not responsible  
93 for any injury to persons or property caused by an act or  
94 omission of a person who goes on the leased land or water area.

95 (b) This subsection applies to any person going on the  
96 leased land or water area whether the person goes as an invitee,  
97 licensee, trespasser, or otherwise.

98 (5) If a water management district has secured an easement  
99 or other right that is being used for the purpose of providing  
100 access through private land to lands or water areas that the  
101 water management district provides or makes available to the  
102 public for outdoor recreational purposes, the owner of the  
103 private land is covered by the liability protection provided in  
104 s. 375.251 with regard to the use of such easement by the  
105 general public or by employees and agents of the water  
106 management district or other regulatory agencies.

107 ~~(6)~~(4) This section does not relieve any water management  
108 district of any liability that would otherwise exist for gross  
109 negligence or a deliberate, willful, or malicious injury to a  
110 person or property. This section does not create or increase the  
111 liability of any water management district or person beyond that  
112 which is authorized by s. 768.28.

113 ~~(7)~~(5) The term ~~"outdoor recreational purposes,"~~ As used in  
114 this section, the term:

115 (a) "Outdoor recreational purposes" includes activities  
116 such as, but not limited to, horseback riding, hunting, fishing,

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117 bicycling, swimming, boating, camping, picnicking, hiking,  
118 pleasure driving, nature study, water skiing, motorcycling, and  
119 visiting historical, archaeological, scenic, or scientific  
120 sites.

121 (b) "Park area, district or other lands, or water areas"  
122 includes, but is not limited to, all park areas, district or  
123 other land, right of ways, and water areas that the water  
124 management district controls, possesses, or maintains, or in  
125 which the water management district has a property or other  
126 interest, whether in fee simple, easement, leasehold, contract,  
127 memorandum of understanding, or otherwise.

128 Section 2. This act shall take effect July 1, 2009.