

1 A bill to be entitled
 2 An act relating to limitation on liability of water
 3 management districts; amending s. 373.1395, F.S.; revising
 4 provisions limiting the liability of water management
 5 districts for damages that occur on specified areas of the
 6 district; providing a limitation on liability for owners
 7 of private lands secured by water management districts for
 8 specified purposes; revising applicability of such
 9 provisions; providing a definition; providing an effective
 10 date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

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 14 Section 1. Section 373.1395, Florida Statutes, is amended
 15 to read:

16 373.1395 Limitation on liability of water management
 17 district with respect to areas made available to the public for
 18 recreational purposes without charge.--

19 (1) The purpose of this section is to encourage water
 20 management districts to make available land, water areas, and
 21 park areas to the public for outdoor recreational purposes by
 22 limiting their liability to persons going thereon and to third
 23 persons who may be damaged by the acts or omissions of persons
 24 going thereon.

25 (2) (a) Except as provided in subsection (5) ~~(4)~~, a water
 26 management district that provides the public with a park area or
 27 ~~other~~ land or water area for outdoor recreational purposes, or
 28 allows access over or the use of district or other lands or

29 water areas for recreational purposes, owes no duty of care to
 30 keep that park area or land or water area safe for entry or use
 31 by others or to give warning to persons entering or going on
 32 that park area or land or water area of any hazardous
 33 conditions, structures, or activities thereon. A water
 34 management district that provides the public with a park area or
 35 ~~other~~ land or water area for outdoor recreational purposes, or
 36 allows access over or the use of district or other lands or
 37 water areas, does not, by providing that park area or land or
 38 water area, or by allowing access over or the use of district or
 39 other lands or water areas, extend any assurance that such park
 40 area or land or water area is safe for any purpose, does not
 41 incur any duty of care toward a person who goes on that park
 42 area or land or water area, and is not responsible for any
 43 injury to persons or property caused by an act or omission of a
 44 person who goes on that park area or land or water area.

45 (b) This subsection does not apply if:

46 1. The water management district charges or usually
 47 charges the public ~~there is any charge made or usually made~~ for
 48 entering or using the park area or land or water area; or

49 2. if Any commercial or other activity from which profit
 50 is derived from the patronage of the public is conducted,
 51 excluding the sale of food, beverages, plants, and tee shirts,
 52 or the activities of nonprofit organizations, on such park area
 53 or land or water area or any part thereof.

54 (3) (a) Except as provided in subsection (5) ~~(4)~~, a water
 55 management district that leases any land or water area to the
 56 state for outdoor recreational purposes, or for access to

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57 outdoor recreational purposes, owes no duty of care to keep that
58 land or water area safe for entry or use by others or to give
59 warning to persons entering or going on that land or water of
60 any hazardous conditions, structures, or activities thereon. A
61 water management district that leases a land or water area to
62 the state for outdoor recreational purposes does not, by giving
63 such lease, extend any assurance that such land or water area is
64 safe for any purpose, incur any duty of care toward a person who
65 goes on the leased land or water area, and is not responsible
66 for any injury to persons or property caused by an act or
67 omission of a person who goes on the leased land or water area.

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

71 (4) Where a water management district has secured an
72 easement, or other right, that is being used for the purpose of
73 providing access through private land to lands that the water
74 management district provides or makes available to the public
75 for outdoor recreational purposes, the owner of the private land
76 shall be covered by the liability protection provided in s.
77 375.251 with regard to the use of such easement by the general
78 public or by employees and agents of the water management
79 district or other regulatory agencies.

80 (5)~~(4)~~ This section does not relieve any water management
81 district of any liability that would otherwise exist for gross
82 negligence or a deliberate, willful, or malicious injury to a
83 person or property. This section does not create or increase the

84 liability of any water management district or person beyond that
 85 which is authorized by s. 768.28.

86 (6) This section applies to:

87 (a) Any person going on the park area or land or water
 88 area, regardless of whether the person goes as an invitee,
 89 licensee, trespasser, or otherwise.

90 (b) Parks, district or other lands, and water areas used
 91 by the public for recreational activities, regardless of whether
 92 the park areas or land or water areas were made available to the
 93 public or whether a person was engaged in a recreational
 94 activity at the time of an accident or occurrence.

95 (7)~~(5)~~ As used in this section, the term:

96 (a) "Outdoor recreational purposes," as used in this
 97 ~~section,~~ includes activities such as, but not limited to,
 98 horseback riding, hunting, fishing, bicycling, swimming,
 99 boating, camping, picnicking, hiking, pleasure driving, nature
 100 study, water skiing, motorcycling, and visiting historical,
 101 archaeological, scenic, or scientific sites.

102 (b) "Park area or land or water area" includes, but is not
 103 limited to, all park areas, district or other lands, rights-of-
 104 way, or water areas that the water management district has a
 105 property or other interest in or that the water management
 106 district controls, possesses, or maintains.

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