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CS/CS/HB 313

2012 Legislature

1
2 An act relating to premises liability; amending s.
3 375.251, F.S.; providing that an owner or lessee who
4 makes an area available to another person for hunting,
5 fishing, or wildlife viewing is entitled to certain
6 limitations on liability if certain notice is
7 provided; providing that an owner of an area who
8 enters into a written agreement with the state for the
9 area to be used for outdoor recreational purposes is
10 entitled to certain limitations on liability; deleting
11 a requirement that the area be leased to the state in
12 order for the limitations on liability to apply;
13 providing intent and construction for such agreements;
14 providing applicability; defining the term "area";
15 making technical and grammatical changes; providing an
16 effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Section 375.251, Florida Statutes, is amended
21 to read:

22 375.251 Limitation on liability of persons making
23 available to public certain areas for recreational purposes
24 without charge.—

25 (1) The purpose of this section ~~act~~ is to encourage
26 persons to make land, water areas, and park areas available to
27 the public ~~land, water areas and park areas~~ for outdoor
28 recreational purposes by limiting their liability to persons

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29 using these areas ~~going thereon~~ and to third persons who may be
30 damaged by the acts or omissions of persons using these areas
31 ~~going thereon~~.

32 (2) (a) An owner or lessee who provides the public with an
33 ~~a park area or other land~~ for outdoor recreational purposes owes
34 no duty of care to keep that ~~park area or land~~ safe for entry or
35 use by others, or to give warning to persons entering or going
36 on that ~~park area or land~~ of any hazardous conditions,
37 structures, or activities on the area thereon. An owner or
38 lessee who provides the public with an ~~a park area or other land~~
39 for outdoor recreational purposes ~~shall not by providing that~~
40 ~~park area or land~~:

41 1. Is not ~~be~~ presumed to extend any assurance that the
42 ~~such park area or land~~ is safe for any purpose;;

43 2. Does not incur any duty of care toward a person who
44 goes on the ~~that park area or land~~;; or

45 3. Is not ~~Become~~ liable or responsible for any injury to
46 persons or property caused by the act or omission of a person
47 who goes on the ~~that park area or land~~.

48 (b) Notwithstanding the inclusion of the term "public" in
49 this subsection and subsection (1), an owner or lessee who makes
50 available to any person an area primarily for the purposes of
51 hunting, fishing, or wildlife viewing is entitled to the
52 limitation on liability provided herein so long as the owner or
53 lessee provides written notice of this provision to the person
54 before or at the time of entry upon the area or posts notice of
55 this provision conspicuously upon the area.

56 (c) ~~(b)~~ The Legislature recognizes that an area offered for

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57 outdoor recreational purposes may be subject to multiple uses.
 58 The limitation of liability extended to an owner or lessee under
 59 this subsection applies only if no charge is made for entry to
 60 or use of the area for outdoor recreational purposes and no
 61 other revenue is derived from patronage of the area for outdoor
 62 recreational purposes. This section shall not apply if there is
 63 any charge made or usually made for entering or using such park
 64 area or land, or any part thereof, or if any commercial or other
 65 activity , whereby profit is derived from the patronage of the
 66 general public, is conducted on such park area or land, or any
 67 part thereof.

68 (3) (a) An owner of an land or water area who enters into a
 69 written agreement concerning the area with leased to the state
 70 for outdoor recreational purposes, where such agreement
 71 recognizes that the state is responsible for personal injury,
 72 loss, or damage resulting in whole or in part from the state's
 73 use of the area under the terms of the agreement subject to the
 74 limitations and conditions specified in s. 768.28, owes no duty
 75 of care to keep the that land or water area safe for entry or
 76 use by others, or to give warning to persons entering or going
 77 on the area that land or water of any hazardous conditions,
 78 structures, or activities thereon. An owner who enters into a
 79 written agreement concerning the area with leases land or water
 80 area to the state for outdoor recreational purposes shall not by
 81 giving such lease:

- 82 1. Is not ~~be~~ presumed to extend any assurance that the
 83 ~~such land or water area is safe for any purpose;~~
- 84 2. Does not incur any duty of care toward a person who

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85 goes on the ~~leased land or water~~ area that is subject to the
86 agreement;~~7~~ or

87 3. Is not ~~become~~ liable or responsible for any injury to
88 persons or property caused by the act or omission of a person
89 who goes on the ~~leased land or water~~ area that is subject to the
90 agreement.

91 (b) This subsection applies to all persons going on the
92 area that is subject to the agreement, including invitees,
93 licensees, and trespassers. The foregoing applies whether the
94 person going on the leased land or water area is an invitee,
95 licensee, trespasser, or otherwise.

96 (c) It is the intent of this subsection that an agreement
97 entered into pursuant to this subsection should not result in
98 compensation to the owner of the area above reimbursement of
99 reasonable costs or expenses associated with the agreement. An
100 agreement that provides for such does not subject the owner or
101 the state to liability even if the compensation exceeds those
102 costs or expenses. This paragraph applies only to agreements
103 executed after July 1, 2012.

104 (4) This section ~~act~~ does not relieve any person of
105 liability that ~~which~~ would otherwise exist for deliberate,
106 willful, or malicious injury to persons or property. This
107 section does not ~~The provisions hereof shall not be deemed to~~
108 create or increase the liability of any person.

109 (5) As used in this section, the term:

110 (a) "Area" includes land, water, and park areas.

111 (b) "Outdoor recreational purposes" includes as used in
112 ~~this act shall include,~~ but is not necessarily be limited to,

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113 | hunting, fishing, wildlife viewing, swimming, boating, camping,
114 | picnicking, hiking, pleasure driving, nature study, water
115 | skiing, motorcycling, and visiting historical, archaeological,
116 | scenic, or scientific sites.

117 | Section 2. This act shall take effect July 1, 2012.