

By the Committees on Judiciary; and Environmental Preservation  
and Conservation

590-03227-12

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1                   A bill to be entitled  
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 notice is provided to a  
7           person upon entry to the area or is posted  
8           conspicuously on the area; providing that an owner of  
9           an area who enters into a written agreement with the  
10          state for the area to be used for outdoor recreational  
11          purposes is entitled to certain limitations on  
12          liability; deleting a requirement that the area be  
13          leased to the state in order for the limitations on  
14          liability to apply; defining the term "area"; making  
15          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 to  
21 read:

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

25           (1) The purpose of this section ~~act~~ is to encourage persons  
26 to make land, water areas, and park areas available to the  
27 public ~~land, water areas and park areas~~ for outdoor recreational  
28 purposes by limiting their liability to persons using these  
29 areas ~~going thereon~~ and to third persons who may be damaged by

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30 the acts or omissions of persons using these areas ~~going~~  
31 ~~thereon~~.

32 (2) (a) An owner or lessee who provides the public with an a  
33 ~~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 such  
42 ~~park area or land~~ is safe for any purpose;r

43 2. Does not incur any duty of care toward a person who goes  
44 on ~~that park area or land~~;r 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 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 in this subsection so long as  
53 the owner or lessee provides written notice of the limitation on  
54 liability to the person before or at the time of the person's  
55 entry on the area or posts notice of the limitation of liability  
56 conspicuously on the area.

57 (c) ~~(b)~~ The Legislature recognizes that an area offered for  
58 outdoor recreational purposes may be subject to multiple uses.

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

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

83 1. Is not ~~be~~ presumed to extend any assurance that the such  
84 land or water area is safe for any purpose;~~;~~

85 2. Does not incur any duty of care toward a person who goes  
86 on the leased land or water area that is subject to the  
87 agreement;~~;~~ or

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

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

97           (c) It is the intent of the Legislature that agreements  
98 pursuant to this subsection between the owner of the area and  
99 the state compensate the owner only for reasonable costs and  
100 expenses as provided in the agreement. However, an owner of the  
101 area and the state are not subject to liability if the  
102 compensation identified in the agreement exceeds the costs and  
103 expenses. This paragraph applies only to agreements executed on  
104 or after July 1, 2012.

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

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

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

112           (b) "Outdoor recreational purposes" includes ~~as used in~~  
113 ~~this act shall include,~~ but is not necessarily be limited to,  
114 hunting, fishing, wildlife viewing, swimming, boating, camping,  
115 picnicking, hiking, pleasure driving, nature study, water  
116 skiing, motorcycling, and visiting historical, archaeological,

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117 scenic, or scientific sites.

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