

By the Committees on Judiciary; and Environmental Preservation
and Conservation

590-03227-12

2012802c1

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

590-03227-12

2012802c1

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.

590-03227-12

2012802c1

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

590-03227-12

2012802c1

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,

590-03227-12

2012802c1

117 scenic, or scientific sites.

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