

CHAPTER 2012-203

Committee Substitute for Committee Substitute for House Bill No. 313

An act relating to premises liability; amending s. 375.251, F.S.; providing that an owner or lessee who makes an area available to another person for hunting, fishing, or wildlife viewing is entitled to certain limitations on liability if certain notice is provided; providing that an owner of an area who enters into a written agreement with the state for the area to be used for outdoor recreational purposes is entitled to certain limitations on liability; deleting a requirement that the area be leased to the state in order for the limitations on liability to apply; providing intent and construction for such agreements; providing applicability; defining the term “area”; making technical and grammatical changes; providing an effective date.

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

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

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

(1) The purpose of this section ~~aet~~ is to encourage persons to make land, water areas, and park areas available to the public ~~land, water areas and park areas~~ for outdoor recreational purposes by limiting their liability to persons using these areas going thereon and to third persons who may be damaged by the acts or omissions of persons using these areas going thereon.

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

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

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

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

(b) Notwithstanding the inclusion of the term “public” in this subsection and subsection (1), an owner or lessee who makes available to any person an

area primarily for the purposes of hunting, fishing, or wildlife viewing is entitled to the limitation on liability provided herein so long as the owner or lessee provides written notice of this provision to the person before or at the time of entry upon the area or posts notice of this provision conspicuously upon the area.

~~(c)(b) The Legislature recognizes that an area offered for outdoor recreational purposes may be subject to multiple uses. The limitation of liability extended to an owner or lessee under this subsection applies only if no charge is made for entry to or use of the area for outdoor recreational purposes and no other revenue is derived from patronage of the area for outdoor recreational purposes. This section shall not apply if there is any charge made or usually made for entering or using such park area or land, or any part thereof, or if any commercial or other activity, whereby profit is derived from the patronage of the general public, is conducted on such park area or land, or any part thereof.~~

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

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

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

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

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

~~(c) It is the intent of this subsection that an agreement entered into pursuant to this subsection should not result in compensation to the owner of the area above reimbursement of reasonable costs or expenses associated with the agreement. An agreement that provides for such does not subject the owner or the state to liability even if the compensation exceeds those costs or~~

expenses. This paragraph applies only to agreements executed after July 1, 2012.

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

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

(a) “Area” includes land, water, and park areas.

(b) “Outdoor recreational purposes” includes ~~as used in this act shall include, but is not necessarily be limited to,~~ hunting, fishing, wildlife viewing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, motorcycling, and visiting historical, archaeological, scenic, or scientific sites.

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

Approved by the Governor May 4, 2012.

Filed in Office Secretary of State May 4, 2012.