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States' Recreational Use Statutes:

Florida

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A National Agricultural Law Center Research Publication
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Fla. Stat. § 260.0125; § 375.251
Current with laws, joint and concurrent resolutions and memorials through July 1, 2022, in effect from the 2022 Second Regular Session.

§ 260.0125. Limitation on liability of private landowners whose property is designated as part of the statewide system of greenways and trails.

(1)

(a) A private landowner whose land is designated as part of the statewide system of greenways and trails pursuant to s. 260.016(2)(d), including a person holding a subservient interest, owes no duty of care to keep that land safe for entry or use by others or to give warning to persons entering that land of any hazardous conditions, structures, or activities thereon. Such landowner shall not:

1. Be presumed to extend any assurance that such land is safe for any purpose;

2. Incur any duty of care toward a person who goes on the land; or

3. Become liable or responsible for any injury to persons or property caused by the act or omission of a person who goes on the land.

(b) The provisions of paragraph (a) apply whether the person going on the designated greenway or trail is an invitee, licensee, trespasser, or otherwise.

(2) Any private landowner who consents to designation of his or her land as part of the statewide system of greenways and trails pursuant to s. 260.016(2)(d) without compensation shall be considered a volunteer, as defined in s. 110.501, and shall be covered by state liability protection pursuant to s. 768.28, including s. 768.28(9).

(3)

(a) The provisions of subsection (1) shall not apply if there is any charge made or usually made by the landowner for entering or using the land designated as a greenway or trail, or any part thereof, or if any commercial or other activity whereby profit is derived by the landowner from the patronage of the general public is conducted on the land so designated or any part thereof.

(b) Incentives granted by any unit of government to the private landowner, including tax incentives, grants, or other financial consideration specific to the development or management of designated greenways and trails, shall not be construed as a charge for use or profit derived from patronage for purposes of this subsection and shall not be construed as monetary or material compensation for purposes of subsection (2).

(4) The provisions of subsection (1) shall also apply to adjacent land owned by the private landowner who consents to designation of a greenway or trail where such adjacent land is accessed through the land so designated.

(5)

(a) When a private landowner agrees to make his or her land available for public use as a designated greenway or trail, the department or its designee shall post notices along the boundary of the designated greenway or trail which inform the public that the land adjacent to the greenway or trail is private property upon which unauthorized entry for any purpose is prohibited and constitutes trespassing.

(b) Such notices must comply with s. 810.011(5) and shall constitute a warning to unauthorized persons to remain off the private property and not to depart from the designated greenway or trail. Any person who commits such an unauthorized entry commits a trespass as provided in s. 810.09.

(6) If agreed to by the department and the landowner in the designation agreement, a landowner whose land is designated as part of the statewide system of greenways and trails pursuant to s. 260.016(2)(d) shall be indemnified for:

(a) Any injury or damage incurred by a third party arising out of the use of the designated greenway or trail;

(b) Any injury or damage incurred by a third party on lands adjacent to and accessed through the designated greenway or trail; and

(c) Any damage to the landowner's property, including land adjacent to and accessed through the designated greenway or trail, caused by the act or omission of a third person resulting from any use of the land so designated.

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

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

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

(2)

(a) An owner or lessee who provides the public with an area for outdoor recreational purposes owes no duty of care to keep that area safe for entry or use by others, or to give warning to persons entering or going on that area of any hazardous conditions, structures, or activities on the area. An owner or lessee who provides the public with an area for outdoor recreational purposes:

1. Is not presumed to extend any assurance that the area is safe for any purpose;

2. Does not incur any duty of care toward a person who goes on the area; or

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

(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) 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. An owner may derive revenue from concessions or special events but will only retain liability protection under this subsection if such revenue is used exclusively to maintain, manage, and improve the outdoor recreational area.

(3)

(a) An owner of an area who enters into a written agreement concerning the area with a state agency for outdoor recreational purposes, where such agreement recognizes that the state agency is responsible for personal

injury, loss, or damage resulting in whole or in part from the state agency'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 area safe for entry or use by others, or to give warning to persons entering or going on the area of any hazardous conditions, structures, or activities thereon. An owner who enters into a written agreement concerning the area with a state agency for outdoor recreational purposes:

1. Is not presumed to extend any assurance that the area is safe for any purpose;

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

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

(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 agency 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 does not relieve any person of liability that would otherwise exist for deliberate, willful, or malicious injury to persons or property. This section does not 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, but is not limited to, hunting; fishing; wildlife viewing; swimming; boating; camping; picnicking; hiking; pleasure driving; nature study; water skiing; motorcycling; visiting historical, archaeological, scenic, or scientific sites; and traversing or crossing for the purpose of ingress and egress to and from, and access to and from, public lands or lands owned or leased by a state agency which are used for outdoor recreational purposes.

(c) "State agency" means the state or any governmental or public entity created by law.