

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

2ND CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 820

By: Shurden of the Senate

and

Leist of the House

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to agriculture and recreational activities; amending 2 O.S. 2001, Section 16-71, which relates to property owners and liability for recreational activity; modifying and adding definitions; updating language; providing for applicability of section; amending 60 O.S. 2001, Sections 176, as last amended by Section 54 of Enrolled House Bill No. 1816 of the 1st Session of the 49th Oklahoma Legislature, and 177.2, which relate to certain trusts and bonds; granting specified power to certain public trust; adding specified debt to certain exception; amending 76 O.S. 2001, Sections 10, 11, 12, 13, 14, 15 and 15.1, which relate to liability of property owners related to recreational activity; creating the Oklahoma Limitation of Liability for Farming and Ranching Land Act; providing short title; providing purpose; modifying and adding definitions; updating contents; clarifying contents; providing for applicability of act; specifying when liability attaches; authorizing certain charges and insurance; removing certain liability for charges for uses; providing for recodification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 2 O.S. 2001, Section 16-71, is amended to read as follows:

Section 16-71. A. 1. The purpose of this section is to encourage landowners ~~and lessees~~ to make ~~available land, water areas, park areas and lake reservations~~ available to the public for outdoor recreational purposes by limiting their liability to persons ~~going~~ entering upon and using such land and to third persons who may

be damaged by the acts or omissions of persons going upon these lands.

2. ~~As used in this section, the term "area" includes any water area and any park area. As used in this section, the term "land" includes but is not limited to lake reservations:~~

- a. "land" means real property, roads, water, watercourses, private ways, buildings, structures, and machinery or equipment when attached to realty. The term "land" shall not include any land that is used primarily for farming or ranching activities or to any roads, water, watercourses, private ways, buildings, structures, and machinery or equipment when attached to realty which is used primarily for farming or ranching activities,
- b. "outdoor recreational purposes" includes, but is not limited to, any of the following, or any combination thereof: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, jogging, cycling, other sporting events and activities, nature study, water skiing, jet skiing, winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites,
- c. "owner" means the possessor of a fee interest, a tenant, lessee, occupant, or person in control of the land, and
- d. "charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land. The term "charge" shall not include a license or permit fee imposed by a governmental entity for the purpose of regulating the use of land, a water or park area, or lake reservation and shall not

include hunting, fishing, boating, and other license and permit fees.

B. ~~1.~~ An owner ~~or lessee~~ who provides the public with land, ~~a water or park area, or lake reservation~~ for outdoor recreational purposes owes no duty of care to keep the land ~~or area~~ safe for entry or use by others, or to give warning to persons entering or ~~going on~~ using the land ~~or area~~ of any hazardous conditions, structures, or activities. ~~An~~

C. 1. Except as otherwise provided by this section, an owner ~~or lessee~~ who provides the public with land ~~or area~~ for outdoor recreational purposes shall not:

- a. be presumed to extend any assurance that the land ~~or area~~ is safe for any purpose,
- b. incur any duty of care toward a person who ~~goes on~~ enters or uses the land ~~or area~~, or
- c. ~~become liable~~ assume any liability or ~~responsible~~ responsibility for any injury to persons or property caused by the act or omission of a person who ~~goes on~~ enters or uses the land ~~or area~~.

2. This subsection applies whether the person ~~going on~~ entering or using the land ~~or area~~ is an invitee, licensee, trespasser, or otherwise, ~~notwithstanding any other section of law.~~

~~C.~~ D. This section shall not apply if ~~there is any:~~

1. Any charge is made or is usually made for entering or using any part of the land ~~or area~~, ; or ~~if any~~

2. Any commercial or other activity for profit directly related to the use is conducted on any part of the land ~~or area~~. ~~As used in this subsection, the term "charge" shall mean the admission price or fee asked in return for invitation or permission to enter or go upon the land or area. As used in this subsection, the term "charge" shall not include a license or permit fee imposed by a governmental entity for the purpose of regulating the use of land, a water or~~

~~park area, or lake reservation and shall not include hunting, fishing, boating, and other license and permit fees.~~

~~D.~~ E. 1. An owner of land, ~~a water or park area, or lake reservation~~ leased to the state or to other public entity for outdoor recreational purposes owes no duty of care to keep the land ~~or area~~ safe for entry or use by others, or to give warning to persons entering or ~~going on~~ using the land ~~or area~~ of any hazardous conditions, structures, or activities. Any owner ~~or lessee~~ who leases or subleases land, ~~a water or park area, or lake reservation~~ to the state or other public entity for outdoor recreational purposes shall not:

- a. be presumed to extend any assurance that the land ~~or area~~ is safe for any purpose,
- b. incur any duty of care toward a person who ~~goes on~~ enters or uses the leased land ~~or area~~, or
- c. become liable or responsible for any injury to persons or property caused by the act or omission of a person who ~~goes on~~ enters or uses the leased land ~~or area~~.

2. This subsection applies whether the person ~~going on~~ entering or using the leased land ~~or area~~ is an invitee, licensee, trespasser, or otherwise, notwithstanding any other section of law.

~~E.~~ F. 1. Except as provided in this section, no person is relieved of liability which would exist for want of ordinary care or for deliberate, willful, or malicious injury to persons or property. The provisions shall not create or increase the liability of any person.

2. This section shall not relieve any owner ~~or lessee~~ of any liability for the operation and maintenance of structures affixed to real property by the owner ~~or lessee~~ for use by the general public.

~~F.~~ ~~The term "outdoor recreational purposes" as used in this section includes, but is not limited to, hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, jogging,~~

~~cycling, other sporting events and activities, nature study, water skiing, jet skiing, and visiting historical, archaeological, scenic, or scientific sites.~~

G. By entering or using land, ~~a water or park area, or lake reservation~~ no person shall be deemed to be acting as an employee or agent of the owner ~~or lessee~~ whether the entry or use is with or without the knowledge or consent of the owner ~~or lessee~~.

H. The provisions of this section shall not apply to any land that is used primarily for farming or ranching activities or to roads, water, watercourses, private ways, buildings, structures, and machinery or equipment when attached to realty which is used primarily for farming or ranching activities.

Sections 4 through 10 of this act shall govern such land.

SECTION 2. AMENDATORY 60 O.S. 2001, Section 176, as last amended by Section 54 of Enrolled House Bill No. 1816 of the 1st Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 176. A. Express trusts may be created to issue obligations, enter into financing arrangements including, but not limited to, lease-leaseback, sale-leaseback, interest rate swaps and other similar transactions and to provide funds for the furtherance and accomplishment of any authorized and proper public function or purpose of the state or of any county or municipality or any and all combinations thereof, in real or personal property, or either or both, or in any estate or interest in either or both, with the state, or any county or municipality or any and all combinations thereof, as the beneficiary thereof by:

1. The express approval of the Legislature and the Governor if the State of Oklahoma is the beneficiary;

2. The express approval of two-thirds (2/3) of the membership of the governing body of the beneficiary if a county is a beneficiary;

3. The express approval of two-thirds (2/3) of the membership of the governing body of the beneficiary if a municipality is a beneficiary; or

4. The express approval of two-thirds (2/3) of the membership of the governing body of each beneficiary in the event a trust has more than one beneficiary; provided, that no funds of a beneficiary derived from sources other than the trust property, or the operation thereof, shall be charged with or expended for the execution of the trust, except by express action of the legislative authority of the beneficiary prior to the charging or expending of the funds. The officers or any other governmental agencies or authorities having the custody, management, or control of any property, real or personal or mixed, of the beneficiary of the trust, or of a proposed trust, which property shall be needful for the execution of the trust purposes, are authorized and empowered to lease the property for those purposes, after the acceptance of the beneficial interest therein by the beneficiary as hereinafter provided.

B. A municipality may convey title to real property which is used for an airport to the trustees of an industrial development authority trust whose beneficiary is the municipality. The industrial development authority trust must already have the custody, management, or control of the real property. The conveyance must be approved by a majority of the governing body of the municipality. A conveyance pursuant to this section may be made only for the sole purpose of allowing the authority to sell the property for fair market value when the property is to be used for industrial development purposes. Conveyances made pursuant to this subsection shall be made subject to any existing reversionary interest or other restrictions burdening the property and subject to any reversionary interest or other restriction considered prudent by the municipality.

C. The trustees of a public trust having the State of Oklahoma as beneficiary shall make and adopt bylaws for the due and orderly administration and regulation of the affairs of the public trust. All bylaws of a public trust having the State of Oklahoma as beneficiary shall be submitted in writing to the Governor of the State of Oklahoma. The Governor must approve the proposed bylaws before they take effect.

D. No public trust in which the State of Oklahoma is the beneficiary may be amended without a two-thirds (2/3) vote of approval of the trustees of the trust; provided, that any amendment is subject to the approval of the Governor of the State of Oklahoma. Any amendments shall be sent to the Governor within fifteen (15) days of their adoption.

E. No trust in which a county or municipality is the beneficiary shall hereafter create an indebtedness or obligation until the indebtedness or obligation has been approved by a two-thirds (2/3) vote of the governing body of the beneficiary. In the event a trust has more than one beneficiary, as authorized by this section, the trust shall not incur an indebtedness or obligation until the indebtedness or obligation has been approved by a two-thirds (2/3) vote of the governing body of two-thirds (2/3) of the beneficiaries of the trust.

F. All bonds described in subsection E of this section, after December 1, 1976, except bonds sold to the federal government or any agency thereof or to any agency of the State of Oklahoma, shall be awarded to the lowest and best bidder based upon open competitive public offering, advertised at least once a week for two (2) successive weeks in a newspaper of general circulation in the county where the principal office of the trust is located prior to the date on which bids are received and opened; provided, competitive bidding may be waived on bond issues with the approval of three-fourths (3/4) of the trustees, and a three-fourths (3/4) vote of the

governing body of the beneficiary, unless the beneficiary is a county in which case a two-thirds (2/3) vote of the members of the governing body shall be required, or three-fourths (3/4) vote of the governing bodies of each of the beneficiaries of the trust, unless one of the beneficiaries is a county in which case a two-thirds (2/3) vote of the members of the governing body of such county shall be required. No bonds shall be sold for less than par value, except upon approval of three-fourths (3/4) of the trustees, unless the beneficiary is a county in which case a two-thirds (2/3) vote of the members of the governing body shall be required. In no event shall bonds be sold for less than sixty-five percent (65%) of par value; provided, however, in no event shall the original purchaser from the issuer of any bonds issued by any public trust for any purpose receive directly or indirectly any fees, compensation, or other remuneration in excess of four percent (4%) of the price paid for the bonds by the purchaser of the bonds from the original purchaser; and further provided, that the average coupon rate thereon shall in no event exceed fourteen percent (14%) per annum. No public trust shall sell bonds for less than ninety-six percent (96%) of par value until the public trust has received from the underwriter or financial advisor or, in the absence of an underwriter or financial advisor, the initial purchaser of the bonds, an estimated alternative financing structure or structures showing the estimated total interest and principal cost of each alternative. At least one alternative financing structure shall include bonds sold to the public at par. Any estimates shall be considered a public record of the public trust. Bonds, notes or other evidences of indebtedness issued by any public trust shall be eligible for purchase by any state banking association or corporation subject to such limitations as to investment quality as may be imposed by regulations, rules or rulings of the State Banking Commissioner.

G. Public trusts created pursuant to this section shall file annually, with their respective beneficiaries, copies of financial documents and reports sufficient to demonstrate the fiscal activity of such trust, including, but not limited to, budgets, financial reports, bond indentures, and audits. Amendments to the adopted budget shall be approved by the trustees of the public trust and recorded as such in the official minutes of such trust.

H. Contracts for construction, labor, equipment, material or repairs in excess of Twenty-five Thousand Dollars (\$25,000.00) shall be awarded by public trusts to the lowest and best competitive bidder, pursuant to public invitation to bid, which shall be published in the manner provided in the preceding section hereof; the advertisements shall appear in the county where the work, or the major part of it, is to be done, or the equipment or materials are to be delivered, or the services are to be rendered; provided, however, should the trustee or the trustees find that an immediate emergency exists, which findings shall be entered in the journal of the trust proceedings, by reason of which an immediate outlay of trust funds in an amount exceeding Twenty-five Thousand Dollars (\$25,000.00) is necessary in order to avoid loss of life, substantial damage to property, or damage to the public peace or safety, then the contracts may be made and entered into without public notice or competitive bids; provided that the provisions of this subsection shall not apply to contracts of industrial and cultural trusts. Notwithstanding the provisions of this subsection, equipment or materials may be purchased by a public trust directly from any contract duly awarded by this state or any state agency under the Oklahoma Central Purchasing Act, or from any contract duly awarded by a governmental entity which is the beneficiary of the public trust.

I. Any public trust created pursuant to the provisions of this section shall have the power to acquire lands by use of eminent

domain in the same manner and according to the procedures provided for in Sections 51 through 65 of Title 66 of the Oklahoma Statutes. Any exercise of the power of eminent domain by a public trust pursuant to the provisions of this section shall be limited to the furtherance of public purpose projects involving revenue-producing utility projects of which the public trust retains ownership; provided, for public trusts in which the State of Oklahoma is the beneficiary the exercise of the power of eminent domain may also be used for public purpose projects involving air transportation. Revenue-producing utility projects shall be limited to projects for the transportation, delivery, treatment, or furnishing of water for domestic purposes or for power, including, but not limited to the construction of lakes, pipelines, and water treatment plants or for projects for rail transportation. Any public trust formed pursuant to this section which has a county as its beneficiary shall have the power to acquire, by use of eminent domain, any lands located either inside the county, or contiguous to the county pursuant to the limitations imposed pursuant to this section.

J. Any public trust created pursuant to the provisions of this section shall have the power to issue debt and use the proceeds for the purpose of acquiring debt, including judgment debt, of other public entities within the state.

K. Provisions of this section shall not apply to entities created under Sections 1324.1 through 1324.26 of Title 82 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 60 O.S. 2001, Section 177.2, is amended to read as follows:

Section 177.2 A. No public trust, school district or county shall issue any bonds, notes, nonpayable warrants, certificates of participation, certificates of indebtedness or any other evidence of indebtedness for the purpose of short-term cash management by any school district or county unless such school district or county

shall have been approved for participation by the Oklahoma Commission on School and County Funds Management.

As used in this section, "short-term cash management" means any borrowing or any method employed by a school district or county to obtain funds in advance of the receipt of tax revenue, and shall include, but not be limited to, the issuance of certificates of indebtedness, certificates of participation, tax-anticipation notes, bonds, notes, or any other evidence of indebtedness. It shall not include debt issued pursuant to a vote of the electors of the school district or county pursuant to the Constitution or debt related to judgments of the school district or county.

B. The Oklahoma Commission on School and County Funds Management, shall consist of the State Superintendent of Public Instruction, the Director of the Oklahoma Department of Career and Technology Education, and the State Bond Advisor. The Commission shall:

1. Receive requests of school districts and counties for authorization to participate in a short-term cash management program where the proceeds will be used to facilitate cash-flow management. The requests must be received by the Commission on or before April 1 in order for the school district or county to be considered for participation during the next fiscal year, unless such date is extended by the Commission;

2. Within five (5) business days of receiving a request, forward the request to the appropriate certifying authority. If the request and accompanying material meet the requirements of this act, the certifying authority must return the request and accompanying information to the Commission with a written review and comment within sixty (60) days of receipt of the request from the Commission. The certifying authority for school districts shall be the State Superintendent of Public Instruction and for technology center school districts, shall be the Director of the Oklahoma

Department of Career and Technology Education and for counties, shall be the State Board of Equalization;

3. Approve or reject each request for participation, and forward notice of the decision of the Commission to the requesting school district or county and to the Office of the Governor. The Commission shall approve or reject a request within thirty (30) days following the date it receives the request and accompanying information with a written review and comment from a certifying authority;

4. Certify the need for funds generated by the proposed short-term cash management based on the financial projections of the school district or county, including the projected cash-flow shortfall, estimated income, and anticipated surplus balances on June 30 of the current fiscal year in the general and building funds of the school district or county. Accumulative cash-flow shortfall projections must be determined using the method specified by Section 148 of the Internal Revenue Code;

5. Establish reasonable limits for fees, commissions and other compensation paid to any person or firm involved with the proposed short-term cash management program;

6. Establish participation limitations for a school district or a county using the method specified in Section 148 of the Internal Revenue Code. No school district or county shall participate in a short-term cash management program in an amount which exceeds the determination of need pursuant to the accumulative cash-flow projections as specified in paragraph 4 of this subsection or forty percent (40%) of the approved annual budget of the school district or county, whichever is less;

7. Establish limitations which prohibit school districts and counties which are participating in a short-term cash management program from issuing nonpayable warrants if proceeds are available from the short-term cash management program;

8. Submit an annual report, by December 15 of each year, to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Governor, the State Auditor and Inspector and the Attorney General, detailing the participation of each school district and county for the prior fiscal year in the short-term cash management programs authorized by this act; and

9. Prescribe methods and procedures by which school districts or counties may request authorization to participate in short-term cash management programs.

C. School districts and counties desiring to participate in a short-term cash management program as provided in subsection A of this section shall file a request with the Commission on such forms as the Commission shall prescribe. Such request shall be accompanied by:

1. A resolution adopted by the board of education of the school district or by the county commissioners of a county. Such resolution shall state that the school district or county intends to and has need to participate in a short-term cash management program and that the board of education or county commission has authorized the submission of such request;

2. A letter signed by the underwriter of the short-term cash management program that specifies the name and address of all persons and firms receiving compensation, directly or indirectly, involved with the proposed short-term cash management program. All persons and firms designated shall not be paid out of school or county funds. For purposes of this paragraph, school or county funds shall not include the proceeds from certificates of indebtedness or certificates of participation generated from a short-term cash management program;

3. A verification from the Administrator of the Oklahoma Department of Securities that all persons receiving compensation, directly or indirectly, for providing advice to the school districts

or counties concerning participation in the program or for endorsing participation in the program are appropriately registered with the Oklahoma Department of Securities as investment advisers or investment adviser representatives, as applicable, and that all persons receiving compensation, directly or indirectly, for the placement of the certificates of participation or like securities with investors are registered as broker-dealers or agents, as applicable;

4. The estimated income and expenditures of the school district or county for the year for which the school district or county wishes to participate in a short-term cash management program. The appropriate certifying authority shall develop and provide an income and expenditure disclosure form for use by a school district or county which desires to participate in a short-term cash management program which follows the applicable portions of the information return required by Section 148 of the Internal Revenue Code. The information supplied in the disclosure form must reflect the ability of the school district or county to pay off an amount equal to the district's or county's liability on the program from the income from the fiscal year of participation, prior to approval for participation by the Commission. If the Commission determines that a question exists concerning any information submitted pursuant to this subsection, the Commission may request any additional information from the school district or county that it deems necessary;

5. A copy of the most recent information return for a short-term cash management program filed with the Internal Revenue Service pursuant to Section 149(e) of the Internal Revenue Code;

6. An affidavit by all persons, firms, corporations or business enterprises of any kind which provide services for compensation on any financing to implement a short-term cash management program, which shall be signed under oath on a form approved by the

Commission and which shall state that such persons, firms, corporations or business enterprises have not given any money or other thing of value, other than a bona fide campaign contribution, to any public official or to any public employee of a school district or county participating in such a cash management program. Any such person, firm, corporation or business enterprise shall also file a disclosure statement on a form approved by the Commission, which shall disclose all campaign contributions of any kind made to any public official of a school district or county participating in such a short-term cash management program and shall also disclose the identity of any officer, director, agent or employee of such person, firm, corporation or business enterprise who is an officer or employee of a school or county participating in a short-term cash management program, or who is related to such officers or employees within the third degree of affinity or consanguinity;

7. A notarized sworn affidavit executed by each member of a board of education of a school district, the superintendent of schools and the treasurer of the school district or by each county commissioner of a county and the county treasurer, which states that the person or any member of the immediate family of the person has no direct or indirect financial interest in the short-term cash management program being requested. The affidavit shall be on a form prescribed by the Commission;

8. A summary report detailing all expenses incurred by a school district or county in participating in a short-term cash management program. The report shall be on a form prescribed by the Commission; and

9. Any application and other materials including any other necessary financial information, as may be required by the Commission.

D. If the information required to be submitted pursuant to this section meets all requirements established by the Commission and the

Commission has approved such information and participation, and the participation is otherwise in accordance with law, the Oklahoma Commission on School and County Funds Management shall authorize the participation of the school district or county in the short-term cash management program. The Commission shall notify the school district or county in writing, whether the requirements of this section have been satisfied and approved.

E. School districts and counties participating in a short-term cash management program authorized by this section shall report to the Commission the probable income and expenses of anticipated investment income. The report shall not include probable income or expenses related to participation in a short-term cash management program.

F. The ability of a school district or county to issue general obligation bonds shall not be modified by this act.

G. The Office of the Attorney General shall provide legal assistance to the Oklahoma Commission on School and County Funds Management.

SECTION 4. AMENDATORY 76 O.S. 2001, Section 10, is amended to read as follows:

Section 10. A. Sections 4 through 10 of this act shall be known and may be cited as the "Oklahoma Limitation of Liability for Farming and Ranching Land Act".

B. 1. The purpose of the Oklahoma Limitation of Liability for Farming and Ranching Land Act is to encourage owners of farming and ranching lands to make such land available for recreational purposes by limiting their liability to persons entering or using the farm and ranch land and to third persons who may be damaged by the acts or omissions of persons entering upon or using these lands.

2. This article applies only to an owner of land who:

a. (1) either does not charge for entry to the land, or

(2) charges for entry to the land, but whose total charges collected in the previous calendar year for all recreational uses of the land of the owner are not more than one-tenth (1/10) of the use value of the land for the previous calendar year determined pursuant to the Ad Valorem Tax Code, or

b. has liability insurance coverage in effect on an act or omission described by Section 6 of this act and in the amounts equal to or greater than those provided by Section 6 of this act.

C. As used in ~~this act~~ the Oklahoma Limitation of Liability for Farming and Ranching Land Act:

~~(a)~~ 1. "Land" means land which is used primarily for farming or ranching activities, including, but not limited to, roads, water, watercourses, private ways, ~~and~~ buildings, structures, and machinery or equipment when attached to realty which is used primarily for farming or ranching activities~~;~~

~~(b)~~ 2. "Owner" means the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises~~;~~

~~(c)~~ 3. "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, jogging, cycling, other sporting events and activities, nature study, water skiing, winter sports, jet skiing, and viewing or enjoying historical, archaeological, scenic, or scientific sites~~;~~
and

~~(d)~~ 4. "Charge" means the admission price or fee asked in return for invitation or permission to enter or ~~go upon~~ use the land.

D. The Oklahoma Limitation of Liability for Farming and Ranching Land Act shall not apply to any land that is used for

purposes other than farming and ranching. Such land shall be governed by Section 1 of this act.

SECTION 5. AMENDATORY 76 O.S. 2001, Section 11, is amended to read as follows:

Section 11. Except as specifically recognized by or provided in Section ~~5~~ 8 of this act, an owner ~~of~~ who provides the public with land which is used primarily for farming or ranching activities owes no duty of care to keep the ~~premises~~ land safe for entry or use by others for recreational purposes, or to give any warning of a dangerous or hazardous condition, use, structure, or activity on such ~~premises~~ land to persons entering or using the land for such purposes.

SECTION 6. AMENDATORY 76 O.S. 2001, Section 12, is amended to read as follows:

Section 12. A. Except as specifically recognized by or provided in Section ~~5~~ 8 of this act, an owner of land which is used primarily for farming or ranching activities, who either directly or indirectly invites or permits ~~without charge~~ any person to enter or use such ~~property~~ land for recreational purposes, does not ~~thereby~~:

~~(a)~~ 1. Extend any assurance that the premises are safe for any purpose~~;~~;

~~(b) Confer upon such person the legal status of an invitee or licensee.~~ 2. Incur any duty of care toward a person who enters or uses the land; or

~~(c)~~ 3. Assume responsibility ~~for~~ or incur liability for any injury to person or property caused by an act or omission of such persons.

B. This section applies whether the person entering, or using the land is an invitee, licensee, trespasser, or otherwise.

C. 1. Subject to paragraph 2 of this subsection, the total liability of an owner of land used for recreational purposes for an act or omission by the owner relating to the premises that results

in damages to a person who has entered or has used the premises is limited to a maximum amount of Five Hundred Thousand Dollars (\$500,000.00) for each person and One Million Dollars (\$1,000,000.00) for a single occurrence of bodily injury or death and One Hundred Thousand Dollars (\$100,000.00) for each single occurrence for injury to or destruction of property.

2. This subsection applies only to an owner of land used for recreational purposes who has liability insurance coverage in effect on an act or omission described by paragraph 1 of this subsection and in the amounts equal to or greater than those provided by paragraph 1 of this subsection. The coverage may be provided under a contract of insurance or other plan of insurance authorized by statute. The limit of liability insurance coverage applicable with respect to land may be a combined single limit in the amount of One Million Dollars (\$1,000,000.00) for each single occurrence.

3. This subsection does not affect the liability of an insurer or insurance plan in an action under the Insurance Code, or an action for bad faith conduct, breach of fiduciary duty, or negligent failure to settle a claim.

4. This section shall not apply to the state or other governmental unit.

SECTION 7. AMENDATORY 76 O.S. 2001, Section 13, is amended to read as follows:

Section 13. Unless otherwise agreed in writing, the provisions of Sections ~~11~~ 5 and ~~12~~ 6 of this ~~title~~ act shall be deemed applicable to the duties and liability of an owner of land which is used ~~by the owner~~ primarily for farming or ranching activities, is on or adjoins land entered upon the National Register of Historic Places and for which an easement has been granted to the Oklahoma Historical Society, or is leased to the state or any subdivision thereof for recreational purposes.

SECTION 8. AMENDATORY 76 O.S. 2001, Section 14, is amended to read as follows:

Section 14. A. Nothing in ~~this act~~ the Oklahoma Limitation of Liability for Farming and Ranching Land Act limits in any way any liability which otherwise exists:

~~(a) For~~ for want of ordinary care or for deliberate, willful, or malicious injury or failure to guard or warn against a dangerous or hazardous condition, use, structure, or activity.

~~(b) For injury suffered in any case where the owner of land charges the person or persons who enter or go on the land for the recreational use thereof, except that in B.~~ In the case of land leased to the state or subdivision thereof, any consideration received by the owner for such lease shall not be deemed a charge within the meaning of this section.

SECTION 9. AMENDATORY 76 O.S. 2001, Section 15, is amended to read as follows:

Section 15. Nothing in ~~this act~~ the Oklahoma Limitation of Liability for Farming and Ranching Land Act shall be construed to:

~~(a) 1.~~ 1. Create a duty of care or ground of liability for injury to persons or property; or

~~(b) 2.~~ 2. Relieve any person entering or using the land of another for recreational purposes from any obligation which ~~he~~ such person may have in the absence of ~~this act~~ the Oklahoma Limitation of Liability for Farming and Ranching Land Act to exercise care in ~~his~~ the use of such land and in ~~his~~ the activities thereon, or from the legal consequences of failure to employ such care.

SECTION 10. AMENDATORY 76 O.S. 2001, Section 15.1, is amended to read as follows:

Section 15.1 A. An owner, lessee, or other occupant of agricultural land:

1. Does not owe a duty of care to a trespasser on the land; and

2. Is not liable for any injury to a trespasser, except for willful or wanton acts of negligence or gross negligence by the owner, lessee, or other occupant of the land.

B. Agricultural land is defined as any real property that is used in production of plants, fruits, wood, or farm or ranch animals to be sold off the premises.

SECTION 11. RECODIFICATION 76 O.S. 2001, Sections 10, as amended by Section 4 of this act, 11, as amended by Section 5 of this act, 12, as amended by Section 6 of this act, 13, as amended by Section 7 of this act, 14, as amended by Section 8 of this act, 15, as amended by Section 9 of this act, and 15.1, as amended by Section 10 of this act, shall be recodified as Sections 16-71.1 through 16-71.7 of Title 2 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 12. RECODIFICATION 2 O.S. 2001, Section 16-71, as amended by Section 1 of this act, shall be recodified as Section 10.1 of Title 76 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 13. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

49-1-1635

TEK

6/12/2015 1:51:53 PM