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February 13, 2018

By: Fields

An Act relating to Oklahoma Limitation of Liability for Farming and Ranching Land Act; amending 2 O.S. 2011, Sections 16-71.1, as amended by Section 1, Chapter 236, O.S.L. 2013 (2 O.S. Supp. 2017, Section 16-71.1), 16-71.2, 16-71.3, 16-71.4 and 16-71.5, which relate to the short title, entry upon lands for recreational purposes, use of property without charge, lands leased to the State, and willful or malicious acts; removing per acre charge limitation to applicability; deleting definition; updating citation; and providing an effective date.

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

SECTION 1. AMENDATORY 2 O.S. 2011, Section 16-71.1, as amended by Section 1, Chapter 236, O.S.L. 2013 (2 O.S. Supp. 2017, Section 16-71.1), is amended to read as follows:

Section 16-71.1. A. Sections 16-71.1 through 16-71.7 of this title 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

1 and ranch land and to third persons who may be damaged by the acts
2 or omissions of persons entering upon or using these lands.

3 ~~2. The Oklahoma Limitation of Liability for Farming and~~
4 ~~Ranching Land Act applies only to an owner of land who does not~~
5 ~~charge more than Ten Dollars (\$10.00) per acre per year for that~~
6 ~~land used for recreational purposes.~~

7 C. As used in the Oklahoma Limitation of Liability for Farming
8 and Ranching Land Act:

9 1. "Land" means land which is used for farming, ranching
10 activities and recreational purposes, as defined in this section,
11 including, but not limited to, roads, water, watercourses, private
12 ways, buildings, structures, and machinery or equipment when
13 attached to realty which is used primarily for farming or ranching
14 activities;

15 2. "Owner" means the possessor of a fee interest, a tenant,
16 lessee, occupant or person in control of the premises but shall not
17 include a tenant, lessee, occupant or person in control of the
18 premises who is engaging in any recreational purpose described in
19 paragraph 3 of this subsection; and

20 3. "Recreational purpose" includes any of the following, or any
21 combination thereof: hunting, fishing, wildlife and ecological
22 viewing or photography, recreational farming and ranching
23 activities, swimming, boating, camping, picnicking, hiking, pleasure
24 driving, jogging, cycling, other similar events and activities,

1 nature study, water skiing, winter sports, jet skiing, viewing or
2 enjoying historical, archaeological, scenic, or scientific sites and
3 aviation, including fly-ins at private airports; and

4 ~~4. "Charge" means the admission price or fee asked in return~~
5 ~~for invitation or permission to enter or use the land. The term~~
6 ~~"charge" shall not include a license or permit fee imposed by a~~
7 ~~governmental entity for the purpose of regulating the use of land, a~~
8 ~~water or park area, or lake reservation; shall not include hunting,~~
9 ~~fishing, boating, and other license and permit fees; shall not~~
10 ~~include hunting or fishing leases; and shall not include donations~~
11 ~~made at fly-ins at private airports.~~

12 D. The Oklahoma Limitation of Liability for Farming and
13 Ranching Land Act shall not apply to any land that is used for
14 purposes other than farming and ranching. Such land shall be
15 governed by Section 10.1 of Title 76 of the Oklahoma Statutes.

16 SECTION 2. AMENDATORY 2 O.S. 2011, Section 16-71.2, is
17 amended to read as follows:

18 Section 16-71.2. Except as specifically recognized by or
19 provided in Section ~~30~~ 16-71.5 of this ~~act~~ title, an owner who
20 provides the public with land for recreational purposes which is
21 used primarily for farming or ranching activities owes no duty of
22 care to keep the land safe for entry or use by others for
23 recreational purposes, or to give any warning of a dangerous or
24

1 hazardous condition, use, structure, or activity on such land to
2 persons entering or using the land for such purposes.

3 SECTION 3. AMENDATORY 2 O.S. 2011, Section 16-71.3, is
4 amended to read as follows:

5 Section 16-71.3. A. Except as specifically recognized by or
6 provided in Section ~~30~~ 16-71.5 of this ~~act~~ title, an owner of land
7 which is used primarily for farming or ranching activities, who
8 either directly or indirectly invites or permits, under the
9 circumstance described in subsection B of Section ~~26~~ 16-71.1 of this
10 ~~act~~ title, any person to enter or use such land for recreational
11 purposes, does not:

12 1. Extend any assurance that the premises are safe for any
13 purpose;

14 2. Incur any duty of care toward a person who enters or uses
15 the land; or

16 3. Assume responsibility or incur liability for any injury to
17 person or property caused by an act or omission of such persons.

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

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

1 D. This section shall not apply to the state or other
2 governmental unit.

3 SECTION 4. AMENDATORY 2 O.S. 2011, Section 16-71.4, is
4 amended to read as follows:

5 Section 16-71.4. Unless otherwise agreed in writing, the
6 provisions of Sections ~~27~~ 16-71.2 and ~~28~~ 16-71.3 of this ~~act~~ title
7 shall be deemed applicable to the duties and liability of an owner
8 of land which is used primarily for farming or ranching activities,
9 is on or adjoins land entered upon the National Register of Historic
10 Places and for which an easement has been granted to the Oklahoma
11 Historical Society, or is leased to the state or any subdivision
12 thereof for recreational purposes.

13 SECTION 5. AMENDATORY 2 O.S. 2011, Section 16-71.5, is
14 amended to read as follows:

15 Section 16-71.5. ~~A.~~ Nothing in the Oklahoma Limitation of
16 Liability for Farming and Ranching Land Act limits in any way any
17 liability which otherwise exists for want of ordinary care or for
18 deliberate, willful, or malicious injury or failure to guard or warn
19 against a dangerous or hazardous condition, use, structure, or
20 activity.

21 ~~B. In the case of land leased to the state or subdivision~~
22 ~~thereof, any consideration received by the owner for such lease~~
23 ~~shall not be deemed a charge within the meaning of this section.~~

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SECTION 6. This act shall become effective November 1, 2018.

COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND WILDLIFE
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