

CIVIL PRACTICE & REMEDIES CODE
CHAPTER 75. LIMITATION OF LANDOWNERS' LIABILITY

Sec. 75.001. DEFINITIONS. In this chapter:

(1) 'Agricultural land' means land that is located in this state and that is suitable for:

(A) use in production of plants and fruits grown for human or animal consumption, or plants grown for the production of fibers, floriculture, viticulture, horticulture, or planting seed;

(B) forestry and the growing of trees for the purpose of rendering those trees into lumber, fiber, or other items used for industrial, commercial, or personal consumption; or

(C) domestic or native farm or ranch animals kept for use or profit.

(2) 'Premises' includes land, roads, water, watercourse, private ways, and buildings, structures, machinery, and equipment attached to or located on the land, road, water, watercourse, or private way.

(3) 'Recreation' means an activity such as:

(A) hunting;

(B) fishing;

(C) swimming;

(D) boating;

(E) camping;

(F) picnicking;

(G) hiking;

(H) pleasure driving;

(I) nature study, including bird-watching;

(J) cave exploration;

(K) waterskiing and other water sports; or

(L) any other activity associated with enjoying nature or the outdoors.

(4) 'Governmental unit' has the meaning assigned by Section 101.001.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 62, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 736, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 520, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 56, Sec. 1, eff. Sept. 1, 1997.

Sec. 75.002. LIABILITY LIMITED. (a) An owner, lessee, or 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 on the land, except for wilful or wanton acts or gross negligence by the owner, lessee, or other occupant of agricultural land.

(b) If an owner, lessee, or occupant of agricultural land gives permission to another or invites another to enter the premises for recreation, the owner, lessee, or occupant, by giving the permission, does not:

(1) assure that the premises are safe for that purpose;

(2) owe to the person to whom permission is granted or to whom the invitation is extended a greater degree of care than is owed to a trespasser on the premises; or

(3) assume responsibility or incur liability for any injury to any individual or property caused by any act of the person to whom permission is granted or to whom the invitation is extended.

(c) If an owner, lessee, or occupant of real property other than agricultural land gives permission to another to enter the premises for recreation, the owner, lessee, or occupant, by giving the permission, does not:

(1) assure that the premises are safe for that purpose;

(2) owe to the person to whom permission is granted a greater degree of care than is owed to a trespasser on the premises; or

(3) assume responsibility or incur liability for any injury to any individual or property caused by any act of the person to whom permission is granted.

(d) Subsections (a), (b), and (c) shall not limit the liability of an owner, lessee, or occupant of real property who has been grossly negligent or has acted with malicious intent or in bad faith.

(e) In this section, 'recreation' means, in addition to its meaning under Section 75.001, the following activities only if the activities take place on premises owned, operated, or maintained by the state or a municipality or county for the purposes of those activities:

(1) hockey and in-line hockey; and

(2) skating, in-line skating, roller-skating, skateboarding, and roller-blading.

(f) This section limits the liability of the state or a municipality or county only for those damages arising directly from a recreational activity described in Subsection (e) but does not limit the liability of the state or a municipality or county for gross negligence or acts conducted in bad faith or with malicious intent.

(g) Any premises the state or a municipality or county owns, operates, or maintains and on which the recreational activities described in Subsection (e) are conducted shall post and maintain a clearly readable sign in a clearly visible location on or near the premises. The sign shall contain the following warning language:

WARNING

TEXAS LAW (CHAPTER 75, CIVIL PRACTICE AND REMEDIES CODE) LIMITS THE LIABILITY OF THE STATE AND A MUNICIPALITY OR COUNTY FOR DAMAGES ARISING DIRECTLY FROM HOCKEY, IN-LINE HOCKEY, SKATING, IN-LINE SKATING, ROLLER-SKATING, SKATEBOARDING, OR ROLLER-BLADING ON PREMISES THAT THE STATE OR THE MUNICIPALITY OR COUNTY OWNS, OPERATES, OR MAINTAINS FOR THAT PURPOSE.

(h) An owner, lessee, or occupant of real property in this state is liable for trespass as a result of migration or transport of any air contaminant, as defined in Section 382.003(2), Health and Safety Code, other than odor, only upon a showing of actual and substantial damages by a plaintiff in a civil action.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 62, Sec. 2, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 56, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 734, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 204, Sec. 21.01, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 739, Sec. 1, eff. Sept. 1, 2003.

Sec. 75.003. APPLICATION AND EFFECT OF CHAPTER. (a) This chapter does not relieve any owner, lessee, or occupant of real property of any liability that would otherwise exist for deliberate, wilful, or malicious injury to a person or to property.

(b) This chapter does not affect the doctrine of attractive nuisance, except that the doctrine may not be the basis for liability of an owner, lessee, or occupant of agricultural land for any injury to a trespasser over the age of 16 years.

(c) Except for a governmental unit, this chapter applies only to an owner, lessee, or occupant of real property who:

(1) does not charge for entry to the premises;

(2) charges for entry to the premises, but whose total charges collected in the previous calendar year for all recreational use of the entire premises of the owner, lessee, or occupant are not more than 20 times the total amount of ad valorem taxes imposed on the premises for the previous calendar year; or

(3) has liability insurance coverage in effect on an act or omission described by Section 75.004(a) and in the amounts equal to or greater than those provided by that section.

(d) This chapter does not create any liability.

(e) Except as otherwise provided, this chapter applies to a governmental unit.

(f) This chapter does not waive sovereign immunity.

(g) To the extent that this chapter limits the liability of a governmental unit under circumstances in which the governmental unit would be liable under Chapter 101, this chapter controls.

(h) In the case of agricultural land, an owner, lessee, or occupant of real property who does not charge for entry to the premises because the individuals entering the premises for recreation are invited social guests satisfies the requirement of Subsection (c)(1).

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 832, Sec. 5, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 62, Sec. 3, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 520, Sec. 2, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 56, Sec. 3, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 429, Sec. 1, eff. Sept. 1, 2003.

Sec. 75.004. LIMITATION ON MONETARY DAMAGES FOR PRIVATE LANDOWNERS. (a) Subject to Subsection (b), the liability of an owner, lessee, or occupant of agricultural land used for recreational purposes for an act or omission by the owner, lessee, or occupant relating to the premises that results in damages to a person who has entered the premises is limited to a maximum amount of \$500,000 for each person and \$1 million for each single occurrence of bodily injury or death and \$100,000 for each single occurrence for injury to or destruction of property. In the case of agricultural land, the total liability of an owner, lessee, or occupant for a single occurrence is limited to \$1 million, and the liability also is subject to the limits for each single occurrence of bodily injury or death and each single occurrence for injury to or destruction of property stated in this subsection.

(b) This section applies only to an owner, lessee, or occupant of agricultural land used for

recreational purposes who has liability insurance coverage in effect on an act or omission described by Subsection (a) and in the amounts equal to or greater than those provided by Subsection (a). 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 agricultural land may be a combined single limit in the amount of \$1 million for each single occurrence.

(c) This section does not affect the liability of an insurer or insurance plan in an action under Article 21.21, Insurance Code, or an action for bad faith conduct, breach of fiduciary duty, or negligent failure to settle a claim.

(d) This section does not apply to a governmental unit.

Added by Acts 1995, 74th Leg., ch. 520, Sec. 3, eff. Aug. 28, 1995. Amended by Acts 1997, 75th Leg., ch. 56, Sec. 4, eff. Sept. 1, 1997.