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H.B. No. 200

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to liability of certain electric utilities that allow  
3 certain uses of land that the electric utility owns, occupies, or  
4 leases.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 51.014(a), Civil Practice and Remedies  
7 Code, is amended to read as follows:

8 (a) A person may appeal from an interlocutory order of a  
9 district court, county court at law, or county court that:

10 (1) appoints a receiver or trustee;

11 (2) overrules a motion to vacate an order that  
12 appoints a receiver or trustee;

13 (3) certifies or refuses to certify a class in a suit  
14 brought under Rule 42 of the Texas Rules of Civil Procedure;

15 (4) grants or refuses a temporary injunction or grants  
16 or overrules a motion to dissolve a temporary injunction as  
17 provided by Chapter 65;

18 (5) denies a motion for summary judgment that is based  
19 on an assertion of immunity by an individual who is an officer or  
20 employee of the state or a political subdivision of the state;

21 (6) denies a motion for summary judgment that is based  
22 in whole or in part upon a claim against or defense by a member of  
23 the electronic or print media, acting in such capacity, or a person  
24 whose communication appears in or is published by the electronic or

1 print media, arising under the free speech or free press clause of  
2 the First Amendment to the United States Constitution, or Article  
3 I, Section 8, of the Texas Constitution, or Chapter 73;

4 (7) grants or denies the special appearance of a  
5 defendant under Rule 120a, Texas Rules of Civil Procedure, except  
6 in a suit brought under the Family Code;

7 (8) grants or denies a plea to the jurisdiction by a  
8 governmental unit as that term is defined in Section 101.001;

9 (9) denies all or part of the relief sought by a motion  
10 under Section 74.351(b), except that an appeal may not be taken from  
11 an order granting an extension under Section 74.351;

12 (10) grants relief sought by a motion under Section  
13 74.351(1); ~~[or]~~

14 (11) denies a motion to dismiss filed under Section  
15 90.007; or

16 (12) denies a motion for summary judgment filed by an  
17 electric utility regarding liability in a suit subject to Section  
18 75.0022.

19 SECTION 2. Section 75.0021(c), Civil Practice and Remedies  
20 Code, is amended to read as follows:

21 (c) This section applies only to a public utility located  
22 in~~+~~

23 [~~(1)~~] a county with a population of 800,000 or more and  
24 located on the international border [~~+~~ ~~or~~

25 [~~(2)~~ a municipal management district located in a  
26 municipality with a population of more than 1.9 million].

27 SECTION 3. Chapter 75, Civil Practice and Remedies Code, is

1 amended by adding Section 75.0022 to read as follows:

2 Sec. 75.0022. LIMITED LIABILITY OF CERTAIN ELECTRIC  
3 UTILITIES. (a) In this section:

4 (1) "Electric utility" has the meaning assigned by  
5 Section 31.002, Utilities Code.

6 (2) "Person" includes an individual, as defined by  
7 Section 71.001.

8 (3) "Premises" includes the land owned, occupied, or  
9 leased by an electric utility, or covered by an easement owned by an  
10 electric utility, with respect to which public access and use is  
11 allowed in a written agreement with a political subdivision under  
12 Subsection (c).

13 (4) "Serious bodily injury" means an injury that  
14 creates a substantial risk of death or that causes serious  
15 permanent disfigurement or protracted loss or impairment of the  
16 function of a body part or organ.

17 (b) This section applies only to an electric utility located  
18 in a county with a population of four million or more.

19 (c) An electric utility, as the owner, easement holder,  
20 occupant, or lessee of land, may enter into a written agreement with  
21 a political subdivision to allow public access to and use of the  
22 premises of the electric utility for recreation, exercise,  
23 relaxation, travel, or pleasure.

24 (d) The electric utility, by entering into an agreement  
25 under this section or at any time during the term of the agreement,  
26 does not:

27 (1) assure that the premises are safe for recreation,

1 exercise, relaxation, travel, or pleasure;

2 (2) owe to a person entering the premises for  
3 recreation, exercise, relaxation, travel, or pleasure, or  
4 accompanying another person entering the premises for recreation,  
5 exercise, relaxation, travel, or pleasure, a greater degree of care  
6 than is owed to a trespasser on the premises; or

7 (3) except as provided by Subsection (e), assume  
8 responsibility or incur any liability for:

9 (A) damages arising from or related to bodily or  
10 other personal injury to or death of any person who enters the  
11 premises for recreation, exercise, relaxation, travel, or pleasure  
12 or accompanies another person entering the premises for recreation,  
13 exercise, relaxation, travel, or pleasure;

14 (B) property damage sustained by any person who  
15 enters the premises for recreation, exercise, relaxation, travel,  
16 or pleasure or accompanies another person entering the premises for  
17 recreation, exercise, relaxation, travel, or pleasure; or

18 (C) an act of a third party that occurs on the  
19 premises, regardless of whether the act is intentional.

20 (e) Subsection (d) does not limit the liability of an  
21 electric utility for serious bodily injury or death of a person  
22 proximately caused by the electric utility's wilful or wanton acts  
23 or gross negligence with respect to a dangerous condition existing  
24 on the premises.

25 (f) The limitation on liability provided by this section  
26 applies only to a cause of action brought by a person who enters the  
27 premises for recreation, exercise, relaxation, travel, or pleasure

1 or accompanies another person entering the premises for recreation,  
2 exercise, relaxation, travel, or pleasure.

3 (g) The doctrine of attractive nuisance does not apply to a  
4 claim that is subject to this section.

5 (h) A written agreement entered into under this section may  
6 require the political subdivision to provide or pay for insurance  
7 coverage for any defense costs or other litigation costs incurred  
8 by the electric utility for damage claims under this section.

9 SECTION 4. Section 75.003(b), Civil Practice and Remedies  
10 Code, is amended to read as follows:

11 (b) This chapter does not affect the doctrine of attractive  
12 nuisance, except:

13 (1) as provided by Section 75.0022(g); and

14 (2) [~~that~~] the doctrine of attractive nuisance may not  
15 be the basis for liability of an owner, lessee, or occupant of  
16 agricultural land for any injury to a trespasser over the age of 16  
17 years.

18 SECTION 5. The change in law made by this Act applies only  
19 to a cause of action that accrues on or after the effective date of  
20 this Act. A cause of action that accrues before the effective date  
21 of this Act is governed by the law in effect immediately before that  
22 date, and that law is continued in effect for that purpose.

23 SECTION 6. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2013.