

By: Murphy

H.B. No. 258

A BILL TO BE ENTITLED

AN ACT

relating to liability of certain public utilities that allow certain uses of land that the public utility owns, occupies, or leases.

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

SECTION 1. Section 75.0021(c), Civil Practice and Remedies Code, is amended to read as follows:

(c) This section applies only to a public utility located in[+]

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

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

SECTION 2. Chapter 75, Civil Practice and Remedies Code, is amended by adding Section 75.0022 to read as follows:

Sec. 75.0022. LIMITED LIABILITY OF CERTAIN PUBLIC UTILITIES. (a) In this section:

(1) "Person" includes an individual, as defined by Section 71.001.

(2) "Public utility" means:

(A) an electric utility, as defined by Section 31.002, Utilities Code;

(B) a telecommunications provider, as defined by Section 51.002, Utilities Code;

1 (C) a gas utility, as defined by Section 101.003
2 or 121.001, Utilities Code; or

3 (D) a water and sewer utility, as defined by
4 Section 13.002, Water Code.

5 (b) A public utility, as the owner, easement holder,
6 occupant, or lessee of land, may enter into an easement or license
7 or lease agreement with a political subdivision or nonprofit
8 organization to allow access by the public to the premises of the
9 public utility for recreation, exercise, education, relaxation,
10 travel, or pleasure.

11 (c) An easement or license or lease agreement entered into
12 under this section must require the political subdivision or
13 nonprofit organization to carry liability insurance providing
14 coverage for an act or omission by the political subdivision or
15 nonprofit organization relating to the premises, with liability
16 limits equal to or greater than:

17 (1) if the agreement is with a political subdivision,
18 the amounts of the liability limits applicable to the political
19 subdivision under Section 101.023; or

20 (2) if the agreement is with a nonprofit organization,
21 the amounts of the liability limits applicable to an owner, lessee,
22 or occupant of agricultural land under Section 75.004.

23 (d) The public utility does not, by entering into an
24 easement or license or lease agreement under this section or at any
25 time during the term of the easement or license or lease agreement:

26 (1) ensure that the premises are safe for recreation,
27 exercise, education, relaxation, travel, or pleasure; or

1 (2) assume responsibility or incur any liability for:

2 (A) damages arising from or related to bodily or
3 other personal injury to or death of any person who enters the
4 premises for recreation, exercise, education, relaxation, travel,
5 or pleasure or accompanies another person entering the premises for
6 recreation, exercise, education, relaxation, travel, or pleasure;

7 (B) property damage sustained by any person who
8 enters the premises for recreation, exercise, education,
9 relaxation, travel, or pleasure or accompanies another person
10 entering the premises for recreation, exercise, education,
11 relaxation, travel, or pleasure; or

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

14 (e) Subsection (d) applies to any claim for damages,
15 including a claim:

16 (1) alleging gross negligence;

17 (2) asserting the doctrine of attractive nuisance; or

18 (3) arising from contact of a person or property with
19 power lines or exposure of a person or property to electric and
20 magnetic fields.

21 (f) A public utility that, as the owner, easement holder,
22 occupant, or lessee of land, enters into an easement or license or
23 lease agreement with a political subdivision or nonprofit
24 organization to allow the use of the premises for recreation,
25 exercise, education, relaxation, travel, or pleasure shall post and
26 maintain a clearly readable sign in a clearly visible location on or
27 near the premises. The sign must contain the following warning

1 language:

2 WARNING

3 TEXAS LAW (CHAPTER 75, CIVIL PRACTICE AND REMEDIES CODE)
4 LIMITS THE LIABILITY OF A PUBLIC UTILITY FOR DAMAGES ARISING FROM
5 THE USE OF THIS PROPERTY FOR RECREATION, EXERCISE, EDUCATION,
6 RELAXATION, TRAVEL, OR PLEASURE.

7 (g) This section applies only to a public utility located in
8 a county with a population of four million or more.

9 (h) The provisions of this section apply only during the
10 term of the easement or license or lease agreement between the
11 public utility and the political subdivision or nonprofit
12 organization.

13 SECTION 3. Section 75.003(b), Civil Practice and Remedies
14 Code, is amended to read as follows:

15 (b) Except as provided by Sections 75.0022(d) and (e), this
16 ~~[This]~~ chapter does not affect the doctrine of attractive nuisance,
17 except that the doctrine may not be the basis for liability of an
18 owner, lessee, or occupant of agricultural land for any injury to a
19 trespasser over the age of 16 years.

20 SECTION 4. The change in law made by this Act applies only
21 to a cause of action that accrues on or after the effective date of
22 this Act. A cause of action that accrues before the effective date
23 of this Act is governed by the law in effect immediately before that
24 date, and that law is continued in effect for that purpose.

25 SECTION 5. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this
2 Act takes effect September 1, 2013.