

## **BILL ANALYSIS**

Senate Research Center

H.B. 1202  
By: Uher (Fraser)  
Economic Development  
5-17-97  
Engrossed

### **DIGEST**

Currently, general practices of common law provide that a property owner may not be held liable for harm caused by the criminal actions of third parties not under the property owner's control. Changes in law over the last twenty years have made property owners liable for a wide range of risks and activities. This bill restores historical common law limitations on landowner liability.

### **PURPOSE**

As proposed, H.B. 1202 restores historical common law limitations on landowner liability.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Redesignates Sections 75.001, 75.002, 75.003, and 75.004, Civil Practice and Remedies Code, as Chapter 75A, Civil Practices and Remedies Code, and sets forth a new subchapter heading, as follows:

#### **SUBCHAPTER A. LIMITATION OF LANDOWNERS' LIABILITY FOR RECREATIONAL USE OF AGRICULTURAL LAND**

SECTION 2. Amends Chapter 75, Civil Practice and Remedies Code, by adding Subchapters B and C, as follows:

#### **SUBCHAPTER B. LIMITATION OF LANDOWNERS' LIABILITY FOR RECREATIONAL USE OF NONAGRICULTURAL LAND**

Sec. 75.021. **DEFINITIONS.** Defines "landowner," "premises," and "recreation."

Sec. 75.022. **SCOPE OF SUBCHAPTER.** Provides that this subchapter applies only to the liability of a landowner for the use of land, other than agricultural land, for recreation.

Sec. 75.023. **LIABILITY LIMITED.** Provides that a landowner giving permission to another to enter the premises for recreation does not make certain assurances to the person entering the property.

Sec. 75.024. **APPLICATION AND EFFECT OF SUBCHAPTER.** Provides that this subchapter does not relieve any landowner of any liability that would otherwise exist for deliberate, wilful, or malicious injury to a person or to property. Provides that this subchapter does not affect the doctrine of attractive nuisance. Provides that this subchapter applies only to a landowner who meets certain requirements related to premise expenses. Provides that this subchapter does not create any liability. Provides that Sections 75.003 and 75.004 do not apply to a claim subject to this subchapter. Provides that this subchapter does not apply to residential real property. Sets forth types of residential property to which this subchapter does not apply.

SUBCHAPTER C. LIMITATION OF LANDOWNERS' LIABILITY FOR CRIMINAL  
ACTS OF THIRD PARTY

Sec. 75.051. DEFINITIONS. Defines "landowner," and "third party."

Sec. 75.052. LIABILITY LIMITED. Provides that a landowner does not have a duty to prevent the criminal acts of a third party or protect a person from the criminal acts of a third party, except as provided by Subsection (b). Provides that a landowner may be liable to a person other than a trespasser at law for property damage, personal injury, or death caused by the reasonably foreseeable criminal act of a third party on the premises, if certain conditions apply.

Sec. 75.053. APPLICATION. Provides that this subchapter does not affect a landowner's liability, under certain provisions. Prohibits Sections 75.003 and 75.004 from applying to a claim subject to this subchapter.

SECTION 3. Repealer: Section 75.002(c), Civil Practice and Remedies Code (Liability Limited).

SECTION 4. Effective date: September 1, 1997.  
Makes application of this Act prospective.

SECTION 5. Emergency clause.