

By: Miles

H.B. No. 1652

A BILL TO BE ENTITLED

AN ACT

relating to liability of an owner, lessee, or occupant of land that allows land to be used as a community garden.

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

SECTION 1. Chapter 75, Civil Practice and Remedies Code, is amended by adding Section 75.0025 to read as follows:

Sec. 75.0025. LIMITED LIABILITY OF PERSONS ALLOWING CERTAIN USES OF LAND. (a) In this section, "community garden" means land gardened by a cooperative group of people residing in a neighborhood or community for the purpose of providing fresh produce for the benefit of the residents of the neighborhood or community.

(b) An owner, lessee, or occupant of land that gives permission to another person to enter and use the land as a community garden does not by giving that permission:

(1) ensure that the premises are safe; or

(2) assume responsibility or incur any liability for:

(A) damages arising from or related to any bodily or other personal injury to or death of any person who enters the premises for a purpose related to a community garden;

(B) property damage sustained by any person who enters the premises for a purpose related to a community garden; or

(C) an act of a third party that occurs on the premises.

1 (c) Subsection (b) applies to a claim for damages asserting
2 the doctrine of attractive nuisance.

3 (d) This section does not limit the liability of an owner,
4 lessee, or occupant of land for an injury caused by wilful or wanton
5 acts or gross negligence by the owner, lessee, or occupant.

6 (e) An owner, lessee, or occupant of land that allows the
7 use of the premises as a community garden shall post and maintain a
8 clearly readable sign in a clearly visible location on or near the
9 premises. The sign must contain the following warning language:

10 WARNING

11 TEXAS LAW (CHAPTER 75, CIVIL PRACTICE AND
12 REMEDIES CODE) LIMITS THE LIABILITY OF THE LANDOWNER,
13 LESSEE, OR OCCUPANT FOR DAMAGES ARISING FROM THE USE OF
14 THIS PROPERTY AS A COMMUNITY GARDEN.

15 SECTION 2. Section 75.003(b), Civil Practice and Remedies
16 Code, is amended to read as follows:

17 (b) Except as provided by Section 75.0025, this [~~This~~]
18 chapter does not affect the doctrine of attractive nuisance, except
19 that the doctrine may not be the basis for liability of an owner,
20 lessee, or occupant of agricultural land for any injury to a
21 trespasser over the age of 16 years.

22 SECTION 3. The change in law made by this Act applies only
23 to a cause of action that accrues on or after the effective date of
24 this Act. A cause of action that accrues before the effective date
25 of this Act is governed by the law in effect immediately before that
26 date, and that law is continued in effect for that purpose.

27 SECTION 4. This Act takes effect September 1, 2013.