

Department of Legislative Services  
Maryland General Assembly  
2000 Session

FISCAL NOTE

House Bill 296 (Delegate Sher. *et al.*)

Environmental Matters

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**Natural Resources - Public Recreation on Private and Public Land - Liability**

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Under current law, private owners of land who allow others to use their land for recreational purposes incur no liability for personal injury or property damage arising out of the recreational use except when the landowner willfully or maliciously fails to warn of danger or charges for the use of the land. This bill extends the liability limitation to a unit of local government as an owner of land. It also refines the definition of “charge” to provide that the term does not include: (1) the sharing of game, fish, or other products of recreational use; (2) benefits to the land arising from the recreational use; (3) contributions in kind, services, or cash made to the management or conservation of resources on the land; or (4) a fee charged by a unit of local government. The bill also modifies the definition of “land” to provide that it does not include any structure or equipment provided by a unit of local government for the purpose of public recreation. It also broadens the definition of “owner” to include an owner of any nonpossessory interest and broadens the definition of “recreational purpose” to include any recreational pursuit.

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**Fiscal Summary**

**State Effect:** The bill would not directly affect State operations or finances.

**Local Effect:** Potential decrease in expenditures for local tort claims. No effect on revenues.

**Small Business Effect:** Potential minimal.

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**Analysis**

**Current Law:** Private owners of land who allow others to use their land for recreational purposes incur no liability for personal injury or property damage arising out of the recreational use except when the landowner willfully or maliciously fails to warn of danger or charges for the use of the land. “Charge” is defined as price or fee asked for services, entertainment, recreation performed, or products offered for sale on land or in return for invitation or permission to enter or go upon land.

**Background:** All 50 states have recreational immunity laws, many of which apply to both public and private lands. In Maryland, current law defines an “owner” as the possessor of a fee interest, tenant, lessee, or person who possesses the premises. It does not specifically identify public landowners such as local governments. “Recreational purpose” includes several specified recreational pursuits. The definition has been modified in the past to include additional sports. In 1989, for example, jogging and marathon running were added. Some states, such as Virginia, have a catch-all category in the definition such as “any other recreational use.”

**Local Expenditures:** As a result of the bill, local governments’ obligations to compensate people who sustain physical injury or property loss on local government lands under the Local Government Tort Claims Act could decrease. The amount of any such decrease cannot be determined at this time. However, Garrett County, for example, reports that if one or two fewer cases were filed each year, county expenditures for legal representation would decrease by approximately \$25,000 annually. The liability of a local government under the Local Government Tort Claims Act may not exceed \$200,000 per individual claim and \$500,000 per total claims arising from the same occurrence.

**Small Business Effect:** The liability of small businesses that own land would be limited in more situations due to the expansion of the definitions of charge and recreational use. To the extent that landowners decide to lower their liability coverage as a result of this bill, insurance brokers could receive lower fees. In addition, small law firms that represent plaintiffs in personal injury cases could experience revenue decreases due to the expansion of the liability limitation.

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### **Additional Information**

**Prior Introductions:** Similar legislation (HB 1156 of 1999, HB 364 of 1998, and HB 1460 of 1997) received unfavorable reports by the Environmental Matters Committee.

**Cross File:** None.

**Information Source(s):** Department of Natural Resources, Department of Legislative

Services

**Fiscal Note History:** First Reader - February 9, 2000

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