



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fifth Legislature
Second Regular Session

House: LARA DPA 11-0-0-0

HB 2334: state lands; lease provisions

Sponsor: Representative Cook, LD 8

Caucus & COW

Overview

Prohibits state trust land leases from containing certain indemnification and liability provisions and declares that liability for injuries sustained on state trust land will be determined based on applicable state or federal law.

History

A state trust land lease requires the lessee to agree to indemnify and hold the State, through the State Land Department, harmless against all liabilities, obligations, damages, claims and costs which may be imposed from:

- Accidents, injuries and damage that occurred on the land from the lessee's use of the land;
- Use, non-use or a condition on the land that resulted from the lessee's actions or negligence; and
- Any failure on the part of the lessee to comply with the lease provisions.

The lease similarly requires the lessee to protect, defend, indemnify and hold the State harmless against any liabilities, obligations, losses, environmental responses and cleanup costs related to the presence of any substance regulated under applicable federal, state or local environmental laws, regulations, ordinances or amendments.

The recreational-use immunity statute generally limits liability for injuries that occur on another's land. An individual who legally possesses land is not liable for a recreational or educational user's injury on the land unless the individual was guilty of willful, malicious or grossly negligent conduct that directly led to the user's injury ([A.R.S. § 33-1551](#)).

Tendering a defense is a legal term that involves assigning a client's defense and associated costs to another party pursuant to a contract or other agreement.

Provisions

1. Prohibits state trust land leases from containing provisions that:

- a) Tender defense of either a claim or cause of action:
 - i. Based on an injury to someone who is on or using state trust lands and to whom permission to be on these lands has been granted by this state or any state agency; and
 - ii. Arising under state or federal environmental laws;
- b) Require indemnification in any form from a lessee or the lessee's employees or agents; and
- c) Otherwise assign liability to a lessee for the claims or causes of action mentioned above. (Sec. 1)

Prop 105 (45 votes) Prop 108 (40 votes) Emergency (40 votes) Fiscal Note

2. Declares that liability for any injury to an individual who is on or using state trust lands and to whom permission has been granted by the state or any state agency, including as a contracted third party, will be determined based on the recreational-use immunity statute or applicable state or federal law. (Sec. 1)

Amendments

Committee on Land, Agriculture & Rural Affairs

1. Specifies that the bill's prohibitions on state land leases containing certain provisions only apply to those leases that provide continued public access to the leased lands.