

CHAPTER 375

OUTDOOR RECREATION AND CONSERVATION

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375.011 Short title.—This act may be known and cited as the "Outdoor Recreation and Conservation Act of 1963."

History.—s. 1, ch. 63-36.

375.021 Comprehensive multipurpose outdoor recreation plan.—

(1) The department is given the responsibility, authority, and power to develop and execute a comprehensive multipurpose outdoor recreation plan for this state with the cooperation of the Department of Agriculture and Consumer Services, the Department of Transportation, the Game and Fresh Water Fish Commission, the Department of Commerce, and the water management districts.

(2) The purpose of the plan is to document recreational supply and demand, describe current recreational opportunities, estimate the need for additional recreational opportunities, and propose means for meeting identified needs. The plan shall describe statewide recreational needs, opportunities, and potential opportunities.

(3) The outdoor recreation plan shall be kept current through continual reevaluation and revision. Each agency named in subsection (1) must submit data to the Department of Environmental Protection periodically, upon request, relative to recreational opportunities supplied by that agency, potential recreational opportunities which could be provided by the agency, and any other relevant recreational statistics that the agency may possess. The agencies shall meet periodically at the request of the Department of Environmental Protection to discuss recreational issues.

(4) The Department of Environmental Protection may contract with the Government of the United States,

or any agency or instrumentality thereof; or with the state or any county, municipality, district authority, or political subdivision; or with any private corporation, partnership, association, or person providing for or relating to the development of outdoor recreation or conservation in accomplishing the purposes of this act. The department may receive and accept from any federal agency, state agency, or other public body grants or loans for or in aid of the purposes of this act; and the department may receive and accept aid, contributions, or loans from any other source of money, property, labor, or other things of value to be held, used, and applied only for the purpose for which such aid, grants, or loans were made. Without limiting or modifying any of the powers and authority of the department, but specifically as an addition thereto, the department is expressly authorized to participate in the land and water conservation fund program, established by and pursuant to Pub. L. No. 88-578, as it may be amended from time to time.

History.—s. 2, ch. 63-36; ss. 1, 2, ch. 67-351; s. 5, ch. 67-461; ss. 25, 35, ch. 69-106; s. 136, ch. 71-377; s. 107, ch. 73-333; s. 2, ch. 80-356; s. 32, ch. 81-167; s. 1, ch. 82-46; s. 5, ch. 82-152; s. 32, ch. 83-55; s. 5, ch. 83-114; s. 2, ch. 83-265; s. 64, ch. 86-163; ss. 9, 16, ch. 89-116; s. 282, ch. 94-356.

375.031 Acquisition of land; procedures.—

(1) The department is empowered and authorized to identify for acquisition lands, water areas, and related resources and to perform all other activities necessary or incident to improving, maintaining, selling, leasing, or disposing of land, water areas, and related resources, and improvements thereon. Prior to the acquisition of such land by the department, the seller of the land shall file a statement with the department disclosing, for at least the last 5 years prior to the conveyance of title to the state, all financial transactions concerning the land, and all parties having a financial interest in any transaction. The Board of Trustees of the Internal Improvement Trust Fund shall hold title to lands so acquired, but the beneficial use, control, and management shall be with the department. All lands identified for acquisition under this chapter shall be acquired with funds from the Land Acquisition Trust Fund.

(2) The department may acquire, control, and oversee the development and use of all land, water areas, and related resources generally classified as outdoor areas and may construct, improve, enlarge, extend, and maintain capital improvements and facilities upon such outdoor areas as needed. In performing these functions, the department shall give full consideration to the recommendations of the committee and of other agencies using or desiring to use land or water areas provided by the department.

(3)(a) All land, water areas, and related resources hereafter needed by the state for outdoor recreation, wildlife management, forestry management, nature preservation, water conservation and control, and other similar or related purposes shall be acquired by the Division of State Lands of the Department of Environmental Protection pursuant to the procedures set forth in chapter 253.

(b) On behalf of the Board of Trustees of the Internal Improvement Trust Fund and before the appraisal of a parcel approved for purchase pursuant to this chapter, the Secretary of Environmental Protection or the director of the Division of State Lands may enter into an option contract to buy such parcel. The option contract shall state that the final purchase price is subject to approval by the board and that this price may not exceed the maximum offer allowed by law. The consideration for such option may not exceed \$1,000 or .01 percent of the estimate by the department of the value of the parcel, whichever is greater.

(4) The department may acquire by purchase, lease-purchase agreement, or otherwise, on such terms and conditions as it deems wise, any land, water areas, related resources, or other property which it deems is reasonably necessary for outdoor recreation or natural resources conservation under this act, and any and all rights, title, and interest in such land, water areas, related resources, and other property, including any public lands, parks, playgrounds, reservations, roads, or parkways, owned by or in which any county, political subdivision, city, town, village, public agency, or officer of the state has any right, title, or interest, or parts thereof or rights therein and any fee simple absolute or lesser interest in private property, and fee simple absolute in, easement upon, or the benefit of restrictions upon, abutting property to preserve and protect recreation and conservation areas and projects.

(5) Land, water areas, and related resources which may be identified through the procedures provided in this act include, but are not limited to, parks and recreation areas, wildlife preserves, forest areas, wetlands, floodways and water storage areas, beaches, water access sites, boating and navigational channels, submerged lands, historical and archaeological sites, and rights-of-way and sites for access roads which may be necessary for maximum development, use, and enjoyment of any outdoor recreation or conservation areas. The terms "land" and "lands" where used singly in this act shall be construed as inclusive of lands, water areas, and related resources.

(6) The department may acquire by the exercise of the power of eminent domain, in accordance with the statutes of the state, any land or water areas, related resources, and property and any and all rights, title, and interest in such land or water areas, related resources, and other property which it determines reasonably necessary for the preservation of floodways and water storage areas, boating and navigational channels, rights-of-way for access roads which may be necessary for maximum development and use of any outdoor recreation and conservation areas, and rights-of-way for access which may be necessary for the use and enjoyment of public waterways.

(7) The department may contract for the management or lease of acquired land, water areas, and related resources, or improvements thereon, with any state agency for its authorized purposes. The department may, in its discretion, require such state agency to pay, as rentals on such land, water areas, related resources, or improvements, all or any part of the revenues derived from the land.

(8) The department may, if it deems it desirable and in the best interest of the program, request the board of trustees to sell or otherwise dispose of any lands or water storage areas acquired under this act. The board of trustees, when so requested, shall offer the lands or water storage areas, on such terms as the department may determine, first to other state agencies and then, if still available, to the county or municipality in which the lands or water storage areas lie. If not acquired by another state agency or local governmental body for beneficial public purposes, the lands or water storage areas shall then be offered by the board of trustees at public sale, after first giving notice of such sale by publication in a newspaper published in the county or counties in which such lands or water storage areas lie not less than once a week for 3 consecutive weeks. All proceeds from the sale or disposition of any lands or water storage areas pursuant to this section shall be deposited in the Land Acquisition Trust Fund.

(9) The department may sell, lease, or otherwise dispose of certain products and user rights in, under, or upon land, water areas, and related resources acquired under the provisions of this act, including, but not limited to, oil and minerals, timber and forest products, sand, gravel, earth, grazing rights, and farming rights on such terms and conditions as it determines, if the sale, lease, or other disposition is not inconsistent with or injurious to the outdoor recreation, conservation, and other purposes for which such lands and water areas were acquired.

(10) The department is empowered and authorized to provide matching funds to counties and municipalities of up to 50 percent of the cost of purchasing, exclusive of condemnation, rights-of-way for access roads or walkways to public beaches contiguous with the Atlantic Ocean or the Gulf of Mexico.

History.—s. 3, ch. 63-36; s. 3, ch. 67-351; ss. 25, 27, 35, ch. 69-106; s. 1, ch. 72-104; s. 1, ch. 75-81; s. 17, ch. 79-255; s. 3, ch. 80-356; s. 6, ch. 83-114; s. 15, ch. 84-330; s. 17, ch. 89-116; s. 8, ch. 89-174; s. 3, ch. 89-276; s. 15, ch. 90-217; ss. 9, 19, ch. 92-288; s. 283, ch. 94-356.

375.032 Recreation; required purpose for purchase.—No land shall be purchased under this act or any funds expended for any project unless a finding is made that recreation is the prime purpose of the purchase or of the project.

History.—s. 6, ch. 67-351.

375.041 Land Acquisition Trust Fund.—

(1) There is created a Land Acquisition Trust Fund to facilitate and expedite the acquisition of land, water areas, and related resources required to accomplish the purposes of this act. The Land Acquisition Trust Fund shall be held and administered by the department. All moneys and revenue from the operation, management, sale, lease, or other disposition of land, water areas, related resources, and the facilities thereon acquired or constructed under this act shall be deposited in or credited to the Land Acquisition Trust Fund. Moneys accruing to any agency for the purposes enumerated in this act may be deposited in this fund. There shall also be deposited into the Land Acquisition Trust Fund other moneys as authorized by appropriate act of the Legislature. All moneys so deposited into the Land Acquisition

Trust Fund shall be trust funds for the uses and purposes herein set forth, within the meaning of s. 215.32(1)(b); and such moneys shall not become or be commingled with the General Revenue Fund of the state, as defined by s. 215.32(1)(a).

(2) The moneys on deposit in the Land Acquisition Trust Fund shall be first applied to pay the rentals due under lease-purchase agreements or to meet debt service requirements of revenue bonds issued pursuant to s. 375.051; provided, however, that debt service on Save Our Coast bonds shall not be paid from moneys transferred to the Land Acquisition Trust Fund pursuant to s. 253.023(2)(b).

(3) Any moneys in the Land Acquisition Trust Fund which are not pledged for rentals or debt service as above provided may be expended from time to time to acquire land, water areas, and related resources and to construct, improve, enlarge, extend, operate, and maintain capital improvements and facilities in accordance with the plan.

(4) The department may disburse moneys in the Land Acquisition Trust Fund to pay all necessary expenses to carry out the purposes of this act.

(5) When the Legislature has authorized the Department of Environmental Protection to condemn a specific parcel of land and such parcel already has been approved for acquisition through the fund, the land may be acquired in accordance with the provisions of chapter 73 or chapter 74, and the fund may be used to pay the condemnation award and all costs, including a reasonable attorney's fee, associated with condemnation.

History.—s. 4, ch. 63-36; s. 4, ch. 67-351; ss. 25, 35, ch. 69-106; s. 4, ch. 80-356; s. 3, ch. 83-80; s. 9, ch. 86-294; s. 2, ch. 87-96; s. 284, ch. 94-356.

Note.—Transferred to s. 259.032 by s. 1, ch. 94-240.

375.044 Land Acquisition Trust Fund budget request.—

(1) The Department of Environmental Protection shall submit to the Legislature a 10-year comprehensive budget request for the Land Acquisition Trust Fund.

(2) The legislative budget request shall be submitted to the Executive Office of the Governor and the Legislature in conjunction with the provisions of ss. 216.023, 216.031, and 216.043. The 10-year request shall include, but shall not be limited to:

(a) A 10-year annual cash-flow analysis of the Land Acquisition Trust Fund.

(b) The requested schedule of the agency for issuance of Save Our Coasts bonds.

(c) Forecasts of anticipated revenues to the Land Acquisition Trust Fund.

(d) The estimate of the agency of Land Acquisition Trust Fund encumbrances and commitments for each year and the corresponding estimates of expenditures.

History.—s. 1, ch. 83-57; s. 4, ch. 95-150.

375.045 Florida Preservation 2000 Trust Fund.—

(1) There is created the Florida Preservation 2000 Trust Fund to carry out the purposes of ss. 259.032, 259.101, and 375.031. The Florida Preservation 2000 Trust Fund shall be held and administered by the Department of Environmental Protection. Proceeds from the sale of revenue bonds issued pursuant to s. 375.051 and payable from moneys transferred to the Land Acquisition

Trust Fund pursuant to s. 201.15(1)(a), not to exceed \$3 billion, shall be deposited into this trust fund to be distributed as provided in s. 259.101(3). The bond resolution adopted by the governing board of the Division of Bond Finance may provide for additional provisions that govern the disbursement of the bond proceeds.

(2) The Department of Environmental Protection shall distribute revenues from the Florida Preservation 2000 Trust Fund only to programs of state agencies or local governments as set out in s. 259.101(3). Such distributions shall be spent by the recipient within 90 days after the date on which the Department of Environmental Protection initiates the transfer.

(3) Any agency or district which acquires lands using Preservation 2000 funds, as distributed pursuant to this section and s. 259.101(3), shall manage the lands to make them available for public recreational use, provided that the recreational use does not interfere with the protection of natural resource values. Any such agency or district may enter into agreements with the Department of Environmental Protection or other appropriate state agencies to transfer management authority to or to lease to such agencies lands purchased with Preservation 2000 funds, for the purpose of managing the lands to make them available for public recreational use. The water management districts and the Department of Environmental Protection shall take action to control the growth of nonnative invasive plant species on lands they manage which are purchased with Preservation 2000 funds.

(4) The Department of Environmental Protection shall ensure that the proceeds from the sale of revenue bonds issued pursuant to s. 375.051 and payable from moneys transferred to the Land Acquisition Trust Fund pursuant to s. 201.15(1)(a) shall be administered and expended in a manner that ensures compliance of each issue of revenue bonds that are issued on the basis that interest thereon will be excluded from gross income for federal income tax purposes, with the applicable provisions of the United States Internal Revenue Code and the regulations promulgated thereunder, to the extent necessary to preserve the exclusion of interest on such revenue bonds from gross income for federal income tax purposes. The Department of Environmental Protection shall have the authority to administer the use and disbursement of the proceeds of such revenue bonds or require that the use and disbursement thereof be administered in such a manner as shall be necessary to implement strategies to maximize any available benefits under the applicable provisions of the United States Internal Revenue Code or regulations promulgated thereunder, to the extent not inconsistent with the purposes identified in s. 259.101(3).

Upon a determination by the Department of Environmental Protection that proceeds being held in the trust fund to support distributions outside the Department of Environmental Protection are not likely to be disbursed in accordance with the foregoing considerations, the Department of Environmental Protection shall petition the Governor and Cabinet to allow for the immediate disbursement of such funds for the acquisition of projects

approved for purchase pursuant to the provisions of chapter 259.

History.—s. 4, ch. 90-217; s. 19, ch. 94-240; s. 285, ch. 94-356.

375.051 Issuance of revenue bonds subject to constitutional authorization.—The acquisition of lands, water areas, and related resources by the department under this act is a public purpose for which revenue bonds may be issued when and only when there has been granted in the State Constitution specific authorization for the department to issue revenue bonds to pay the cost of acquiring such lands, water areas, and related resources and to construct, improve, enlarge, and extend capital improvements and facilities thereon as determined by the department to be necessary for the purposes of this act. The department may utilize the services and facilities of the Department of Legal Affairs, the Board of Administration, or any other agency in this regard. No revenue bonds, revenue certificates, or other evidences of indebtedness shall be issued for the purposes of this act except as specifically authorized by the State Constitution. All revenue bonds, revenue certificates, or other evidences of indebtedness issued pursuant to this act shall be submitted to the State Board of Administration for approval or disapproval. No individual series of bonds may be issued pursuant to this section unless the first year's debt service for such bonds is specifically appropriated in the General Appropriations Act.

History.—s. 5, ch. 63-36; s. 5, ch. 67-351; ss. 11, 25, 28, 35, ch. 69-106; s. 5, ch. 80-356; s. 2, ch. 83-57; s. 36, ch. 85-81.

375.061 Construction.—The provisions of this act shall be liberally construed in a manner to accomplish the purposes thereof.

History.—s. 6, ch. 63-36.

375.065 Public beaches; financial and other assistance by Department of Environmental Protection to local governments.—

(1) The Department of Environmental Protection is authorized, within the limits of appropriations available to the department for such purposes, to utilize any one or more of the following procedures in establishing and operating a program of financial assistance to local governments for the acquisition of public beach properties:

(a) The department may make grants for, and advance loans to, the governing body of any county or municipality in an amount not to exceed the fair market value, as determined by the department, of any waterfront property sought to be purchased by said governing body for the purpose of establishing and maintaining a public beach.

(b) The department may require the local governing body to give assurance that it has the financial ability to furnish or secure funds to complete the purchase of the property sought. Any revenue from concessions, tolls, or parking or otherwise produced by the development or operation of such public beach may be pledged to amortize any indebtedness incurred in such beach acquisitions.

(2) The Department of Environmental Protection may acquire waterfront property and may lease, sell, or grant acquired land, water areas, and related resources

or improvements thereon to the governing body of any county or municipality upon such terms and conditions as the department may require in order to assure that such property will be reserved for public use and benefit in the future.

(3) The department is authorized to promulgate such rules and forms as may be necessary to carry out the purposes of this section and to ensure that all projects to which assistance is rendered hereunder are for the purpose of providing public beaches for recreation purposes.

(4) In addition to the authorized assistance procedures provided by this section, the Legislature urges the Department of Environmental Protection to give priority to applications relating to the acquisition of public beaches in urban areas, and to make full use of the federal Land and Water Conservation Fund Act of 1965, as amended, or other applicable federal programs. This section is supplemental to and shall not limit or repeal any provision of the "Outdoor Recreation Act of 1963."

History.—ss. 1, 2, 3, ch. 72-86; s. 6, ch. 80-356; s. 286, ch. 94-356.

Note.—The reference to the "Outdoor Recreation Act of 1963" may refer to ch. 63-36, the Outdoor Recreation and Conservation Act of 1963.

375.075 Outdoor recreation; financial assistance to local governments.—

(1) The Department of Environmental Protection is authorized, pursuant to s. 370.023, to establish the Florida Recreation Development Assistance Program to provide grants to qualified local governmental entities to acquire or develop land for public outdoor recreation purposes. To the extent not needed for debt service on bonds issued pursuant to s. 375.051, each year, the department shall develop and plan a program which shall be based upon funding of not less than 5 percent of the money credited to the Land Acquisition Trust Fund pursuant to s. 201.15(2) and (3) in that year.

(2)(a) The department shall adopt, by rule, procedures to govern the program, which shall include, but need not be limited to, a competitive project selection process designed to maximize the outdoor recreation benefit to the public.

(b) Selection criteria shall, at a minimum, rank:

1. The extent to which the project would implement the outdoor recreation goals, objectives, and priorities specified in the state comprehensive outdoor recreation plan; and

2. The extent to which the project would provide for priority resource or facility needs in the region as specified in the state comprehensive outdoor recreation plan.

(c) No release of funds from the Land Acquisition Trust Fund for this program may be made for these public recreation projects until the projects have been selected through the competitive selection process provided for in this section.

History.—s. 1, ch. 86-293; s. 16, ch. 90-217; s. 287, ch. 94-356.

375.251 Limitation on liability of persons making available to public certain areas for recreational purposes without charge.—

(1) The purpose of this act is to encourage persons to make available to the public land, water areas and park areas for outdoor recreational purposes by limiting their liability to persons going thereon and to third per-

sons who may be damaged by the acts or omissions of persons going thereon.

(2)(a) An owner or lessee who provides the public with a park area or other land for outdoor recreational purposes owes no duty of care to keep that park area or land safe for entry or use by others, or to give warning to persons entering or going on that park area or land of any hazardous conditions, structures, or activities thereon. An owner or lessee who provides the public with a park area or other land for outdoor recreational purposes shall not by providing that park area or land:

1. Be presumed to extend any assurance that such park area or land is safe for any purpose,
2. Incur any duty of care toward a person who goes on that park area or land, or
3. Become liable or responsible for any injury to persons or property caused by the act or omission of a person who goes on that park area or land.

(b) This section shall not apply if there is any charge made or usually made for entering or using such park area or land, or any part thereof, or if any commercial or other activity, whereby profit is derived from the patronage of the general public, is conducted on such park area or land, or any part thereof.

(3)(a) An owner of land or water area leased to the state for outdoor recreational purposes owes no duty of care to keep that land or water area safe for entry or use by others, or to give warning to persons entering or going on that land or water of any hazardous conditions, structures, or activities thereon. An owner who leases land or water area to the state for outdoor recreational purposes shall not by giving such lease:

1. Be presumed to extend any assurance that such land or water area is safe for any purpose,
2. Incur any duty of care toward a person who goes on the leased land or water area, or
3. Become liable or responsible for any injury to persons or property caused by the act or omission of a person who goes on the leased land or water area.

(b) The foregoing applies whether the person going on the leased land or water area is an invitee, licensee, trespasser, or otherwise.

(4) This act does not relieve any person of liability which would otherwise exist for deliberate, willful or malicious injury to persons or property. The provisions hereof shall not be deemed to create or increase the liability of any person.

(5) The term "outdoor recreational purposes" as used in this act shall include, but not necessarily be limited to, hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, motorcycling, and visiting historical, archaeological, scenic, or scientific sites.

History.—ss. 1, 2, 3, 4, 5, ch. 63-313; s. 1, ch. 75-17; s. 7, ch. 87-328.

375.311 Legislative intent.—To protect and manage Florida's wildlife environment on lands conveyed for recreational purposes by private owners and public custodians, the Legislature hereby intends that the Game and Fresh Water Fish Commission shall regulate motor vehicle access and traffic control on Florida's public lands.

History.—s. 1, ch. 78-238; s. 1, ch. 78-355.

375.312 Definitions.—As used in this act, unless the context requires otherwise:

(1) "Motor vehicle" means any self-propelled vehicle, including every device in, upon, or by which any person or property is or may be transported or drawn, except devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(2) "Public lands" means any lands in the state which are owned by, leased by, or otherwise assigned to the state or any of its agencies and which are used by the general public for recreational purposes.

(3) "Commission" means the Florida Game and Fresh Water Fish Commission.

(4) "Off-road vehicle" means any motor vehicle under this act which is not licensed or registered under chapter 320, except those vehicles when used in timber harvest, reforestation, or other industry as may be directed by the landowner or mineral owner.

History.—s. 1, ch. 78-238; s. 1, ch. 78-355.

375.313 Commission powers and duties.—The commission shall:

(1) Regulate or prohibit, when necessary, the use of motor vehicles on the public lands of the state in order to prevent damage or destruction to said lands.

(2) Collect any registration fees imposed by s. 375.315 and deposit said fees in the State Game Trust Fund. The revenue resulting from said registration shall be expended for the funding and administration of ss. 375.311-375.315.

(3) Adopt and promulgate such reasonable rules as deemed necessary to administer the provisions of ss. 375.311-375.315, except that, before any such rules are adopted, the commission shall obtain the consent and agreement, in writing, of the owner, in the case of privately owned lands, or the owner or primary custodian, in the case of publicly owned lands.

History.—s. 1, ch. 78-238; s. 1, ch. 78-355.

375.314 Damage to public lands.—

(1) Whoever damages public lands by the use of a motor vehicle is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 or by restitution.

(2) For the purpose of this section, damage shall include, but is not limited to, injury to or destruction of trees, flora, sand dunes or other environmentally sensitive land, roads, trails, drainage systems or natural water courses or sources, wildlife resources, fences or gates, or crops or cultivated land.

(3) Any person who operates a motor vehicle on lands owned by the state or its agency shall be civilly liable for the actual damage to the lands by reason of his wrongful act, which damages may be recovered by suit and, when collected, shall go to the state or its agency to be used to restore or replace the damaged property.

History.—s. 1, ch. 78-238; s. 1, ch. 78-355; s. 86, ch. 79-164; s. 58, ch. 91-224.

375.315 Registration of off-road vehicles.—

(1) Any off-road vehicle operated upon public lands and not registered or licensed under s. 320.02 or s. 320.06 must be registered as provided in this section.

(2) Upon the filing of an application by the owner of an off-road vehicle, the commission shall assign to such

motor vehicle a registration license number and shall deliver to the owner a certificate of registration and one registration decal for each motor vehicle so registered.

(3) Registration shall be renewed annually upon payment of an annual registration fee for off-road vehicles not to exceed \$10.

(4) Whoever operates any off-road vehicle on public

lands without having attached thereto a registration decal for the current registration period is guilty of an infraction as defined in s. 318.13(3) and shall be penalized as provided in s. 318.18.

(5) Nothing contained herein shall be deemed to conflict with the provisions of chapter 320 or chapter 325.

History.—s. 1, ch. 78-238; s. 1, ch. 78-355.