§ 139-41.3. Liability of owners of land associated with watershed improvement projects.

(a) Purpose. – The purpose of this section is to encourage owners of land to make land and water areas available to the public at no cost for educational and recreational purposes by limiting the liability of the owner to persons entering the land for those purposes. The further purpose of this section is to establish a statutory rule of landowner liability law to govern the liability of a landowner whose land is associated with a watershed improvement project as defined by this Chapter to persons entering the land for educational and recreational purposes without charge. This statutory rule modifies the common law of North Carolina concerning landowner liability.

(b) Definitions. – The following definitions apply in this section, unless otherwise specified:

(1) Charge. – A price or fee asked for services, entertainment, recreation performed, or products offered for sale on land or in return for an invitation or permission to enter upon land, except as otherwise excluded in this section.

(2) Educational purpose. – Any activity undertaken as part of a formal or informal educational program, and viewing historical, natural, archaeological, or scientific sites.

(3) Land. – Real property, land, and water. The term does not include a dwelling or the property immediately adjacent to and surrounding the dwelling that is generally used for activities associated with occupancy of the dwelling as a living space.

(4) Land associated with watershed improvement projects. – The entire parcel or set of parcels on which any part of a watershed improvement project is located, including any fee easement, leasehold interest or legal possession.

(5) Legal entity. – The term includes (in addition to a private entity) a county, city, special district, public authority, or other unit or agency of government.

(6) Owner. – Any individual or legal entity that has any fee, easement, leasehold interest, or legal possession, and any employee or agent of the individual or legal entity.

(7) Recreational purpose. – Any activity undertaken for recreation, exercise, education, relaxation, refreshment, diversion, or pleasure.

(c) Exclusion. – For purposes of this Chapter, the term "charge" does not include any of the following:

(1) Any contribution in-kind, services, or cash contributed by a person, legal entity, nonprofit organization, or governmental entity other than the owner, whether or not sanctioned or solicited by the owner, the purpose of which is to: (i) remedy damage to land caused by educational or recreational use; or (ii) provide warning of hazards on, or remove hazards from, land used for educational or recreational purposes.

(2) Unless otherwise agreed in writing or otherwise provided by the State or federal tax codes, any property tax abatement or relief received by the owner from the State or local taxing authority in exchange for the owner's agreement to open the land for educational or recreational purposes.

(3) Any volunteer service involving trash pickup, stream cleanup, or stream bank restoration.

(d) Limitation of Liability. – Except as specifically recognized by or provided for in this section, an owner of land associated with a watershed improvement project, as defined by this Chapter, who either directly or indirectly invites or permits without charge any person to use

the land for educational or recreational purposes owes the person the same duty of care that he or she owes a trespasser, except that nothing in this Chapter shall be construed to limit or nullify the doctrine of attractive nuisance and the owner shall inform direct invitees of artificial or unusual hazards of which the owner has actual knowledge.

This section does not apply to an owner who invites or permits any person to use land for a purpose for which the land is regularly used and for which a price or fee is usually charged even if it is not charged in that instance, or to an owner whose purpose in extending an invitation or granting permission is to promote a commercial enterprise. (2001-272, s. 1.)