

**2009–2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB–0167/am ins  
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\*\*\*\*NOTE: This is draft language for an amendment to LRB–0166 concerning the treatment of shelter providers and providers of equipment, materials, facilities, or the labor of others. The language treats such providers similarly to other emergency volunteers with respect to providing indemnity instead of immunity and with respect to the conditions under which indemnity applies.

**SECTION 1.** 166.09 of the statutes is renumbered 323.41 (#) and amended to read:

323.41 (#) ~~PUBLIC SHELTERS; IMMUNITY FROM CIVIL LIABILITY~~ SHELTER PROVIDER.

(a) Any person owning or controlling real estate ~~or other premises~~ property who voluntarily and without compensation ~~grants to the state or any of its political subdivisions a license or privilege, or otherwise permits the state or any of its political subdivisions to inspect, designate and use the whole or any part thereof~~ of the real property for the purpose of sheltering persons during an actual, impending, mock or practice attack shall, together with his or her successors in interest, if any, ~~is not be civilly liable for negligently causing the death of or injury to any person on or about such real estate or premises under such license, privilege, or permission or for loss or damage to the property of such person~~ a disaster, an imminent threat of a disaster, or a related training exercise, is considered an officer, employee, or agent of the state under ss. 165.25, 893.82, and 895.46 or of the political subdivision under ss. 893.80, 895.35, and 895.46, whichever uses the real property, for purposes of a claim arising from the use of the real property, if the owner or controller has complied with ~~sub. (2)~~ par. (b).

(b) Any person owning or controlling real estate ~~or other premises~~ property who gratuitously grants the use ~~thereof~~ of that real property for the purposes stated in ~~sub. (1)~~ par. (a) shall make known to the licensee any hidden dangers or safety

hazards which are known to the owner or occupant of said ~~the real estate or premises~~ which property that might possibly result in death or injury or loss of property to any person making use ~~thereof~~ of the property.

**SECTION 2.** 323.41 (#) of the statutes is created to read:

**323.41 (#) PROVIDER OF EQUIPMENT, MATERIALS, AND FACILITIES.** (a) A person who during a state of emergency declared under s. 323.10 or during related training exercises directed by a state agency registers in writing with a local unit of government's emergency management program to provide equipment, materials, the labor of others, or facilities, other than facilities used as a shelter under sub. ( ), is considered an employee of the state under ss. 893.82 and 895.46 for purposes of any claim in connection with providing the equipment, materials, the labor of others, or facilities.

(b) Except as provided under par. (a), a person who during a state of emergency declared under s. 323.11 or during related training exercises directed by the local unit of government registers in writing with a local unit of government's emergency management program to provide equipment, materials, the labor of others, or facilities, other than facilities used as a shelter under sub. ( ), is considered an employee of the local unit of government under ss. 893.80, 895.35, and 895.46 for purposes of any claim in connection with providing the equipment, materials, the labor of others, or facilities.

\*\*\*NOTE: This subsection replaces the renumbering and amendment of s. 166.03 (10).

\*\*\*NOTE: Paragraph (b) does not specify which local unit of government indemnifies the provider of equipment. Is it the local unit of government that declares the state of emergency or the local unit of government that registers the person? (For example a county may declare an emergency, and a city registers the person, or vice versa.)

\*\*\*NOTE: Do pars. (a) and (b) allocate responsibility for indemnifying equipment providers to the state and local units of government as you wish? We had discussed

allocating responsibility for indemnification based on whether the state or a local unit of government registers the provider of equipment. Did the committee dispense with this idea?

(c) This subsection does not apply to a person's provision of services if s. 257.03 applies.