

**LEGAL CHECK-UP: LAND AND RECREATIONAL USE LIABILITY *and*  
SEC. 1031 FARMLAND EXCHANGES: FRIEND OR FOE?**

Donald L. Uchtmann, A. Bryan Endres, and Gary Hoff  
Department of Agricultural and Consumer Economics  
University of Illinois

**Executive Summary**

- I. Legal Check-up: Land and Recreational Use Liability
  - Whether landowners are liable if someone is injured on their property depends on the specific circumstances.
  - Liability may depend on whether a jury views Landowner's conduct as fault free, a failure to exercise reasonable care, or willful and wanton; liability may also depend on whether the entrant had permission, was a trespasser, or whether the Illinois Recreational Use Act or Snowmobile Act applies.
  - The December 2003 Ill. Supreme Court case of *Hall v. Henn* substantially narrows the circumstances where the Recreational Use Act reduces liability risk.
  - In managing the liability risk, Landowners should ask the following:  
Are the premises you own reasonable safe?  
Do you carry adequate liability insurance?  
Is your property posted with "No Trespassing" signs?  
How do you handle people who ask permission to enter your land for recreation?  
Have you considered the use of "Liability Waivers"?  
Do you believe the Illinois Recreational Use Act should be amended and, if so, have you spoken with your elected representatives?
  
- II. Like-Kind Exchanges: Friend or Foe?
  - Like-kind exchanges are currently a major driver in Illinois farm land price increases. The law is very specific and failure to comply can result in large tax liabilities.
  - It is important to know what constitutes "like-kind".
  - Both debt reduction and boot can result in taxable income.
  - While many exchanges are simultaneous, it is possible to sell property first and find a replacement later or to purchase the replacement first and then find a buyer for the old property later.

