

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 13, 1998 Revised: 3/17/98 _____

Subject: Coastal Zone Protection Act

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/1 amendment</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The Senate Bill 1404 modifies the definition of the term “substantial improvement,” for purposes of the Coastal Zone Protection Act, to specify what constitutes nonstructural interior finishings.

This bill substantially amends section 161.54(12), Florida Statutes.

II. Present Situation:

The National Flood Insurance Program

The National Flood Insurance Program (NFIP) was established by the U.S. Congress in 1968 with the passage of the National Flood Insurance Act. Since its enactment, the NFIP has been broadened and modified with the passage of the Flood Disaster Protection Act of 1973 and other legislative measures. The NFIP is administered by the Federal Insurance Administration, a component of the Federal Emergency Management Agency (FEMA).

The NFIP enables property owners to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Private insurance companies did not provide such coverage until recently.

Participation in the NFIP is based upon an agreement between local governments and the federal government: if a community will implement and enforce measures to reduce future flood risks to new construction in special flood hazard areas, the federal government will make flood insurance available within the community as financial protection against flood losses.

The Coastal Zone Protection Act

The Coastal Zone Protection Act of 1985, part III of chapter 161, F.S., was enacted to manage the most sensitive portion of the state's coastal area through the imposition of strict construction standards in order to minimize damage to the natural environment, private property, and life. The act imposes strict minimum construction standards in the coastal area of the state in order to minimize damage to the natural environment, private property, and life.

These minimum construction standards are specified in s. 161.55(1), F.S. While all structures must meet applicable state minimum building codes, only major structures (i.e., houses, mobile homes, apartments, and hotels) must be designed, constructed, and located in compliance with NFIP regulations as found in 44 C.F.R. Parts 59 and 60 or the local flood damage prevention ordinance, whichever is more restrictive. Specific construction and safety standards for mobile homes are set out in s. 161.55(1)(b), F.S., while all other major structures must comply with the minimum design and construction standards found in s. 161.55(1)(d) and (e), F.S. Section 161.55(2) and (3), F.S., sets out structural requirements for minor and nonhabitable major structures, respectively.

Definition of "Substantial Improvement"

For the purposes of the Coastal Zone Protection Act, construction means "the carrying out of any building, clearing, filling, excavation, or substantial improvement in the size or use of any structure or the appearance of any land." Section 161.54(12), F.S., defines "substantial improvement" as any repair, reconstruction, rehabilitation, or improvement of a structure, where the actual cost of the improvement or repair of the structure to pre-damage condition equals or exceeds, over a 5-year period, a cumulative total of 50 percent of the market value of the structure either:

- (a) Before the improvement or repair is started; or
- (b) If the structure has been damaged and is being restored, before the damage occurred.

The cumulative total cost does not include *nonstructural interior finishings* or roof coverings when calculating the amount of damage to a structure except when determining whether the structure has been substantially improved as a result of a single improvement or repair.

"Substantial improvement" occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. However, the term does not include any project for improvement of a structure for compliance with existing state or local health, sanitary, or safety code specifications necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

Thus, owners of property located in the coastal building zone are permitted to make repairs or improvements to their structures without adhering to stricter building standards (i.e., elevation of the structure) as long as the combined cost of the repairs or improvements, over a five year period, do not meet or exceed 50 percent of the building's market value. The "5-year period"

provision was added in 1992. Some owners of structures within the coastal building zone believed that the unlimited cumulative provision made it financially unfeasible for them to properly maintain and improve their structures because of the high cost of meeting the stricter building standards.

III. Effect of Proposed Changes:

Senate Bill 1404 modifies the definition of the term “substantial improvement” in s. 161.54(12), F.S., to specify what constitutes “nonstructural interior finishings,” which are excluded from the cumulative total cost used in determining whether a structure is substantially improved, and thus required to meet the stricter building codes specified in the Coastal Zone Protection Act. As proposed in the bill, nonstructural interior finishing includes, but is not limited to:

- finish flooring and floor coverings;
- base molding;
- nonstructural substrates;
- drywall, plaster, paneling, and wall covering;
- tapestries and window treatments;
- decorative masonry and paint;
- interior doors;
- tile;
- cabinets, moldings and millwork;
- decorative metal work and vanities;
- electrical receptacles, electrical switches, electrical fixtures, intercoms, communications and sound systems;
- security systems;
- HVAC grills and decorative trim, and freestanding metal fireplaces;
- appliances; and
- water closets, tubs and shower enclosures, lavatories, and water heaters.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This clarification of what constitutes “nonstructural interior finishings” may make it easier for local governments to implement the law.

VI. Technical Deficiencies:

There appears to be a typographical error in the title of the bill. On page 1, line 3, the word “Construction” should be “Protection.”

VII. Related Issues:

The 1997 Florida Legislature amended s. 161.54(12), F.S., to specifically exclude the cost of nonstructural interior finishings and roof coverings from cumulative substantial improvement determinations. As a result of this revision, the Department of Community Affairs (DCA) states that they have received daily calls for clarifications of the provision. On September 10-11, 1997, DCA conducted a workshop in Pinellas County to discuss developing technical assistance guidance materials for implementing the provision. Workshop participants included representatives from various coastal local governments with experience in implementing part III of chapter 161, F.S., the Building Officials Association of Florida, the Florida Homebuilders Association, the Florida Department of Environmental Protection, DCA, the Federal Emergency Management Association, local citizens, and related construction trade groups. The changes recommended in this bill are an outcome of this workgroup.

VIII. Amendments:

#1 by Community Affairs:
Technical amendment.