

STORAGE NAME: h3863z.ca
DATE: June 25, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3863
RELATING TO: Coastal Zone Protection Act
SPONSOR(S): Representatives Argenziano and Stabins
COMPANION BILL(S): SB 1404 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS YEAS 8 NAYS 0
- (2) REAL PROPERTY & PROBATE YEAS 7 NAYS 0
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

House Bill 3863 was introduced on March 3, 1998. On March 10, 1998, HB 3863 was referred to the House Committees on Community Affairs and Real Property & Probate. The Community Affairs and Real Property and Probate Committees unanimously passed the bill, with no amendments, on March 30, 1998 and April 1, 1998, respectively. The bill was placed on the House Consent Calendar on April 16, 1998, and the House passed it by a vote of 117 YEAS and 0 NAYS. On April 27, 1998, the Senate substituted HB 3863 for SB 1404 and on April 28, 1998, the bill passed by a vote of 38 YEAS and 0 NAYS. HB 3863 became law without the Governor's signature on May 28, 1998, as chapter 98-269, Laws of Florida.

II. SUMMARY:

HB 3863 amends section 161.54, Florida Statutes, known as "The Coastal Zone Protection Act of 1985." The bill modifies the definition of "substantial improvement" to itemize "nonstructural interior finishings" for the purposes of the Coastal Zone Protection Act.

The bill will have no fiscal impact.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 161, Part III, Florida Statutes, is known as The Coastal Zone Protection Act of 1985 [The Act]. The Act provides for the management of the most sensitive portions of the state's coastal area through imposition of strict construction standards to minimize damage to the natural environment, private property, and life. Section 161.55, Florida Statutes, imposes minimum construction standards for Florida's coastal building zone.

The National Flood Insurance Program [NFIP] was established by the United States Congress in 1968 through passage of the National Flood Insurance Act. Participation in the NFIP is based upon an agreement between local governments and the federal government. If a community implements and enforces 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 to protect against flood losses. Thus, to ensure the availability of flood insurance, it is important to ensure compliance with provisions with the Act.

Section 161.54 (5), Florida Statutes, defines "construction" as 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), Florida Statutes, defines "substantial improvement" as:

[A]ny repair, reconstruction, rehabilitation, or improvement of a structure, where the actual cost of the improvement or repair of the structure to its 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 except when determining whether the structure has been substantially improved as a result of a single improvement or repair.

Section 161.54, Florida Statutes, was amended by the 1997 Legislature to specifically exclude the cost of nonstructural interior finishings and roof coverings from cumulative substantial improvement determinations. According to the Department of Community Affairs [DCA], they have received daily calls for clarification of the provision after the amendment.

On September 10-11, 1997, the 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 the Act, including the Building Officials Association of Florida, the Florida Homebuilders Association, the Florida Department of Environmental Protection, the DCA, the Federal Emergency Management Association, local citizens, and other construction-related trade groups. This workgroup recommended the changes within this amendment.

B. EFFECT OF PROPOSED CHANGES:

This bill modifies the definition of the term “substantial improvement” to specify that “nonstructural interior finishings” include, but are not limited to:

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

By specifying these items to be “nonstructural interior finishings,” they will be excluded from the costs required to be included in the cumulative cost determination.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 161.54, Florida Statutes.

E. SECTION-BY-SECTION RESEARCH:

Section 1 -- Amends section 161.54, Florida Statutes, to modify the definition of "substantial improvement" to provide a non-exhaustive list of items that constitutes nonstructural interior finishings.

Section 2 -- Provides that this act shall take effect upon becoming a law.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Definition of those items which are defined to be "nonstructural interior finishing" items should make it easier for local governments to understand and implement the law. Similarly, those property owners affected will be able to more accurately determine their cumulative costs under the "substantial improvement" provision.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require cities or counties to spend money or take action that requires expenditure of money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce revenue raising authority.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the state tax shared with cities and counties.

VI. COMMENTS:

None.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VIII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

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