

STORAGE NAME: h0583s1.ep

DATE: March 31, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ENVIRONMENTAL PROTECTION
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 583

RELATING TO: The Coastal Zone Protection Act of 1985

SPONSOR(S): Committee on Environmental Protection and Representative Argenziano

STATUTE(S) AFFECTED: Section 161.54, F.S.

COMPANION BILL(S): SB 360 by Senator(s) Brown-Waite; and Latvala

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

(1) ENVIRONMENTAL PROTECTION YEAS 10 NAYS 0

(2)

(3)

(4)

(5)

I. SUMMARY:

CS/HB 583 amends s. 161.54, F.S., to modify the definition of "substantial improvement." If repairs or improvements to a structure within the coastal building zone meet the definition of "substantial improvement," the structure must comply with the minimum standards for construction within the coastal building zone. The cost of the repairs or improvements as a percentage of the structure's market value is the key component of the definition and the bill clarifies that the costs are limited to the "actual cost of the improvement or repair of the structure to its pre-damage condition." In addition, the bill excludes nonstructural interior finishings and roof coverings from cumulative total cost except when determining if substantial improvement has occurred as the result of a single improvement or repair.

The bill does not have a fiscal impact on state or local government, but may benefit some private property owners.

The bill provides that the act shall take effect upon becoming law.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The Coastal Zone Protection Act of 1985 (Part III, 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. The act requires that construction in the coastal building zone meet certain minimum standards specified in s. 161.55, F.S., which are intended to improve the ability of a structure to withstand storm impacts.

Section 161.54(5), F.S., 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..." "Substantial improvement" is defined as "any repair, reconstruction, rehabilitation, or improvement of a structure, the cost of which 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..." As a result, if work on an existing structure constitutes substantial improvement, then the structure must meet the minimum standards specified in s. 161.55, F.S., including elevating the structure.

Owners of older structures may only make repairs or improvements to a structure which reach a total of less than 50 percent in a five-year period, before they would have to elevate the structure and otherwise meet the requirements of s. 161.55, F.S. If repairs or improvements which cost 30 percent of the structure's market value are made one year and additional improvements are made within five years that cost 20 percent or more of the market value, the structure would have to meet the requirements for the coastal building zone. An owner could be denied permission to make repairs or improvements that cross the "50 percent threshold" if unwilling to also improve the structure to meet the stricter building code.

These provisions can be problematic for owners of older structures within the coastal building zone. In the event of storm damage that requires repairs whose cost exceeds 50 percent of the market value of the structure, the insurance settlement may be insufficient to both repair the storm damage and undertake additional work to conform with the requirements of s. 161.55, F.S. In addition, if the insurance settlement equals or exceeds 50 percent of the market value of the structure but the owner is able to complete the repairs for less than 50 percent, there is considerable confusion as to whether such repairs would constitute substantial improvement. These problems related to insurance settlements for storm damage are more difficult when more than one major storm event occurs within a five-year period. Finally, it can be financially infeasible for an owner to make improvements unrelated to storm damage, or undertake ongoing maintenance such as replacing roof coverings, when to do so would constitute substantial improvement. In that event, the owner would face the additional costs of elevating the structure. As a result, owners may feel forced to allow their structures to deteriorate.

B. EFFECT OF PROPOSED CHANGES:

CS/HB 583 clarifies the definition of "substantial improvement" so that only the actual cost of the improvement or repair of a structure to its pre-damage condition would be counted in determining if a structure has been substantially improved. As a result, it would eliminate the confusion over whether the amount of an insurance settlement or the cost of the repairs determines if the "50 percent threshold" had been crossed. Second, the costs of nonstructural interior finishings (e.g., carpeting, wallpaper, paint,) and roof coverings (e.g., shingles, tiles) would be specifically excluded from cumulative total cost. As a result, the cost of nonstructural interior finishings or roof coverings would only be included in the determination of whether a structure is substantially improved as the result of a single improvement or repair.

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?

No.

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

No.

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

No.

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?

Not applicable.

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

Not applicable.

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

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

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

No.

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

No.

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

No.

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

No.

3. Personal Responsibility:

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

No.

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

No.

4. Individual Freedom:

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

No.

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

No.

5. Family Empowerment:

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

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

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

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

Not applicable.

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

Not applicable.

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

No.

- 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?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION RESEARCH:

Section 1: Amends s. 161.54, F.S., to revise the definition of "substantial improvement."

Section 2: Provides that the act shall take effect upon becoming law.

III. 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:

Some owners of older structures within the coastal building zone will benefit if they are able to avoid the costs of elevating their structures and otherwise meeting the requirements of s. 161.55, F.S.

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

None.

D. FISCAL COMMENTS:

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require municipalities or counties to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that municipalities or counties have to raise revenues.

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

The bill does not reduce the percentage of state tax shared with counties and municipalities.

V. COMMENTS:

The Federal Emergency Management Agency (FEMA) had expressed some concerns with the language of HB 583. CS/HB 583 incorporates language recommended by FEMA to address its concerns.

STORAGE NAME: h0583s1.ep

DATE: March 31, 1997

PAGE 8

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 27, 1997, the Committee on Environmental Protection, adopted HB 583 as a committee substitute. A remove and insert amendment was adopted which made two changes to the bill. First, the original bill based substantial improvement on the "actual cost of the work to be done," and CS/HB 583 defines substantial improvement based on the actual costs of restoring a structure to its pre-damage condition. Second, the original bill excluded nonstructural interior finishings and roof coverings from any determination of substantial improvement, while CS/HB 583 limits those exclusions to cumulative total cost, which is used to determine if a structure has been substantially improved over a 5-year period. These items would still be counted when determining if a structure has been substantially improved as a result of a single repair or improvement.

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Legislative Research Director:

W. Ray Scott

Wayne S. Kiger