

By Senator Hargrett

21-136-99

1 A bill to be entitled
 2 An act relating to Murphy Act lands; amending
 3 s. 253.82, F.S.; providing for conveyance of
 4 all Murphy Act transportation easements to the
 5 governmental entity currently having title to
 6 the adjacent roadway; requiring the
 7 establishment of a procedure for review of
 8 deeds containing Murphy Act transportation
 9 reservations; setting requirements for the
 10 review process; providing for compensation of
 11 certain property owners if the reservation
 12 denies the property owner the current economic
 13 use of the property; amending s. 712.04, F.S.;
 14 providing for reservations of easements in
 15 deeds by the Board of Trustees of the Internal
 16 Improvement Trust Fund to be extinguished on a
 17 specified date, subject to certain limitations;
 18 amending s. 712.05, F.S.; providing procedures
 19 by which a governmental entity may preserve a
 20 road reservation; requiring notice; providing
 21 an effective date.

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 23 Be It Enacted by the Legislature of the State of Florida:

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 25 Section 1. Subsection (6) is added to section 253.82,
 26 Florida Statutes, to read:

27 253.82 Title of state or private owners to Murphy Act
 28 lands.--

29 (6)(a) All reservations of easements on deeds by the
 30 Board of Trustees of the Internal Improvement Trust Fund
 31 conveying land acquired under chapter 18296, Laws of Florida,

1 1937, are hereby vested by operation of law and without the
2 necessity of instruments of conveyance from the Board of
3 Trustees of the Internal Improvement Trust Fund, in the
4 governmental entity having right and title to the road to
5 which the reservations are adjacent. All reservations adjacent
6 to a road that was designated as a state road at the time of
7 the reservation and which road is currently held by the state
8 are conveyed to the Department of Transportation. All
9 reservations adjacent to a road that was designated as a state
10 road at the time of the reservation and which is located in an
11 unincorporated area of a county or on a road owned by the
12 county within any incorporated area are conveyed to the
13 respective counties. All other reservations within
14 incorporated areas adjacent to a road that was designated as a
15 state road at the time of the reservation and which are not
16 otherwise conveyed to the state or the county are conveyed to
17 the incorporated area. The conveyance includes all right,
18 title, and interests in the reservation held by the Board of
19 Trustees of the Internal Improvement Trust Fund.

20 (b) Every entity holding title to Murphy Act
21 reservations must establish a procedure for review of any deed
22 containing a reservation when a review is requested or a road
23 project is anticipated. The review process must provide for:

24 1. A determination of whether the language of the deed
25 created a reservation at the time of the original conveyance.

26 2. Review of any release of the reservation provided
27 by the property owner.

28 3. The recording of a notice of the nonexistence of a
29 reservation if reservation language in the deed does not
30 impact the property.

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1 4. A determination of whether any or all of the
2 reservation may be released, and a form for recording the
3 release.

4 5. A process to allow for review through mediation if
5 requested by the property owner or through binding arbitration
6 pursuant to chapter 44.

7 6. Any fee charged not to exceed the actual cost to
8 review the deed, perform an appeal, and pay for any recording
9 expenses, with no fee to exceed \$300.

10 (c)1. Any owner of property encumbered by a Murphy Act
11 reservation who has been denied a release of all or part of
12 the reservation or who has received notice of a governmental
13 entity's intent to preserve the reservation under s. 712.05,
14 may appeal to the entity and show that the reservation
15 substantially denies the property owner the current economic
16 use of the property held by the owner. For purposes of this
17 determination, the term "current economic use" means the use
18 of the property on the date notice of the easement is filed
19 under s. 712.05.

20 2. Upon a determination by the governmental entity
21 that the reservation substantially denies the property owner
22 the current economic use of the property held by the owner,
23 the entity must purchase the real property and improvements
24 not retained by the property owner in fee simple title or
25 release all or part of the reservation as necessary to allow
26 for beneficial use of the property.

27 3. Where the governmental entity and the property
28 owner are unable to agree as to whether the reservation
29 substantially denies the current economic use of the property
30 or as to the purchase price, the property owner may request
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1 mediation or binding arbitration pursuant to chapter 44 to
2 resolve these issues.

3 4. Prior to the payment of any compensation, the
4 property owner must provide the governmental entity copies of
5 any title insurance policies and notice of any compensation
6 received from a title company related to the easement.

7 (3) The process for release of any reservation covered
8 by this section or payment for property impacted by the use of
9 a reservation covered by this section shall be solely in
10 accordance with this section. Any action for the taking of
11 property related to road construction is separate and distinct
12 from an action pursuant to this section.

13 (4) The governmental entity is not liable for
14 attorney's fees or costs incurred by the owner in establishing
15 the impact of the reservation on the property.

16 Section 2. Section 712.04, Florida Statutes, is
17 amended to read:

18 712.04 Interests extinguished by marketable record
19 title.--Subject to the matters stated in s. 712.03, such
20 marketable record title shall be free and clear of all
21 estates, interests, claims, or charges whatsoever, the
22 existence of which depends upon any act, title transaction,
23 event or omission that occurred prior to the effective date of
24 the root of title. All such estates, interests, claims, or
25 charges, however denominated, whether such estates, interests,
26 claims, or charges are or appear to be held or asserted by a
27 person sui juris or under a disability, whether such person is
28 within or without the state, whether such person is natural or
29 corporate, or is private or governmental, are hereby declared
30 to be null and void, except that this chapter shall not be
31 deemed to affect any right, title, or interest of the United

1 States, Florida, or any of its officers, boards, commissions,
2 or other agencies reserved in the patent or deed by which the
3 United States, Florida, or any of its agencies parted with
4 title. Provided, however, that all reservations of easements
5 in deeds by the Board of Trustees of the Internal Improvement
6 Trust Fund conveying land acquired under chapter 18296, Laws
7 of Florida, 1937, and not used or identified by the
8 governmental entity in the final design plans of a road
9 project scheduled for construction to begin prior to the end
10 of the 10 years, shall be extinguished by the Marketable
11 Record Title Act on July 1, 2002, subject to the matters under
12 s. 712.03, and further subject to the right of any
13 governmental entity holding title to the reservations to
14 preserve such reservations that are necessary for future
15 transportation projects in adopted transportation plans by
16 filing notice under s. 712.05, before July 1, 2002.

17 Section 3. Subsection (3) is added to section 712.05,
18 Florida Statutes, to read:

19 712.05 Effect of filing notice.--

20 (3) Any governmental entity claiming a road
21 reservation pursuant to a deed conveyed pursuant to the Murphy
22 Act may preserve the reservation or any portion thereof
23 necessary for future transportation projects in adopted
24 transportation plans and protect it from extinguishment by the
25 operation of this chapter by filing for the record, prior to
26 July 1, 2002, a notice, in writing, in accordance with the
27 provisions of this chapter. The notice will have the effect of
28 preserving the reservation or portion thereof for a period of
29 10 years if the reservation is used or identified by the
30 governmental entity in the final design plans of a road
31 project scheduled for construction to begin prior to the end

1 of the 10 years. Any reservation used or identified in the
2 final design plans of a road project scheduled for
3 construction to begin before the end of the 10 years is not
4 extinguished.

5 Section 4. This act shall take effect upon becoming a
6 law.

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9 SENATE SUMMARY

10 Provides for the conveyance of Murphy Act road
11 reservations. Requires the establishment of a procedure
12 for review of deeds containing reservations. Provides
13 criteria for the review process. Provides for
14 compensation of property owners. Extinguishes any
15 reservation of easement by July 1, 2002, unless notice to
16 protect it from extinguishment is filed before that date.
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