

By the Committee on Transportation and Senator Hargrett

306-1644-99

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 not held by
11 the state and which is located in an unincorporated area of a
12 county or on a road held by the county within any incorporated
13 area are conveyed to the respective counties. All other
14 reservations within incorporated areas adjacent to a road that
15 was designated as a state road at the time of the reservation
16 and which are not otherwise conveyed to the state or the
17 county are conveyed to the incorporated area. The conveyance
18 includes all right, title, and interests in the reservation
19 held by the Board of Trustees of the Internal Improvement
20 Trust Fund.

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

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

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

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

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 the process in chapter 44.

7 6. Any administrative fee charged not to exceed the
8 actual cost to review the deed, perform an appeal, and pay for
9 any recording expenses, with no administrative fee to exceed
10 \$300.

11 (c)1. Any owner of property encumbered by a Murphy Act
12 reservation who has been denied a release pursuant to this
13 section of all or part of the reservation or who has received
14 notice of a governmental entity's intent to preserve the
15 reservation under s. 712.05, may appeal to the entity and show
16 that the reservation substantially denies the property owner
17 the current economic use of the property held by the owner.
18 For purposes of this determination, the term "current economic
19 use" means the use of the property on the date notice of the
20 easement is filed under s. 712.05 or, if notice has not been
21 received, upon the date the property owner applies for release
22 of the easement.

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

30 3. Where the governmental entity and the property
31 owner are unable to agree as to whether the reservation

1 substantially denies the current economic use of the property
2 or as to the purchase price, the property owner may request
3 mediation, and, if mediation is unsuccessful, the property
4 owner may demand binding arbitration pursuant to the process
5 in chapter 44 to resolve these issues.

6 4. Prior to the payment of any compensation, the
7 property owner must provide the governmental entity copies of
8 any title insurance policies and notice of any compensation
9 received from a title company related to the easement, and the
10 amount of any compensation received or due as a result of such
11 title insurance policies shall be offset against the amount of
12 compensation paid by the governmental entity.

13 (d) The process for release of any reservation covered
14 by this section or payment for property impacted by the use of
15 a reservation covered by this section shall be solely in
16 accordance with this section. Any action for the condemnation
17 or inverse condemnation of property related to road
18 construction is separate and distinct from any proceedings
19 pursuant to this section.

20 (e) The governmental entity is not liable for
21 attorney's fees or costs incurred by the owner in establishing
22 substantial denial of the current economic use or in
23 establishing the purchase price of the property.

24 Section 2. Section 712.04, Florida Statutes, is
25 amended to read:

26 712.04 Interests extinguished by marketable record
27 title.--Subject to the matters stated in s. 712.03, such
28 marketable record title shall be free and clear of all
29 estates, interests, claims, or charges whatsoever, the
30 existence of which depends upon any act, title transaction,
31 event or omission that occurred prior to the effective date of

1 the root of title. All such estates, interests, claims, or
2 charges, however denominated, whether such estates, interests,
3 claims, or charges are or appear to be held or asserted by a
4 person sui juris or under a disability, whether such person is
5 within or without the state, whether such person is natural or
6 corporate, or is private or governmental, are hereby declared
7 to be null and void, except that this chapter shall not be
8 deemed to affect any right, title, or interest of the United
9 States, Florida, or any of its officers, boards, commissions,
10 or other agencies reserved in the patent or deed by which the
11 United States, Florida, or any of its agencies parted with
12 title. However, all reservations of easements in deeds by the
13 Board of Trustees of the Internal Improvement Trust Fund
14 conveying land acquired under chapter 18296, Laws of Florida,
15 1937, and not preserved in accordance with s. 712.05(3), shall
16 be extinguished by the Marketable Record Title Act on July 1,
17 2002, subject to the matters under s. 712.03, and further
18 subject to the right of any governmental entity holding title
19 to the reservations to preserve such reservations that are
20 necessary for future transportation projects in adopted
21 transportation plans by filing notice under s. 712.05(3),
22 before July 1, 2002.

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

25 712.05 Effect of filing notice.--

26 (3) Any governmental entity claiming a road
27 reservation pursuant to a deed conveyed pursuant to the Murphy
28 Act may preserve the reservation or any portion thereof
29 necessary for future transportation projects in adopted
30 transportation plans and protect it from extinguishment by the
31 operation of this chapter by filing for the record, prior to

1 July 1, 2002, a notice, in writing, in accordance with the
2 provisions of this chapter. The notice will have the effect of
3 preserving the reservation or portion thereof for a period of
4 10 years if, prior to the end of the 10 years, the reservation
5 is used or identified by the governmental entity in the plans
6 of a road project scheduled for construction to begin prior to
7 the end of the 10 years. Any reservation used or identified in
8 the final design plans of a road project scheduled for
9 construction to begin before the end of the 10 years is not
10 extinguished.

11 Section 4. This act shall take effect upon becoming a
12 law.

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14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
15 COMMITTEE SUBSTITUTE FOR
16 SB 0144

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18 The committee substitute provides the term "current economic
19 use" means the use of the property on the date notice of the
20 easement is filed under s. 712.05, F.S., or, if notice has not
21 been received, upon the date the property owner applies for
22 release of the easement. The CS provides that if voluntary
23 mediation between the property owner and the governmental
24 entity is unsuccessful the property owner may demand binding
25 arbitration pursuant to the process in chapter 44, F.S. The CS
26 further provides that the amount of any compensation received
27 or due as a result of title insurance policies shall be offset
28 against the amount of compensation paid by the governmental
29 entity.
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