

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 providing applicability; amending s. 712.05,
19 F.S.; providing procedures by which a
20 governmental entity may preserve a road
21 reservation; requiring notice; providing an
22 effective date.

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

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

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

30 (6)(a) All reservations of easements on deeds by the
31 Board of Trustees of the Internal Improvement Trust Fund

1 conveying land acquired under chapter 18296, Laws of Florida,
2 1937, are hereby vested by operation of law and without the
3 necessity of instruments of conveyance from the Board of
4 Trustees of the Internal Improvement Trust Fund, in the
5 governmental entity having right and title to the road to
6 which the reservations are adjacent. All reservations adjacent
7 to a road that was designated as a state road at the time of
8 the reservation and which road is currently held by the state
9 are conveyed to the Department of Transportation. All
10 reservations adjacent to a road that was designated as a state
11 road at the time of the reservation and which is not held by
12 the state and which is located in an unincorporated area of a
13 county or on a road held by the county within any incorporated
14 area are conveyed to the respective counties. All other
15 reservations within incorporated areas adjacent to a road that
16 was designated as a state road at the time of the reservation
17 and which are not otherwise conveyed to the state or the
18 county are conveyed to the incorporated area. The conveyance
19 includes all right, title, and interests in the reservation
20 held by the Board of Trustees of the Internal Improvement
21 Trust Fund.

22 (b) Every entity holding title to Murphy Act
23 reservations must establish a procedure for review of any deed
24 containing a reservation when a review is requested or a road
25 project is anticipated. The review process must provide for:
26 1. A determination of whether the language of the deed
27 created a reservation at the time of the original conveyance.
28 2. Review of any release of the reservation provided
29 by the property owner.

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1 3. The recording of a notice of the nonexistence of a
2 reservation if reservation language in the deed does not
3 impact the property.

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

7 5. A process to allow for review through mediation if
8 requested by the property owner or through binding arbitration
9 pursuant to the process in chapter 44.

10 6. Any administrative fee charged not to exceed the
11 actual cost to review the deed, with no fee to exceed \$300.
12 The property owner shall be responsible for the payment of any
13 recording fees the property owner incurs. The property owner
14 and governmental entity shall be responsible for their
15 respective fees to perform an appeal or participate in
16 mediation or arbitration as provided in this subsection. A
17 governmental entity may waive administrative fees upon a
18 determination by the governmental entity of the property
19 owner's economic hardship.

20 (c)1. Any owner of property encumbered by a Murphy Act
21 reservation who has been denied a release pursuant to this
22 section of all or part of the reservation or who has received
23 notice of a governmental entity's intent to preserve the
24 reservation under s. 712.05, may appeal to the entity and show
25 that the reservation substantially denies the property owner
26 the current economic use of the property held by the owner.
27 For purposes of this determination, the term "current economic
28 use" means the use of the property on the date notice of the
29 easement is filed under s. 712.05 or, if notice has not been
30 received, upon the date the property owner applies for release
31 of the easement.

1 2. Upon a determination by the governmental entity
2 that the reservation substantially denies the property owner
3 the current economic use of the property held by the owner,
4 the entity must purchase the real property and improvements
5 not retained by the property owner in fee simple title or
6 release all or part of the reservation as necessary to allow
7 for the current economic use of the property.

8 3. Where the governmental entity and the property
9 owner are unable to agree as to whether the reservation
10 substantially denies the current economic use of the property
11 or as to the purchase price, the property owner may request
12 mediation, and, if mediation is unsuccessful, the property
13 owner may demand binding arbitration pursuant to the process
14 in chapter 44 to resolve these issues.

15 4. Prior to the payment of any compensation, the
16 property owner must provide the governmental entity copies of
17 any title insurance policies and notice of any compensation
18 received from a title company related to the easement, and the
19 amount of any compensation received or due as a result of such
20 title insurance policies shall be offset against the amount of
21 compensation paid by the governmental entity.

22 (d) The process for release of any reservation covered
23 by this section or payment for property impacted by the use of
24 a reservation covered by this section shall be solely in
25 accordance with this section. Any action for the condemnation
26 or inverse condemnation of property related to road
27 construction is separate and distinct from any proceedings
28 pursuant to this section.

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

3 (f) The provisions of this subsection apply only to
4 reservations of easements on deeds for roads and shall not
5 apply to any other reservations, including canal, oil, gas, or
6 mineral reservations.

7 Section 2. Section 712.04, Florida Statutes, is
8 amended to read:

9 712.04 Interests extinguished by marketable record
10 title.--Subject to the matters stated in s. 712.03, such
11 marketable record title shall be free and clear of all
12 estates, interests, claims, or charges whatsoever, the
13 existence of which depends upon any act, title transaction,
14 event or omission that occurred prior to the effective date of
15 the root of title. All such estates, interests, claims, or
16 charges, however denominated, whether such estates, interests,
17 claims, or charges are or appear to be held or asserted by a
18 person sui juris or under a disability, whether such person is
19 within or without the state, whether such person is natural or
20 corporate, or is private or governmental, are hereby declared
21 to be null and void, except that this chapter shall not be
22 deemed to affect any right, title, or interest of the United
23 States, Florida, or any of its officers, boards, commissions,
24 or other agencies reserved in the patent or deed by which the
25 United States, Florida, or any of its agencies parted with
26 title. However, all reservations of easements in deeds by the
27 Board of Trustees of the Internal Improvement Trust Fund
28 conveying land acquired under chapter 18296, Laws of Florida,
29 1937, and not preserved in accordance with s. 712.05(3), shall
30 be extinguished by the Marketable Record Title Act on July 1,
31 2002, subject to the matters under s. 712.03, and further

1 subject to the right of any governmental entity holding title
2 to the reservations to preserve such reservations that are
3 necessary for future transportation projects in adopted
4 transportation plans by filing notice under s. 712.05(3),
5 before July 1, 2002.

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

8 712.05 Effect of filing notice.--

9 (3) Any governmental entity claiming a road
10 reservation pursuant to a deed conveyed pursuant to the Murphy
11 Act may preserve the reservation or any portion thereof
12 necessary for future transportation projects in adopted
13 transportation plans and protect it from extinguishment by the
14 operation of this chapter by filing for the record, prior to
15 July 1, 2002, a notice, in writing, in accordance with the
16 provisions of this chapter. The notice will have the effect of
17 preserving the reservation or portion thereof for a period of
18 10 years if, prior to the end of the 10 years, the reservation
19 is used or identified by the governmental entity in the plans
20 of a road project scheduled for construction to begin prior to
21 the end of the 10 years. Any reservation used or identified in
22 the final design plans of a road project scheduled for
23 construction to begin before the end of the 10 years is not
24 extinguished.

25 Section 4. This act shall take effect upon becoming a
26 law.