

STORAGE NAME: h2057.ep

DATE: April 5, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ENVIRONMENTAL PROTECTION
ANALYSIS**

BILL #: HB 2057

RELATING TO: Coastal Zone Protection Act

SPONSOR(S): Representative Argenziano

COMPANION BILL(S): SB 934 by Senator Brown-Waite

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

- (1) ENVIRONMENTAL PROTECTION
 - (2) COMMUNITY AFFAIRS
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

HB 2057 amends s. 161.54, Florida Statutes (F.S.), to modify the definition of "substantial improvement" by removing the 5-year cumulative total provision of the definition. 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 bill provides that a "substantial improvement" occurs only if the cost of a single improvement or repair equals or exceeds 50 percent of the structure's market value.

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

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 161, Part III, F.S., 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, F.S., 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 of the Act.

Subsection 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. Subsection 161.54 (12), F.S., defines "substantial improvement" as:

any 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, including, but not limited to, finish flooring and floor coverings, base molding, nonstructural substrates, drywall, plaster, paneling, wall covering, tapestries, window treatments, decorative masonry, paint, interior doors, tile, cabinets and moldings, millwork, decorative metal work, vanities, electrical receptacles, electrical switches, electrical fixtures, intercoms, communications, sound systems, security systems, HVAC grills, decorative trim, freestanding metal fireplaces, appliances, water closets, tubs, shower enclosures, lavatories, and water heaters, or roof coverings except when determining whether the structure has been substantially improved as a result of a single improvement or repair.

Thus, owners of property located in the coastal building zone are permitted to make repairs or improvements to their structures without adhering to stricter building standards as long as the combined cost of the repairs or improvements, over a five year period, do not meet or exceed 50 percent of the building's market value. The "5-year period" provision was added in 1992. Prior to that change, some property owners in the coastal building zone believed that an unlimited cumulative provision made it financially unfeasible to properly maintain and improve their structures

B. EFFECT OF PROPOSED CHANGES:

HB 2057 removes the 5-year cumulative total provision from the definition of "substantial improvement." The bill provides that the definition of "substantial improvement" will not be met unless the cost of a single repair or improvement equals or exceeds 50 percent of a structure's market value.

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?

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?

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?

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?

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?

N/A

- (2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends Section 161.54, F.S.

E. SECTION-BY-SECTION ANALYSIS:

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

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

III. FISCAL ANALYSIS & 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 property owners within the coastal building zone will benefit by avoiding the costs of meeting the stricter building standards that are applicable when a structure is substantially improved.

STORAGE NAME: h2057.ep

DATE: April 5, 1999

PAGE 6

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

None.

D. FISCAL COMMENTS:

None.

IV. 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.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Staff Director:

W. Ray Scott

Wayne S. Kiger