

STORAGE NAME: h0587s1z.ca

DATE: May 20, 1999

****FINAL ACTION****

****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
FINAL ANALYSIS**

BILL #: 1ST ENG/CS/HB 587

RELATING TO: Platted Lands

SPONSOR(S): Committee on Real Property & Probate and Representative Henriquez

COMPANION BILL(S): CS/SB 2300 (s)

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

- (1) COMMUNITY AFFAIRS (PRC) YEAS 9 NAYS 0
- (2) REAL PROPERTY & PROBATE (CJC) YEAS 8 NAYS 0
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

House Bill 587 was prefiled on February 4, 1999. The bill was referred to House Committees on Community Affairs and Real Property & Probate on February 12, 1999. The bill was temporarily deferred by the Community Affairs Committee on March 1, 1999. The bill was introduced, referred to the House Committees on Community Affairs and Real Property & Probate on March 2, 1999. The bill was considered by the Community Affairs Committee on March 17, 1999, and unanimously approved with one amendment. The bill was considered by the Real Property & Probate Committee on April 5, 1999, and a committee substitute (CS) was unanimously approved. The CS was placed on the House General Calendar on April 21. The CS was placed on the House Special Calendar, a floor amendment was adopted, and the CS, as amended, was voted favorably, 115 YEAS and 0 NAYS.

The Senate received the CS, as amended, on April 27, 1999, and referred the CS, as amended, to the Senate Committee on Regulated Industries. The CS, as amended was withdrawn from the Committee on Regulated Industries on April 29, 1999; substituted for CS/SB 2300, and was voted favorably, 37 YEAS and 0 NAYS. 1ST ENG/CS/HB 587 became law on June 8, 1999, as ch. 99-288, Laws of Florida.

II. SUMMARY:

CS/HB 587 revises statutes related to land boundaries and platted lands. Specifically, the committee substitute:

- Requires a boundary survey for a replat only when improvements to the land to be replatted **may affect** the boundary of the land;
- Deletes the requirement that the boundary survey and the plat be prepared by the same certified legal entity; and
- Requires survey markers to be set at the corners of a lot before the lot is transferred.

The committee substitute does not appear to have a fiscal impact on state or local governments

The committee substitute is effective July 1, 1999.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 177, F.S., regulates and controls the minimum standards for the plating of lands. Each plat or replat of a subdivision submitted to a local governing body must be accompanied by a boundary survey which meets the requirements set forth in s. 177.041, F.S. (1998 Supp.). Boundary surveys must be performed in accordance with the following requirements:

- A new boundary survey is required for a replat when the replat affects any boundary of the previously platted property, or when improvements have been made on the lands to be replatted or on adjoining lands;
- The boundary survey must be performed and prepared under the “responsible direction and supervision” of a professional surveyor and mapper preceding the initial submittal of the plat to the local governing body; and
- A registered surveyor and mapper may prepare the boundary survey while another registered surveyor and mapper may prepare the plat, but the boundary survey and the plat must be prepared by registrants employed by the same certified legal entity. Id.

A survey marker, or “monument,” must be set at all lot corners, points of intersection, and changes of direction of lines within a subdivision which do not require a permanent reference monument or permanent control monument. s. 177.091(9), F.S. (1998 Supp.). However, survey markers are not required if a survey marker already exists at the corner, point, or change of direction, or when a survey marker cannot be set due to a physical obstruction. Id.

In counties or municipalities that do not require subdivision improvements and do not accept bonds or escrow accounts to construct improvements, survey markers **may** be set before the recording of the plat and **must** be set before the transfer of **any** lot. Id.

In counties or municipalities that require subdivision improvements, and have the means of ensuring the construction of the improvements (i.e., bonding requirements), survey markers **must** be set prior to the expiration of the bond or other surety. Id.

If the professional surveyor and mapper or legal entity of record is no longer in practice, unavailable due to relocation, or no longer in a contractual relationship with the subdivider, the subdivider must contract with a professional surveyor and mapper or legal entity to place the survey markers. Id.

B. EFFECT OF PROPOSED CHANGES:

The committee substitute makes the following revisions to the law related to platted lands:

- Requires a new boundary survey for a replat only when improvements are made **which may affect the boundary of the previously platted lands**, rather than when **any** improvements have been made on the land to be replatted or on adjoining lands. (amending s. 177.041, F.S. (1998 Supp.);
- Deletes the requirement that registered surveyors and mappers employed by the same certified legal entity prepare a boundary survey and plat. (amending s. 177.041, F.S. (1998 Supp.); and
- Eliminates the requirement that survey markers, or “monuments,” be placed on **all** lot corners prior to the transfer of **any** lot, but requires survey markers to be placed on the corners of a lot prior to the transfer of that lot. (amending s. 177.091, F.S. (1998 Supp.)).

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:

An agency or program is not 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:

The bill does not purport 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:

The bill does not create or change a program providing services to families or children.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

ss. 177.041 and 177.091, F.S. (1998 Supp.)

E. SECTION-BY-SECTION ANALYSIS:

See "Present Situation" and "Effect of Proposed Changes" for analysis.

IV. 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:

Indeterminate; however, land developers may realize a cost-savings because boundary surveys are no longer required for a replat if any improvements are made to the platted land or to adjoining lands, and survey markers must be placed on the corners of a lot prior to the transfer of that lot, rather than placed on the corners of all lots prior to the transfer of any lot.

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

The Florida Home Builders assert that the committee substitute allows private enterprises to make certain business decisions currently mandated by statute.¹

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require municipalities or counties to spend money or to take an action that requires the expenditure of money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill is not anticipated to reduce the authority of municipalities or counties to raise total aggregate revenues.

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

This bill does not reduce the total aggregate municipality/county percentage share of a state tax.

VI. COMMENTS:

The Florida Home Builders Association strongly supports, and is not aware of any opposition, to the committee substitute. The Association offers the following comments:

Section 1. Existing law requires a new boundary survey on platted lands when any improvements are made on the platted lands, or on adjoining lands. The committee substitute requires a new boundary survey only when improvements are made on the platted lands which may affect the boundary of the platted lands. The committee substitute requires another boundary survey only when it is truly necessary.

In addition, current law requires a licensed surveyor/mapper to prepare the plat, and allows a different surveyor/mapper to perform the boundary survey, but only if the two work for the same business entity. The committee substitute allows licensed surveyor/mappers who do not work for the same surveying company to perform the boundary survey and seal the plat. The choice of which duly licensed surveyor/mapper to use should be a business decision, rather than a governmental one.

¹Wellington Meffert, Director of Governmental Affairs, Florida Home Builders Association, by Letter dated March 25, 1999.

Section 2. A bill that passed in 1998 requires that permanent monuments be placed at the corners of all lots in the platted subdivision before the sale of **any** lot. The committee substitute requires that the permanent monuments be placed at the lot corners before the transfer of the individual lot. The monuments are in place before closing on the individual lot, so the protection for the buyer of each lot is not affected. Again, this should be a business decision. Development requires a great deal of capital investment well before any lot can be sold. This change allows the developer to defer a small part of the cost of a lot by setting permanent markers as the lots are sold, rather than requiring permanent markers on all lots prior to transfer of the first lot.²

The Florida Surveying and Mapping Society does not oppose the committee substitute.³

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 17, 1999, the Committee on Community Affairs adopted an amendment removing everything after the enacting clause. On April 5, 1999, the Committee on Real Property and Probate unanimously passed HB 587 and reported it favorably as a committee substitute. On April 22, 1999, the amendment was adopted as a floor amendment. The committee substitute and the bill, as filed, differ as follows:

- ▶ The committee substitute requires a new boundary survey for a replat only when improvements which **may affect** the boundary of the previously platted property have been made on the lands to be replatted, whereas the bill, as filed, requires a new boundary survey when improvements **affecting** the boundary of the previously platted property are made.
- ▶ The committee substitute deletes section 2 of the bill, as filed. This section of the bill, as filed, amended s. 177.081, F.S., (1998 Supp.) to eliminate the requirement that a professional surveyor and mapper review a plat prior to approval by a governing body. The Florida Surveying and Mapping Society opposed this section of the bill, as filed.⁴ The committee substitute maintains the current law.

VIII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Tonya Sue Chavis, Esq.

Staff Director:

Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON COMMITTEE ON REAL PROPERTY AND PROBATE:

Prepared by:

Karen M. Camechis, J.D.

Staff Director:

J. Marleen Ahearn, Ph.D., J.D.

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Tonya Sue Chavis, Esq.

Staff Director:

Joan Highsmith-Smith

²Wellington Meffert, Director of Governmental Affairs, Florida Home Builders Association, by Letter dated March 25, 1999.

³Ron Villella, Florida Surveying and Mapping Society, by Memorandum dated March 25, 1999.

⁴Ron Villella, Florida Surveying and Mapping Society, by Memorandum dated March 25, 1999.