

Bill No. CS for CS for SB 972

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Hargrett moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	On page 13, between lines 19 and 20,		
15			
16	insert:		
17	Section 7. Subsection (6) is added to section 253.82,		
18	Florida Statutes, to read:		
19	253.82 Title of state or private owners to Murphy Act		
20	lands.--		
21	<u>(6)(a) All reservations of easements on deeds by the</u>		
22	<u>Board of Trustees of the Internal Improvement Trust Fund</u>		
23	<u>conveying land acquired under chapter 18296, Laws of Florida,</u>		
24	<u>1937, are hereby vested by operation of law and without the</u>		
25	<u>necessity of instruments of conveyance from the Trustees of</u>		
26	<u>the Internal Improvement Fund, Trustees of the Internal</u>		
27	<u>Improvement Trust Fund or the Board of Trustees of the</u>		
28	<u>Internal Improvement Trust Fund, in the governmental entity</u>		
29	<u>having right and title to the road to which the reservations</u>		
30	<u>are adjacent. All reservations adjacent to a road that was</u>		
31	<u>designated as a state road at the time of the reservation and</u>		

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1 which road is currently held by the state are conveyed to the
2 Department of Transportation. All reservations adjacent to a
3 road that was designated as a state road at the time of the
4 reservation and which is not held by the state and which is
5 located in an unincorporated area of a county or on a road
6 held by the county within any incorporated area are conveyed
7 to the respective counties. All other reservations within
8 incorporated areas adjacent to a road that was designated as a
9 state road at the time of the reservation and which are not
10 otherwise conveyed to the state or the county are conveyed to
11 the incorporated area. The conveyance includes all right,
12 title, and interests in the reservation held by the Board of
13 Trustees of the Internal Improvement Trust Fund.

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

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

20 2. Review of any release of the reservation provided
21 by the property owner.

22 3. The recording of a notice of the nonexistence of a
23 reservation if reservation language in the deed does not
24 impact the property.

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

28 5. A process to allow for review through mediation if
29 requested by the property owner or through binding arbitration
30 pursuant to the process in chapter 44.

31 6. Any administrative fee charged not to exceed the

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1 actual cost to review the deed, with no fee to exceed \$300.
2 The property owner shall be responsible for the payment of any
3 recording fees the property owner incurs. The property owner
4 and governmental entity shall be responsible for their
5 respective fees to perform an appeal or participate in
6 mediation or arbitration as provided in this subsection. A
7 governmental entity may waive administrative fees upon a
8 determination by the governmental entity of the property
9 owner's economic hardship.

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

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

29 3. Where the governmental entity and the property
30 owner are unable to agree as to whether the reservation
31 substantially denies the current economic use of the property

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

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

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

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

23 (f) The provisions of this subsection apply only to
24 reservations of easements on deeds for roads and shall not
25 apply to any other reservations, including canal, oil, gas, or
26 mineral reservations.

27 Section 8. Section 712.04, Florida Statutes, is
28 amended to read:

29 712.04 Interests extinguished by marketable record
30 title.--Subject to the matters stated in s. 712.03, such
31 marketable record title shall be free and clear of all

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1 estates, interests, claims, or charges whatsoever, the
2 existence of which depends upon any act, title transaction,
3 event or omission that occurred prior to the effective date of
4 the root of title. All such estates, interests, claims, or
5 charges, however denominated, whether such estates, interests,
6 claims, or charges are or appear to be held or asserted by a
7 person sui juris or under a disability, whether such person is
8 within or without the state, whether such person is natural or
9 corporate, or is private or governmental, are hereby declared
10 to be null and void, except that this chapter shall not be
11 deemed to affect any right, title, or interest of the United
12 States, Florida, or any of its officers, boards, commissions,
13 or other agencies reserved in the patent or deed by which the
14 United States, Florida, or any of its agencies parted with
15 title. However, all reservations of easements, except as
16 provided in s. 253.82(6)(f), in deeds by the Trustees of the
17 Internal Improvement Fund, Trustees of the Internal
18 Improvement Trust Fund, Board of Trustees of the Internal
19 Improvement Trust Fund conveying land acquired under chapter
20 18296, Laws of Florida, 1937, and not preserved in accordance
21 with s. 712.05(3), shall be extinguished by the Marketable
22 Record Title Act on July 1, 2002, subject to the matters under
23 s. 712.03, and further subject to the right of any
24 governmental entity holding title to the reservations to
25 preserve such reservations that are necessary for future
26 transportation projects in adopted transportation plans by
27 filing notice under s. 712.05(3), before July 1, 2002.

28 Section 9. Subsection (3) is added to section 712.05,
29 Florida Statutes, to read:

30 712.05 Effect of filing notice.--

31 (3) Any governmental entity claiming a road

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

16
17 (Redesignate subsequent sections.)

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20 ===== T I T L E A M E N D M E N T =====

21 And the title is amended as follows:

22 On page 1, line 16, after the first semicolon

23

24 insert:

25 amending s. 253.82, F.S.; providing for
26 conveyance of all Murphy Act transportation
27 easements to the governmental entity currently
28 having title to the adjacent roadway; requiring
29 the establishment of a procedure for review of
30 deeds containing Murphy Act transportation
31 reservations; setting requirements for the

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1 review process; providing for compensation of
2 certain property owners if the reservation
3 denies the property owner the current economic
4 use of the property; amending s. 712.04, F.S.;
5 providing for reservations of easements in
6 deeds by the Board of Trustees of the Internal
7 Improvement Trust Fund to be extinguished on a
8 specified date, subject to certain limitations;
9 providing applicability; amending s. 712.05,
10 F.S.; providing procedures by which a
11 governmental entity may preserve a road
12 reservation; requiring notice;

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