

Bill No. CS for SB 1274

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Campbell moved the following amendment:

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Senate Amendment (with title amendment)

On page 16, between lines 20 and 21,

insert:

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Section 6. Section 253.90, Florida Statutes, is created to read:

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253.90 Ordinary high-water mark determination and confirmation of certain deeds or grants; legislative intent.--

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(1) The Legislature recognizes that because the stability of land titles and the clarity of real property boundaries is essential to a civil society, it is in the public interest to resolve the uncertainty and controversy arising from the assertion of state sovereignty ownership claims and public rights to lands that were purportedly conveyed by state deeds or grants as nonsovereignty lands, in a manner that fairly protects the interests of private landowners whose titles are derived from such state deeds or grants while preserving the public's ownership of and rights to use the navigable waters and sovereignty submerged lands up

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1 to the ordinary high-water mark. For that purpose, pursuant
2 to Article X, Section 11 of the Florida Constitution, the
3 Legislature expressly finds and declares:

4 (a) It is in the public interest that the ordinary
5 high-water mark, as the boundary separating riparian lands
6 from sovereignty submerged lands under navigable nontidal
7 waters, be clearly defined, consistent with its common law
8 meaning as historically applied in Florida and with its
9 intended purpose as an observable physical boundary that
10 landowners and members of the public can readily identify.

11 (b) It is in the public interest that titles derived
12 from state deeds or grants that purported to convey
13 nonsovereignty lands, but that may have included sovereignty
14 submerged lands within the boundaries described in the deed or
15 grant, be ratified, confirmed, and validated to the extent
16 that the lands purportedly conveyed are located above the
17 ordinary high-water mark, as set forth in this section.

18 (c) It is in the public interest that the state's
19 title to sovereignty submerged lands under navigable waters,
20 which have not been alienated, and the public's rights to use
21 the navigable waters and sovereignty submerged lands
22 thereunder, be reaffirmed to the extent that such waters and
23 lands are located below the ordinary high-water mark as set
24 forth in this section.

25 (2) This section pertains to any title to real
26 property which is derived from a properly recorded deed or
27 grant made before this act takes effect by the Board of
28 Trustees of the Internal Improvement Trust Fund or by any
29 other state agency or official; which conveyed swamp or
30 overflowed lands, internal improvement lands, or other
31 nonsovereignty lands; and which contains a legal description

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1 that encompasses sovereignty submerged lands.

2 (3) This section shall be construed to ratify,
3 confirm, and validate private waterfront landowners' title to
4 swamp and overflowed lands, internal improvement lands, and
5 any other nonsovereignty lands down to the ordinary high-water
6 mark of navigable waters. The present holders of the deeds or
7 grants to which this section applies shall retain all riparian
8 rights held by private waterfront landowners.

9 (4) This section reaffirms the state's title to
10 sovereignty submerged lands under navigable waters up to the
11 ordinary high-water boundary pursuant to Section 11 of Article
12 X of the State Constitution. This act in no way alters the
13 public's rights to use navigable waters and sovereignty
14 submerged lands for common law public trust purposes up to the
15 ordinary high-water mark as defined in this section, nor does
16 this act affect the ownership by the state of sovereignty
17 submerged lands lying below that mark.

18 (5) The ordinary high-water mark of nontidal waters is
19 not the highest point to which the water rises in time of
20 freshets, but is the line that the water impresses upon the
21 soil by covering it for periods sufficient to deprive it of
22 vegetation and to destroy its value for agriculture. It is an
23 ambulatory line, shifting in response to long-term changes.
24 The ordinary high-water mark is to be determined by examining
25 the bed and banks to ascertain where the presence and action
26 of the water are so common and usual, and so long continued in
27 all ordinary years, as to mark upon the soil of the bed a
28 character distinct from that of the banks, in respect to
29 vegetation and the nature of the soil itself. It is coordinate
30 with the limit of the bed the water occupies sufficiently long
31 and continuously to wrest it from vegetation and destroy its

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1 value for agricultural purposes. Where the banks are low and
2 flat and the water does not impress on the soil any
3 well-defined line of demarcation between the bed and the
4 banks, the effect of the water upon vegetation shall be the
5 principal test in determining the location of the line as the
6 boundary between the property of the riparian owner and that
7 of the public. In such an instance, the ordinary high-water
8 mark is the point up to which the presence and action of the
9 water is so continuous as to destroy the value of the land for
10 agricultural purposes by preventing the growth of vegetation
11 constituting what may be termed an ordinary agricultural crop.
12 Marks upon the ground or upon local objects which are more or
13 less permanent may be considered in connection with competent
14 testimony and other evidence in determining the ordinary
15 high-water mark.

16 (6) It is not the intent of the Legislature to
17 supersede any specific grant of submerged lands granted to a
18 governmental entity by special act.

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

22 And the title is amended as follows:

23 On page 2, line 5, after the semicolon

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25 insert:

26 creating s. 253.90, F.S.; providing legislative
27 intent; validating certain land titles derived
28 from state conveyances; providing for public
29 use of certain water; defining ordinary
30 high-water mark; providing a process for
31 approval of sovereignty claims;