

Bill No. CS/HB 1807, 1st Eng.

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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13	<b>Senate Amendment (with title amendment)</b>		
14	Delete everything after the enacting clause		
15			
16	and insert:		
17	Section 1. Section 253.90, Florida Statutes, is		
18	created to read:		
19	<u>253.90 Ordinary high-water mark determination and</u>		
20	<u>confirmation of certain deeds or grants; legislative intent.--</u>		
21	<u>(1) The Legislature recognizes that because the</u>		
22	<u>stability of land titles and the clarity of real property</u>		
23	<u>boundaries is essential to a civil society, it is in the</u>		
24	<u>public interest to resolve the uncertainty and controversy</u>		
25	<u>arising from the assertion of state sovereignty ownership</u>		
26	<u>claims and public rights to lands that were purportedly</u>		
27	<u>conveyed by state deeds or grants as nonsovereignty lands, in</u>		
28	<u>a manner that fairly protects the interests of private</u>		
29	<u>landowners whose titles are derived from such state deeds or</u>		
30	<u>grants while preserving the public's ownership of and rights</u>		
31	<u>to use the navigable waters and sovereignty submerged lands up</u>		

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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.

19 Section 2. This act shall take effect upon becoming a  
 20 law.

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

24 And the title is amended as follows:

25 Delete everything before the enacting clause

27 and insert:

28 A bill to be entitled  
 29 An act relating to the Florida Land Title  
 30 Protection Act; creating s. 253.90, F.S.;  
 31 providing legislative intent; validating

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1           certain land titles derived from state  
2           conveyances; providing for public use of  
3           certain water; defining ordinary high-water  
4           mark; providing a process for approval of  
5           sovereignty claims; providing an effective  
6           date.  
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