

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Merchant offered the following:

**Amendment (with title amendment)**

Remove from the bill: Everything after the enacting clause  
and insert in lieu thereof:

Section 1. Section 253.90, Florida Statutes, is  
created to read:

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

(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.

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

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

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

31 (3) This section shall be construed to ratify,

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

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

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

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

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

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

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

23 And the title is amended as follows:

24 Remove from the title of the bill: the entire title

25  
26 and insert in lieu thereof:

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

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conveyances; reaffirming the public's ownership  
and right to use sovereignty submerged lands;  
defining ordinary high-water; defining ordinary  
high-water mark; providing a process for  
approval of sovereignty claims; providing an  
effective date.