

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

Representative(s) Dockery and Putnam 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) Legislative intent. 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

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

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

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

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

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

26 (2) This section shall be construed to ratify,  
27 confirm, and validate titles derived from state deeds or  
28 grants which purported to convey nonsovereignty lands, but  
29 which may have included sovereignty submerged lands within the  
30 boundaries described in the deed or grant, to the extent that  
31 the lands purportedly conveyed are located above the ordinary

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

1 high water mark, as set forth herein. The present holders of  
2 the deeds or grants to which this section applies shall retain  
3 all riparian rights held by waterfront landowners.

4 (3) This act in no way alters the public's rights to  
5 use navigable waters and sovereignty submerged lands for  
6 common law public trust purposes up to the ordinary high water  
7 mark as defined in this section, nor does this act affect the  
8 ownership by the state of sovereignty submerged lands lying  
9 below that mark.

10 (4) The ordinary high water mark on nontidal waters is  
11 the line at which the water usually stands when free from  
12 disturbing causes. It is not the highest point to which the  
13 water rises in time of freshets, but is the line that the  
14 water impresses upon the soil by covering it for periods  
15 sufficient to deprive it of vegetation and to destroy its  
16 value for agriculture. It is an ambulatory line, shifting in  
17 response to long term changes. The ordinary high water mark  
18 is to be determined by examining the bed and banks to  
19 ascertain where the presence and action of the water are so  
20 common and usual, and so long continued in all ordinary years,  
21 as to mark upon the soil of the bed a character distinct from  
22 that of the banks, in respect to vegetation and the nature of  
23 the soil itself. It is co-ordinate with the limit of the bed  
24 the water occupies sufficiently long and continuously to wrest  
25 it from vegetation and destroy its value for agricultural  
26 purposes. In some places where the banks are low and flat and  
27 the water does not impress on the soil any well-defined line  
28 of demarkation between the bed and the banks, the effect of  
29 the water upon vegetation must be the principal test in  
30 determining the location of the ordinary high water mark as a  
31 line between the riparian owner and the public. In such an

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

1 instance, the ordinary high water mark is the point up to  
2 which the presence and action of the water is so continuous as  
3 to destroy the value of the land for the agricultural purposes  
4 by preventing the growth of vegetation constituting what may  
5 be termed an ordinary agricultural crop. Marks upon the  
6 ground or upon local objects that are more or less permanent  
7 may be considered in connection with the competent testimony  
8 and other evidence in determining the ordinary high water  
9 mark.

10 (5) It is not the intent of the Legislature to  
11 supersede any specific grant of submerged lands granted to a  
12 governmental entity by special act.

13 (6) No lawsuit claiming sovereignty ownership or  
14 public use rights to any lands for which a private claimant  
15 holds record title from a state deed or grant shall be  
16 initiated by or on behalf of the Board of Trustees of the  
17 Internal Improvement Trust Fund without the prior approval of  
18 a majority of the Board of Trustees of the Internal  
19 Improvement Trust Fund.

20 Section 2. If any provision of this act or the  
21 application thereof to any person or circumstance is held  
22 invlaid, the invalidity shall not affect other provisions or  
23 applications of the act which can be given effect without the  
24 invalid provision or application, and to this end the  
25 provisions of this act are declared severable.

26 Section 3. This act shall take effect upon becoming a  
27 law.

28  
29

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

31 And the title is amended as follows:

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

1           On page 1, lines 2 through 7  
2 remove from the title of the bill: all of said lines  
3  
4 and insert in lieu thereof:  
5           An act relating to the Florida Land Title  
6           Protection Act; creating s. 253.90, F.S.;  
7           providing legislative intent; validating  
8           certain land titles derived from state  
9           conveyances; providing for public use of  
10          certain water; defining ordinary high water  
11          mark; providing a process for approval of  
12          sovereignty claims; providing for severability;  
13          providing an effective date.  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31