

By the Committee on General Government Appropriations and Representatives Dockery, Putnam, Eggelletion, Feeney, Alexander, Posey, Spratt, Stansel, Bronson, Harrington, J. Miller, Patterson, Sembler, Tullis, Russell, Kyle, Prieguez, (Additional Sponsors on Last Printed Page)

1 A bill to be entitled
2 An act relating to the Florida Land Title
3 Protection Act; creating s. 253.90, F.S.;
4 providing legislative intent; validating
5 certain land titles derived from state
6 conveyances made which may have included
7 sovereignty lands; providing for public use of
8 certain waters; providing an effective date.

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10 Be It Enacted by the Legislature of the State of Florida:

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

14 253.90 Ordinary high water mark determination and
15 confirmation of certain deeds or grants; legislative intent.--

16 (1) The Legislature recognizes that because stability
17 of land titles and real property boundaries is essential to a
18 civil society, it is in the public interest to resolve the
19 uncertainty and controversy arising from the assertion of
20 state sovereignty ownership claims to lands that were
21 purportedly conveyed by the state as swamp and overflowed
22 lands, internal improvement lands, or other sovereign lands,
23 in a manner that fairly protects the interests of private
24 landowners who purchased and paid taxes on the property, while
25 preserving the public's ownership of and rights to use the
26 navigable waters and sovereignty submerged lands up to the
27 ordinary high water mark. For that purpose, pursuant to s. 11,
28 Art. X of the State Constitution, the Legislature expressly
29 finds and declares it to be in the public interest that the
30 ordinary high water mark, as the boundary separating riparian
31 lands from state sovereignty lands under navigable nontidal

1 waters, be more clearly defined, and that certain deeds or
2 grants which may have included sovereignty lands be ratified,
3 confirmed, and validated to the extent that the lands
4 purportedly conveyed are located above the ordinary high water
5 mark, as set forth herein.

6 (2) The ordinary high water mark on nontidal waters is
7 the point up to which the presence and action of the water is
8 so continuous as to destroy the value of the land for
9 agricultural purposes by preventing the growth of vegetation,
10 constituting what may be termed an ordinary agricultural crop.
11 It is an ambulatory line, shifting in response to long-term
12 changes in the water level. The ordinary high water mark is
13 not the highest point to which the water rises in times of
14 freshets, floods, or seasonal heavy rains, but is the line
15 which the water impresses upon the soil by covering it for
16 sufficient periods to deprive it of vegetation and destroy its
17 value for agriculture.

18 (3) Lands that are subject to such periodical
19 overflows of water as to require drainage or levees or
20 embankments to keep out the water and thereby render the lands
21 suitable for successful cultivation are not sovereignty lands
22 below the ordinary high water mark. The ordinary high water
23 mark does not encompass nonnavigable creeks, sloughs, swamps,
24 canals, and other low and overflowed lands lying adjacent to a
25 navigable water body, even though they may connect with the
26 navigable water body at elevations below the ordinary high
27 water mark.

28 (4) Any title to real property that is derived from a
29 deed or grant, made before this act takes effect, by the Board
30 of Trustees of the Internal Improvement Trust Fund, or by any
31 other state board or agency, which purported to convey swamp

1 or overflowed lands, internal improvement lands, or other
2 sovereign lands, which appears on its face to have been a
3 valid conveyance of lands that the grantor was then authorized
4 by law to convey, and which has a legal description that may
5 encompass sovereignty lands, is ratified, confirmed, and
6 validated to the extent that such lands are located above the
7 ordinary high water mark of navigable nontidal waters, as
8 defined herein, based on the conditions existing at the time
9 of the determination.

10 (5) This act in no way alters the public's rights to
11 use navigable waters and sovereignty submerged lands for
12 common law public trust purposes up to the ordinary high water
13 mark as defined herein, nor does this act affect the ownership
14 by the state of sovereignty submerged lands lying below that
15 mark.

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

22 Section 2. This act shall take effect upon becoming a
23 law.
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