

By Representative Machek

1                                   A bill to be entitled  
2           An act relating to land acquisition and  
3           management; amending s. 73.015, F.S.; requiring  
4           the condemning authority in an eminent domain  
5           proceeding to notify the fee owner of certain  
6           information and provide the fee owner with a  
7           copy of certain statute sections prior to or  
8           concurrent with the authority's making the  
9           written offer of compensation to the fee owner;  
10          amending s. 270.11, F.S.; providing discretion  
11          to water management districts, local  
12          governments, the Board of Trustees of the  
13          Internal Improvement Trust Fund, and other  
14          state agencies to determine whether to reserve  
15          mineral interests when selling lands;  
16          clarifying the types of information to be given  
17          by landowners wanting a release of a  
18          reservation; amending s. 373.056, F.S.;  
19          authorizing water management districts to grant  
20          utility easements on district-owned lands in  
21          order to provide utility service; amending s.  
22          373.093, F.S.; granting additional time to  
23          water management districts to provide  
24          notification prior to executing lease  
25          agreements; amending s. 373.096, F.S.;  
26          authorizing water management districts to  
27          abandon easements, reservations, and  
28          right-of-way interests that are no longer  
29          needed; amending s. 373.139, F.S.; authorizing  
30          water management districts to cure title  
31          defects after a land sale is executed; allowing

1 the disclosure of title information to private  
2 landowners under certain circumstances;  
3 allowing the disclosure of title information,  
4 appraisal information, offers, and  
5 counteroffers to third parties working on the  
6 district's behalf; authorizing the use of  
7 third-party appraisals under certain  
8 circumstances; amending s. 373.1401, F.S.;  
9 authorizing water management districts to  
10 contract with nongovernmental persons or  
11 entities for management, improvement, or  
12 maintenance of land held by the district;  
13 amending s. 712.04, F.S.; revising language  
14 with respect to interests extinguished by  
15 marketable record title to conform to the act;  
16 providing an effective date.

17

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

19

20 Section 1. Paragraph (a) of subsection (1) of section  
21 73.015, Florida Statutes, is amended to read:

22 73.015 Presuit negotiation.--

23 (1) Effective July 1, 2000, before an eminent domain  
24 proceeding is brought under this chapter or chapter 74, the  
25 condemning authority must attempt to negotiate in good faith  
26 with the fee owner of the parcel to be acquired, must provide  
27 the fee owner with a written offer and, if requested, a copy  
28 of the appraisal upon which the offer is based, and must  
29 attempt to reach an agreement regarding the amount of  
30 compensation to be paid for the parcel.

31

1           (a) Prior to or concurrent with the condemning  
2 authority's making the written offer of compensation to the  
3 fee owner ~~At the inception of negotiation for acquisition~~, the  
4 condemning authority must provide a copy of this section and  
5 ss. 73.091 and 73.092 to the fee owner and notify the fee  
6 owner of the following:

7           1. That all or a portion of his or her property is  
8 necessary for a project.

9           2. The nature of the project for which the parcel is  
10 considered necessary, and the parcel designation of the  
11 property to be acquired.

12           3. That, within 15 business days after receipt of a  
13 request by the fee owner, the condemning authority will  
14 provide a copy of the appraisal report upon which the offer to  
15 the fee owner is based; copies, to the extent prepared, of the  
16 right-of-way maps or other documents that depict the proposed  
17 taking; and copies, to the extent prepared, of the  
18 construction plans that depict project improvements to be  
19 constructed on the property taken and improvements to be  
20 constructed adjacent to the remaining property, including, but  
21 not limited to, plan, profile, cross-section, drainage, and  
22 pavement marking sheets, and driveway connection detail. The  
23 condemning authority shall provide any additional plan sheets  
24 within 15 days of request.

25           ~~4. The fee owner's statutory rights under ss. 73.091~~  
26 ~~and 73.092.~~

27           ~~5. The fee owner's rights and responsibilities under~~  
28 ~~paragraphs (b) and (c) and subsection (4).~~

29           Section 2. Subsections (1) and (3) of section 270.11,  
30 Florida Statutes, are amended to read:

31

1           270.11 Contracts for sale of public lands to reserve  
2 certain mineral rights; prohibition on exercise of right of  
3 entry in certain cases.--

4           (1) Unless the applicable agency chooses not to  
5 reserve such interest ~~Except as otherwise provided by law~~, in  
6 all contracts and deeds for the sale of land executed by the  
7 Board of Trustees of the Internal Improvement Trust Fund or by  
8 any local government, water management district, or other  
9 agency of the state, there shall be reserved for such local  
10 government, water management district, other agency of the  
11 state, or the board of trustees and its successors an  
12 undivided three-fourths interest in, and title in and to an  
13 undivided three-fourths interest in, all the phosphate,  
14 minerals, and metals that are or may be in, on, or under the  
15 said land and an undivided one-half interest in all the  
16 petroleum that is or may be in, on, or under said land with  
17 the privilege to mine and develop the same.

18           (3) A local government, water management district, or  
19 agency of the state may, at its discretion, sell or release  
20 ~~such~~ reserved interest in any parcel of land, except that such  
21 sale or release shall be made upon petition of the purchaser  
22 for such interest and with ~~upon submission by the local~~  
23 ~~government, water management district, or agency of the state~~  
24 ~~which owns the parcel of~~ a statement of reasons justifying  
25 such sale or release.

26           Section 3. Subsection (4) of section 373.056, Florida  
27 Statutes, is amended to read:

28           373.056 State agencies, counties, drainage districts,  
29 municipalities, or governmental agencies or public  
30 corporations authorized to convey or receive land from water  
31 management districts.--

1           (4) Any water management district within this chapter,  
2 under such terms and conditions as the governing board of such  
3 district may determine, shall have authority to convey or  
4 lease to any other agency described herein or to the United  
5 States Government, including its agencies, land or rights in  
6 land owned by such district not required for its purposes and  
7 may grant utility easements on lands owned by such district to  
8 any private or public utility for the limited purpose of  
9 obtaining utility service to district property, under such  
10 ~~terms and conditions as the governing board of such district~~  
11 ~~may determine.~~

12           Section 4. Subsection (2) of section 373.093, Florida  
13 Statutes, is amended to read:

14           373.093 Lease of lands or interest in land.--The  
15 governing board of the district may lease any lands or  
16 interest in land, including but not limited to oil and mineral  
17 rights, to which the district has acquired title, or to which  
18 it may hereafter acquire title in the following manner, as  
19 long as the lease is consistent with the purposes for which  
20 the lands or any interest in land was acquired:

21           (2) Before leasing any land, or interest in land  
22 including but not limited to oil and mineral rights, the  
23 district shall cause a notice of intention to lease to be  
24 published in a newspaper published in the county in which said  
25 land is situated and such other places as the board may  
26 determine once each week for 3 successive weeks (three  
27 insertions being sufficient), the first publication of which  
28 shall be not less than 30 nor more than 90 ~~45~~ days prior to  
29 the date the board executes the ~~any~~ lease, which said notice  
30 shall set forth the time and place of leasing and a  
31 description of the lands to be leased.

1           Section 5. Section 373.096, Florida Statutes, is  
2 amended to read:

3           373.096 Releases.--Except for conservation easements  
4 which may be released pursuant to s. 704.06, the governing  
5 board of the district may release any ~~canal~~ easement,  
6 reservation, or right-of-way interests, conveyed to it for  
7 which it has no present or apparent future use under terms and  
8 conditions determined by the board. In addition, the governing  
9 board of the district may unilaterally abandon or vacate such  
10 easements, reservations, or right-of-way interests, or  
11 portions thereof, for which the district has no present or  
12 apparent future use. Such action by the board shall be  
13 conclusive and will not require any other party to give its  
14 approval, acknowledge its acceptance, or take any other  
15 action, and the district shall have no further obligations,  
16 liabilities, or responsibilities with respect to the abandoned  
17 or vacated easement, reservation, or right-of-way interests.

18           Section 6. Subsection (2) and paragraph (a) of  
19 subsection (3) of section 373.139, Florida Statutes, are  
20 amended to read:

21           373.139 Acquisition of real property.--

22           (2) The governing board of the district is empowered  
23 and authorized to acquire in fee or less than fee title to  
24 real property, and easements and other interests therein, by  
25 purchase, gift, devise, lease, eminent domain, or otherwise  
26 for flood control, water storage, water management,  
27 conservation and protection of water resources, aquifer  
28 recharge, water resource and water supply development, and  
29 preservation of wetlands, streams, and lakes. Eminent domain  
30 powers may be used only for acquiring real property for flood  
31 control and water storage or for curing title defects or

1 encumbrances to real property owned by the district or to be  
2 acquired by the district from a willing seller.

3 (3) The initial 5-year work plan and any subsequent  
4 modifications or additions thereto shall be adopted by each  
5 water management district after a public hearing. Each water  
6 management district shall provide at least 14 days' advance  
7 notice of the hearing date and shall separately notify each  
8 county commission within which a proposed work plan project or  
9 project modification or addition is located of the hearing  
10 date.

11 (a) Title information, appraisal reports, offers, and  
12 counteroffers are confidential and exempt from the provisions  
13 of s. 119.07(1) until an option contract is executed or, if no  
14 option contract is executed, until 30 days before a contract  
15 or agreement for purchase is considered for approval by the  
16 governing board. However, each district may, at its  
17 discretion, disclose appraisal reports or title information to  
18 private landowners during negotiations for acquisitions using  
19 alternatives to fee simple techniques, if the district  
20 determines that disclosure of such reports or title  
21 information will bring the proposed acquisition to closure. In  
22 the event that negotiation is terminated by the district, the  
23 title information, appraisal report, offers, and counteroffers  
24 shall become available pursuant to s. 119.07(1).

25 Notwithstanding the provisions of this section and s. 259.041,  
26 a district and the Division of State Lands may share and  
27 disclose title information, appraisal reports, appraisal  
28 information, offers, and counteroffers when joint acquisition  
29 of property is contemplated. A district and the Division of  
30 State Lands shall maintain the confidentiality of such title  
31 information, appraisal reports, appraisal information, offers,

1 and counteroffers in conformance with this section and s.  
2 259.041, except in those cases in which a district and the  
3 division have exercised discretion to disclose such  
4 information. A district may disclose title information,  
5 appraisal information, offers, and counteroffers to a third  
6 party when the third party is working with or on the behalf of  
7 the district in connection with land acquisitions. In  
8 addition, a district may use, as its own, appraisals obtained  
9 by a third party provided the appraiser is selected from the  
10 district's list of approved appraisers and the appraiser is  
11 reviewed and approved by the district.

12 Section 7. Section 373.1401, Florida Statutes, is  
13 amended to read:

14 373.1401 Management of lands of water management  
15 districts.--In addition to provisions contained in s.  
16 373.1391(1) for soil and water conservation districts,the  
17 governing board of each water management district may contract  
18 with a nongovernmental person or entity, any federal or state  
19 agency, a county, a municipality, or any other governmental  
20 entity or environmental nonprofit organization to provide for  
21 the improvement, management, or maintenance of any real  
22 property owned by or under the control of the district.

23 Section 8. Section 712.04, Florida Statutes, is  
24 amended to read:

25 712.04 Interests extinguished by marketable record  
26 title.--Subject to the matters stated in s. 712.03, such  
27 marketable record title shall be free and clear of all  
28 estates, interests, claims, or charges whatsoever, the  
29 existence of which depends upon any act, title transaction,  
30 event or omission that occurred prior to the effective date of  
31 the root of title. All such estates, interests, claims, or



1 charges, however denominated, whether such estates, interests,  
2 claims, or charges are or appear to be held or asserted by a  
3 person sui juris or under a disability, whether such person is  
4 within or without the state, whether such person is natural or  
5 corporate, or is private or governmental, are hereby declared  
6 to be null and void, except that this chapter shall not be  
7 deemed to affect any right, title, or interest of the United  
8 States, Florida, or any of its officers, boards, commissions,  
9 water management districts, or other agencies ~~reserved in the~~  
10 ~~patent or deed by which the United States, Florida, or any of~~  
11 ~~its agencies parted with title.~~

12 Section 9. This act shall take effect upon becoming a  
13 law.

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15 HOUSE SUMMARY

16 Revises various provisions of law governing land  
17 acquisition and management to:

18 1. Provide that the condemning authority in an  
19 eminent domain proceeding must notify the fee owner of  
20 described information prior to or concurrent with the  
21 authority's making the written offer of compensation and  
22 require the authority to provide the fee owner with  
23 copies of described statute sections.

24 2. Provide discretion to water management  
25 districts, local governments, the Board of Trustees of  
26 the Internal Improvement Trust Fund, and other state  
27 agencies to determine whether to reserve mineral  
28 interests when selling lands and to provide clarifying  
29 language with respect to the types of information to be  
30 given by landowners wanting a release of a reservation.

31 3. Authorize water management districts to grant  
utility easements on district-owned lands for providing  
utility service, to grant the districts additional time  
to provide notification prior to executing lease  
agreements, to authorize districts to abandon easements,  
reservations, and right-of-way interests that are no  
longer needed, to authorize districts to cure title  
defects after a land sale is executed, and to authorize  
such districts to contract with nongovernmental persons  
or entities for management, improvement, or maintenance  
of land held by the district.

See bill for details.