

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 110

SPONSOR: Senator Geller

SUBJECT: Local Government Code Enforcement

DATE: March 5, 2001                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cooper	Yeatman	CA	Favorable
2.	_____	_____	JU	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

This bill authorizes local government code enforcement board attorneys to sue for money judgments on liens against homestead property.

This bill amends section 162.09, Florida Statutes.

**II. Present Situation:**

Part I, chapter 162, F.S., is known as the ~~A~~Local Government Code Enforcement Boards Act<sup>@</sup> and defines the authority and duties of local government code enforcement boards. Counties and municipalities are authorized to create administrative boards with authority to impose administrative fines and other non-criminal penalties to provide an equitable, expeditious, effective, and inexpensive method of enforcing county and municipal codes and ordinances where pending or repeated violations exist.

Section 162.09, F.S., authorizes code enforcement boards to impose limited fines and reasonable cost of repairs upon code violators. Certified copies of the order imposing the fine may be recorded in the public records, thereby constituting a lien against the land. By petition to a circuit court, the order may be enforced in the same manner as a court judgment by the sheriff. After three months from the filing of a lien, the local government attorney may foreclose on the lien. However, s. 4(a), Art. X of the State Constitution precludes the execution of liens on homestead property, except for payment of taxes and assessments.

Counties and Municipalities report that many properties found to be in violation of local codes are homestead properties.

Chapter 2000-125, L.O.F., amended s. 162.09 (3), F.S., to permit code enforcement boards to institute actions for money judgments three months after filing a lien if the lien remains unpaid. However, such actions may only be pursued on fines levied after 10/1/00. In addition, the law precluded such action against “real property or personal property which is covered under s. 4(a), Art. X of the State Constitution.” This is a reference to homestead property and up to \$1,000 in personal property.

A plain reading of the prohibition against pursuing money judgments is confusing. Money judgments are against persons, not property. Such a reading appears to nullify the intent of the provision, which was to limit the money judgment option in those situations where fines accrue from code violations on homestead property. However, it appears that local governments are interpreting the provision as a prohibition and are not exercising the money judgment option.

### **III. Effect of Proposed Changes:**

Section 1 amends s. 162.09(3), F.S., to remove the prohibition against exercising the option, by local government code enforcement boards, to sue for money judgments on liens against homestead property.

Section 2 provides that the act will take effect upon becoming a law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Economic Impact and Fiscal Note:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

To the extent that code enforcement boards exercise the option to sue for money judgments on liens against homestead property, code violators are likely to be compelled to pay the fines levied against them.

**C. Government Sector Impact:**

To the extent that code enforcement boards exercise the option to sue for money judgments on liens against homestead property, they will likely collect additional fines levied against code violators.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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