

1 A bill to be entitled
2 An act relating to the use and disposition of
3 real and personal property; amending s. 125.35,
4 F.S.; providing an alternative procedure for
5 the sale or disposition of certain property by
6 boards of county commissioners; amending ss.
7 125.568, 166.048, 255.259, 335.167, 373.185,
8 F.S.; redefining the term "Xeriscape";
9 prohibiting certain restrictions on the
10 practice of Xeriscape; amending s. 373.62,
11 F.S.; providing for the operation and
12 maintenance of rain sensor devices; amending s.
13 720.3075, F.S.; prohibiting homeowners'
14 associations from restricting the practice of
15 Xeriscape; amending s. 197.502, F.S.; amending
16 procedures that apply if there are no bidders
17 at a public sale of property against which tax
18 certificates are held; prescribing the period
19 during which interest on the opening bid
20 continues to accrue; amending s. 197.512, F.S.;
21 providing an exception to certain recording
22 duties of the clerk; amending s. 197.542, F.S.;
23 revising procedures relating to the sale at
24 public auction of lands on which an application
25 for tax deed has been obtained; requiring the
26 high bidder to post a nonrefundable cash
27 deposit at the time of the sale; providing
28 effective dates.

29
30 Be It Enacted by the Legislature of the State of Florida:
31

1 Section 1. Section 125.35, Florida Statutes, is
2 amended to read:

3 125.35 County authorized to sell real and personal
4 property and to lease real property.--

5 (1)(a) The board of county commissioners is expressly
6 authorized to sell and convey any real or personal property,
7 and to lease real property, belonging to the county, whenever
8 the board determines that it is to the best interest of the
9 county to do so, to the highest and best bidder for the
10 particular use the board deems to be the highest and best, for
11 such length of term and such conditions as the governing body
12 may in its discretion determine.

13 (b) Notwithstanding the provisions of paragraph (a),
14 the Board of County Commissioners is expressly authorized to:

- 15 1. Negotiate the lease of an airport or seaport
16 facility;
- 17 2. Modify or extend an existing lease of real property
18 for an additional term not to exceed 25 years, where the
19 improved value of the lease has an appraised value in excess
20 of \$20 million; or
- 21 3. Lease a professional sports franchise facility
22 financed by revenues received pursuant to s. 125.0104 or s.
23 212.20;

24
25 under such terms and conditions as negotiated by the board.

26 (c) No sale of any real property shall be made unless
27 notice thereof is published once a week for at least 2 weeks
28 in some newspaper of general circulation published in the
29 county, calling for bids for the purchase of the real estate
30 so advertised to be sold. In the case of a sale, the bid of
31 the highest bidder complying with the terms and conditions set

1 forth in such notice shall be accepted, unless the board of
2 county commissioners rejects all bids because they are too
3 low. The board of county commissioners may require a deposit
4 to be made or a surety bond to be given, in such form or in
5 such amount as the board determines, with each bid submitted.

6 (2) When the board of county commissioners finds that
7 a parcel of real property is of insufficient size and shape to
8 be issued a building permit for any type of development to be
9 constructed on the property or when the board of county
10 commissioners finds that the value of a parcel of real
11 property is \$15,000 or less, as determined by a fee appraiser
12 designated by the board or as determined by the county
13 property appraiser, and when, due to the size, shape,
14 location, and value of the parcel, it is determined by the
15 board that the parcel is of use only to one or more adjacent
16 property owners, the board may effect a private sale of the
17 parcel. The board may, after sending notice of its intended
18 action to owners of adjacent property by certified mail,
19 effect a sale and conveyance of the parcel at private sale
20 without receiving bids or publishing notice; however, if,
21 within 10 working days after receiving such mailed notice, two
22 or more owners of adjacent property notify the board of their
23 desire to purchase the parcel, the board shall accept sealed
24 bids for the parcel from such property owners and may convey
25 such parcel to the highest bidder or may reject all offers.

26 (3) As an alternative to subsections (1) and (2), the
27 board of county commissioners may by ordinance prescribe
28 disposition standards and procedures to be used by the county
29 in selling and conveying any real or personal property and in
30 leasing real property owned by the county. The standards and
31 procedures must provide at a minimum for:

1 (a) Establishment of competition and qualification
2 standards upon which disposition will be determined.

3 (b) Reasonable public notice of the intent to consider
4 disposition of county property and the availability of copies
5 of the standards. Reasonableness of the notice is to be
6 determined by the efficacy and efficiency of the means of
7 communication used.

8 (c) Identification of the form and manner by which an
9 interested person may acquire county property.

10 (d) Types of negotiation procedures applicable to the
11 selection of a person to whom county properties may be
12 disposed.

13 (e) The manner in which interested persons will be
14 notified of the board's intent to consider final action at a
15 regular meeting of the board on the disposition of a property
16 and the time and manner for making objections.

17 (f) Adherence in the disposition of real property to
18 the governing comprehensive plan and zoning ordinances.

19 Section 2. Section 125.568, Florida Statutes, is
20 amended to read:

21 125.568 Conservation of water; Xeriscape.--

22 (1)(a) The Legislature finds that Xeriscape
23 contributes to the conservation of water. In an effort to
24 meet the water needs of this state in a manner that will
25 supply adequate and dependable supplies of water where needed,
26 it is the intent of the Legislature that Xeriscape be an
27 essential part of water conservation planning.

28 (b) "Xeriscape" or "Florida friendly landscape" means
29 quality landscapes that conserve water and protect the
30 environment and are adaptable to local conditions and which
31 are drought tolerant ~~a landscaping method that maximizes the~~

1 ~~conservation of water by the use of site-appropriate plants~~
2 ~~and an efficient watering system.~~ The principles of Xeriscape
3 include planning and design, appropriate choice of plants,
4 soil analysis which may include the use of solid waste
5 compost, practical use of turf, efficient irrigation,
6 appropriate use of mulches, and proper maintenance.

7 (2) ~~By October 1, 1992,~~The board of county
8 commissioners of each county shall consider enacting
9 ordinances requiring the use of Xeriscape as a water
10 conservation measure. If the board determines that Xeriscape
11 would be of significant benefit as a water conservation
12 measure relative to the cost to implement Xeriscape
13 landscaping in its area of jurisdiction, the board shall enact
14 a Xeriscape ordinance. Further, the board of county
15 commissioners shall consider promoting Xeriscape as a water
16 conservation measure by: using Xeriscape in, around, or near
17 facilities, parks, and other common areas under its
18 jurisdiction which are landscaped after the effective date of
19 this act; providing public education on Xeriscape, its uses as
20 a water conservation tool, and its long-term
21 cost-effectiveness; and offering incentives to local residents
22 and businesses to implement Xeriscape landscaping.

23 (3) A deed restriction or covenant entered after
24 October 1, 2001, or local government ordinance may not
25 prohibit any property owner from implementing Xeriscape or
26 Florida friendly landscape on his or her land.

27 Section 3. Section 166.048, Florida Statutes, is
28 amended to read:

29 166.048 Conservation of water; Xeriscape.--

30 (1)(a) The Legislature finds that Xeriscape
31 contributes to the conservation of water. In an effort to

1 meet the water needs of this state in a manner that will
2 supply adequate and dependable supplies of water where needed,
3 it is the intent of the Legislature that Xeriscape be an
4 essential part of water conservation planning.

5 (b) "Xeriscape" or "Florida friendly landscape" means
6 quality landscapes that conserve water and protect the
7 environment and are adaptable to local conditions and which
8 are drought tolerant ~~a landscaping method that maximizes the~~
9 ~~conservation of water by the use of site-appropriate plants~~
10 ~~and an efficient watering system.~~ The principles of Xeriscape
11 include planning and design, appropriate choice of plants,
12 soil analysis which may include the use of solid waste
13 compost, practical use of turf, efficient irrigation,
14 appropriate use of mulches, and proper maintenance.

15 (2) ~~By October 1, 1992,~~The governing body of each
16 municipality shall consider enacting ordinances requiring the
17 use of Xeriscape as a water conservation measure. If the
18 governing body determines that Xeriscape would be of
19 significant benefit as a water conservation measure relative
20 to the cost to implement Xeriscape landscaping in its area of
21 jurisdiction in the municipality, the board shall enact a
22 Xeriscape ordinance. Further, the governing body shall
23 consider promoting Xeriscape as a water conservation measure
24 by: using Xeriscape in, around, or near facilities, parks,
25 and other common areas under its jurisdiction which are
26 landscaped after the effective date of this act; providing
27 public education on Xeriscape, its uses as a water
28 conservation tool, and its long-term cost-effectiveness; and
29 offering incentives to local residents and businesses to
30 implement Xeriscape landscaping.

31

1 (3) A deed restriction or covenant entered after
2 October 1, 2001, or local government ordinance may not
3 prohibit any property owner from implementing Xeriscape or
4 Florida friendly landscape on his or her land.

5 Section 4. Subsection (4) is added to section 255.259,
6 Florida Statutes, to read:

7 255.259 Xeriscape landscaping on public property.--

8 (4) A deed restriction or covenant entered after
9 October 1, 2001, or local government ordinance may not
10 prohibit any property owner from implementing Xeriscape or
11 Florida friendly landscape on his or her land.

12 Section 5. Section 335.167, Florida Statutes, is
13 amended to read:

14 335.167 State highway construction and maintenance;
15 Xeriscape landscaping in rights-of-way.--

16 (1) The department shall use and require the use of
17 Xeriscape practices, as defined in s. 373.185(1), in the
18 construction and maintenance of all new state highways,
19 wayside parks, access roads, welcome stations, and other state
20 highway rights-of-way constructed upon or acquired after June
21 30, 1992. The department shall develop a 5-year program for
22 phasing in the use of Xeriscape, including the use of solid
23 waste compost, in state highway rights-of-way constructed upon
24 or acquired before July 1, 1992. In accomplishing these
25 tasks, the department shall employ the guidelines set out in
26 s. 373.185(2)(a)-(f).

27 (2) A deed restriction or covenant entered after
28 October 1, 2001, or local government ordinance may not
29 prohibit any property owner from implementing Xeriscape or
30 Florida friendly landscape on his or her land.

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1 Section 6. Section 373.62, Florida Statutes, is
2 amended to read:

3 373.62 Water conservation; automatic sprinkler
4 systems.--Any person who purchases and installs an automatic
5 lawn sprinkler system after May 1, 1991, shall install, and
6 must maintain and operate, a rain sensor device or switch that
7 ~~which~~ will override the irrigation cycle of the sprinkler
8 system when adequate rainfall has occurred.

9 Section 7. Section 373.185, Florida Statutes, is
10 amended to read:

11 373.185 Local Xeriscape ordinances.--

12 (1) As used in this section, the term:

13 (a) "Local government" means any county or
14 municipality of the state.

15 (b) "Xeriscape" or "Florida friendly landscape" means
16 quality landscapes that conserve water and protect the
17 environment and are adaptable to local conditions and which
18 are drought tolerant ~~a landscaping method that maximizes the~~
19 ~~conservation of water by the use of site-appropriate plants~~
20 ~~and an efficient watering system.~~ The principles of Xeriscape
21 include planning and design, appropriate choice of plants,
22 soil analysis which may include the use of solid waste
23 compost, efficient irrigation, practical use of turf,
24 appropriate use of mulches, and proper maintenance.

25 (2) Each water management district shall design and
26 implement an incentive program to encourage all local
27 governments within its district to adopt new ordinances or
28 amend existing ordinances to require Xeriscape landscaping for
29 development permitted after the effective date of the new
30 ordinance or amendment. Each district shall adopt rules
31 governing the implementation of its incentive program and

1 governing the review and approval of local government
2 Xeriscape ordinances or amendments which are intended to
3 qualify a local government for the incentive program. Each
4 district shall assist the local governments within its
5 jurisdiction by providing a model Xeriscape code and other
6 technical assistance. A local government Xeriscape ordinance
7 or amendment, in order to qualify the local government for a
8 district's incentive program, must include, at a minimum:

9 (a) Landscape design, installation, and maintenance
10 standards that result in water conservation. Such standards
11 shall address the use of plant groupings, soil analysis
12 including the promotion of the use of solid waste compost,
13 efficient irrigation systems, and other water-conserving
14 practices.

15 (b) Identification of prohibited invasive exotic plant
16 species.

17 (c) Identification of controlled plant species,
18 accompanied by the conditions under which such plants may be
19 used.

20 (d) A provision specifying the maximum percentage of
21 turf and the maximum percentage of impervious surfaces allowed
22 in a xeriscaped area and addressing the practical selection
23 and installation of turf.

24 (e) Specific standards for land clearing and
25 requirements for the preservation of existing native
26 vegetation.

27 (f) A monitoring program for ordinance implementation
28 and compliance.

29
30 The districts also shall work with local governments to
31 promote, through educational programs and publications, the

1 use of Xeriscape practices, including the use of solid waste
2 compost, in existing residential and commercial development.
3 This section may not be construed to limit the authority of
4 the districts to require Xeriscape ordinances or practices as
5 a condition of any consumptive use permit.

6 (3) A deed restriction or covenant entered after
7 October 1, 2001, or local government ordinance may not
8 prohibit any property owner from implementing Xeriscape or
9 Florida friendly landscape on his or her land.

10 Section 8. Section 720.3075, Florida Statutes, is
11 amended to read:

12 720.3075 Prohibited clauses in association
13 documents.--

14 (1) It is declared that the public policy of this
15 state prohibits the inclusion or enforcement of certain types
16 of clauses in homeowners' association documents, including
17 declaration of covenants, articles of incorporation, bylaws,
18 or any other document of the association which binds members
19 of the association, which either have the effect of or provide
20 that:

21 (a) A developer has the unilateral ability and right
22 to make changes to the homeowners' association documents after
23 the transition of homeowners' association control in a
24 community from the developer to the nondeveloper members, as
25 set forth in s. 720.307, has occurred.

26 (b) A homeowners' association is prohibited or
27 restricted from filing a lawsuit against the developer, or the
28 homeowners' association is otherwise effectively prohibited or
29 restricted from bringing a lawsuit against the developer.

30 (c) After the transition of homeowners' association
31 control in a community from the developer to the nondeveloper

1 members, as set forth in s. 720.307, has occurred, a developer
2 is entitled to cast votes in an amount that exceeds one vote
3 per residential lot.

4
5 Such clauses are declared null and void as against the public
6 policy of this state.

7 (2) The public policy described in subsection (1)
8 prohibits the inclusion or enforcement of such clauses created
9 on or after the effective date of s. 3, chapter 98-261, Laws
10 of Florida.

11 (3) Homeowners' association documents, including
12 declarations of covenants, articles of incorporation, or
13 bylaws, may not preclude the display of one United States flag
14 by property owners. However, the flag must be displayed in a
15 respectful way and may be subject to reasonable standards for
16 size, placement, and safety, as adopted by the homeowners'
17 association, consistent with Title 36 U.S.C. chapter 10 and
18 any local ordinances.

19 (4) Homeowners' association documents, including
20 declarations of covenants, articles of incorporation or
21 bylaws, entered after October 1, 2001, may not prohibit any
22 property owner from implementing Xeriscape or Florida friendly
23 landscape, as defined in s. 373.185(1), on his or her land.

24 Section 9. Subsection (7) of section 197.502, Florida
25 Statutes, is amended to read:

26 197.502 Application for obtaining tax deed by holder
27 of tax sale certificate; fees.--

28 (7) On county-held certificates for which ~~if~~ there are
29 no bidders at the public sale, the clerk shall enter the land
30 on a list entitled "lands available for taxes" and shall
31 immediately notify the county commission and all other persons

1 holding certificates against the land that the land is
2 available. During the first 90 days after the land is placed
3 on the list of lands available for taxes, the county may
4 purchase the land for the opening bid. Thereafter, any
5 person, the county, or any other governmental unit may
6 purchase the land from the clerk, without further notice or
7 advertising, for the opening bid, except that when the county
8 or other governmental unit is the purchaser for its own use,
9 the board of county commissioners may cancel omitted years'
10 taxes, as provided under s. 197.447. Interest on the opening
11 bid continues to accrue through the month of sale as
12 prescribed by s. 197.542.

13 Section 10. Subsection (3) of section 197.512, Florida
14 Statutes, is amended to read:

15 197.512 Notice, form of publication for obtaining tax
16 deed by holder.--

17 (3) Except when the land is redeemed according to law
18 ~~Upon ultimate disposition of the application for a tax deed,~~
19 the clerk shall record ~~enter~~ his or her certificate of notice
20 and his or her certificate of advertising in the public
21 records of the county with such other relevant documents as
22 may be required by the department.

23 Section 11. Section 197.542, Florida Statutes, is
24 amended to read:

25 197.542 Sale at public auction.--

26 (1) The lands advertised for sale to the highest
27 bidder as a result of an application filed under s. 197.502
28 shall be sold at public auction by the clerk of the circuit
29 court, or his or her deputy, of the county where the lands are
30 located on the date, at the time, and at the location as set
31 forth in the published notice, which shall be during the

1 regular hours the clerk's office is open. At the time and
2 place, the clerk shall read the notice of sale and shall offer
3 the lands described in the notice for sale to the highest
4 bidder for cash at public outcry. The amount required to
5 redeem the tax certificate, plus the amounts paid by the
6 holder to the clerk of the circuit court in charges for costs
7 of sale, redemption of other tax certificates on the same
8 lands, and all other costs to the applicant for tax deed, plus
9 interest thereon at the rate of 1.5 percent per month for the
10 period running from the month after the date of application
11 for the deed through the month of sale and costs incurred for
12 the service of notice provided for in s. 197.522(2), shall be
13 considered the bid of the certificateholder for the property.
14 However, if the land to be sold is assessed on the latest tax
15 roll as homestead property, the bid of the certificateholder
16 shall be increased to include an amount equal to one-half of
17 the assessed value of the homestead property as required by s.
18 197.502. If there are no higher bids, the land shall be
19 struck off and sold to the certificateholder, who shall
20 forthwith pay to the clerk the documentary stamp tax and
21 recording fees due, and a tax deed shall thereupon be issued
22 and recorded by the clerk.

23 (2) If there are other bids, the certificateholder
24 shall have the right to bid as others present may bid, and the
25 property shall be struck off and sold to the highest bidder.
26 The high bidder shall post with the clerk a nonrefundable cash
27 deposit of \$200 at the time of the sale, to be applied to the
28 sale price at the time of full payment. Notice of this deposit
29 requirement shall be posted at the auction site, and the clerk
30 may require that bidders show their willingness and ability to
31 post the cost deposit. If full payment of the final bid and of

1 documentary stamp tax and recording fees is not made within 24
 2 hours, excluding weekends and legal holidays, the clerk shall
 3 cancel all bids, readvertise the sale as provided in this
 4 section, and pay all costs of the sale from the deposit. Any
 5 remaining funds must be applied toward the opening bid.The
 6 clerk may refuse to recognize the bid of any person who has
 7 previously bid and refused, for any reason, to honor such bid.

8 ~~(3)(2) The clerk of the circuit court shall demand~~
 9 ~~immediate payment of an amount equal to the highest bid plus~~
 10 ~~applicable documentary stamp taxes and recording fees. If full~~
 11 ~~payment is not received by the clerk within 24 hours after the~~
 12 ~~advertised time of the sale, the clerk shall cancel the bids~~
 13 ~~and readvertise the property for sale.~~If the sale is canceled
 14 for any reason, the clerk shall immediately readvertise the
 15 sale to be held no later than 30 days after ~~from~~ the date the
 16 sale was canceled. Only one advertisement is ~~shall be~~
 17 necessary. No further notice is ~~shall be~~ required. The amount
 18 of the statutory (opening) bid shall be increased by the cost
 19 of advertising, additional clerk's fees as provided for in s.
 20 28.24(26), and interest as provided for in subsection (1).
 21 The clerk shall receive full payment prior to the issuance of
 22 the tax deed.

23 Section 12. This section and section 1 of this act
 24 shall take effect upon becoming a law and sections 9, 10, and
 25 11 shall take effect October 1, 2001, as to sales for which
 26 the respective application for obtaining a tax deed is filed
 27 on or after October 1, 2001.

28 Section 13. This act shall take effect October 1,
 29 2001, except that this section and section 1 of this act shall
 30 take effect upon becoming a law.

31