

787-119AX-02

Bill No. CS/HB 757

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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Representative(s) Paul offered the following:

Amendment (with title amendment)

On page 25, between lines 8 and 9,

insert:

Section 3. Section 73.0615, Florida Statutes, is created to read:

73.0615 Acquisition of road right-of-way; bad faith.--

(1) In the event that a condemnor or its agents engage in bad faith during negotiations or litigation, the condemnee may file a motion seeking sanctions which shall include a monetary award to be determined by the court which award may not be avoided by claims of sovereign immunity. Additionally, the condemnee shall be entitled to recover all costs and damages, including reasonable attorney's fees, associated with the condemnor's bad faith conduct and the proceedings resulting therefrom. "Bad faith" shall include, but not be limited to, the following conduct:

(a) Misleading an owner with any false information regarding project design, impacts, property valuation, or

1 valuation standards.

2 (b) Coercing an owner to accept payment for his or her
3 property rights in return for the owner agreeing not to
4 procure advice from consultants.

5 (c) Failing to tender a good faith response, within a
6 reasonable time, to a request by the condemnee that the
7 expenses of an owner's consultants be paid. For the purposes
8 of this section, there shall be a rebuttable presumption that
9 30 days is a reasonable time for such response.

10 (d) Making offers of settlement, in mediation forums
11 or otherwise, that are in any way contingent upon the
12 condemnee waiving or compromising its rights to seek recovery
13 of all fees otherwise entitled to by statute, including
14 consultant fees or statutory attorney's fees.

15 (2) If the court determines that the condemnor engaged
16 in any of the conduct identified in subsection (1) or other
17 conduct which the court considers bad faith, then the court
18 must issue an order that includes the sanctions identified in
19 subsection (1).

20 (3) In addition to all other provisions of this
21 section, if the court determines that the condemnor's attorney
22 engaged in the conduct identified in paragraph (1)(d), the
23 clerk of the court shall transmit notice of the conduct to The
24 Florida Bar, which shall provide a report of disciplinary
25 proceedings against the attorney within 180 days thereafter.
26 The court's order shall include the following statement:

27 "This court has determined that _____, a member
28 of The Florida Bar, engaged in conduct
29 specifically identified by the Florida
30 Legislature as constituting "bad faith." This
31 order shall be transmitted by the Clerk of this

1 court to The Florida Bar for disciplinary
 2 proceedings. Pursuant to s. 73.0615, Florida
 3 Statutes, please provide your report of such
 4 proceedings to this court and all counsel of
 5 record in this matter within 180 days, said
 6 counsel being listed below."

7 (4) In addition to all other remedies, the offer of
 8 judgment described in s. 73.032(3) may be made by a defendant
 9 as to requests that the condemnor tender payment for the
 10 reasonable fees of defendants' consultants, including, but not
 11 limited to, appraisers, planners, engineers, business damage
 12 consultants, and attorneys.

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 14
 15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 On page 1, line 17, after "actions;"

18
 19 insert:

20 creating s. 73.0615, F.S.; providing penalties
 21 with respect to bad faith concerning the
 22 acquisition of road right-of-way; defining the
 23 term "bad faith";