



HB 0113

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A bill to be entitled  
 An act relating to private property rights; amending s. 70.001, F.S.; redefining the term "action of a governmental entity"; revising language with respect to the final decision of a governmental entity identifying the allowable uses for certain property; providing language with respect to the first application of a law or regulation that alters the density, intensity, or use of certain property; providing a waiver of sovereign immunity; providing an effective date.

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

Section 1. Paragraph (d) of subsection (3), paragraph (a) of subsection (5), and subsections (11) and (13) of section 70.001, Florida Statutes, are amended to read:

70.001 Private property rights protection.--

(3) For purposes of this section:

(d) The term "action of a governmental entity" means a specific action of a governmental entity which affects real property, including, but not limited to, the adoption of any regulation that alters the density, intensity, or use of the owner's property and any action on an application or permit.

(5) (a) During the 180-day-notice period, unless a settlement offer is accepted by the property owner, each of the governmental entities provided notice pursuant to paragraph (4) (a) shall issue a written ~~ripeness~~ decision identifying the allowable uses to which the subject property may be put. The failure of the governmental entity to issue said a written ~~ripeness~~ decision during the 180-day-notice period shall cause



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31 ~~be deemed to ripen~~ the prior action of the governmental entity  
 32 to become its final decision identifying the allowable uses for  
 33 the subject property. Whether rendered by submission of a  
 34 written decision during the 180-day-notice period or by failure  
 35 to submit said written decision, the final decision of a  
 36 governmental entity or entities produced by this paragraph  
 37 shall, and shall operate as a ripeness decision that has been  
 38 rejected by the property owner. The ripeness decision, as a  
 39 matter of law, constitute ~~constitutes~~ the last prerequisite to  
 40 judicial review of the merits, and the matter shall be deemed  
 41 ~~ripe or final~~ for the purposes of the judicial proceeding  
 42 created by this section, notwithstanding the availability of  
 43 other administrative remedies.

44 (11) (a) A cause of action may not be commenced under this  
 45 section if the claim is presented more than 1 year after a law  
 46 or regulation is first applied by the governmental entity to the  
 47 property at issue.

48 (b) For the purposes of this section, a law or regulation  
 49 that alters the density, intensity, or use of the owner's  
 50 property is first applied to the property upon adoption of such  
 51 law or regulation if actual notice, as described in s.  
 52 125.66(4) (a), is given to the property owner. Where actual  
 53 notice is not provided, the law or regulation is first applied  
 54 when a specific action of the governmental entity affects the  
 55 owner's parcel of real property.

56 (c) If an owner seeks relief, including development  
 57 approval or a variance from a law or regulation that alters the  
 58 density, intensity, or use of the owner's property, from the  
 59 governmental action through lawfully available administrative or



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60 judicial proceedings, the time for bringing an action under this  
61 section is tolled until the conclusion of such proceedings.

62 (13) In accordance with s. 13, Art. X of the State  
63 Constitution, the state, for itself and for its agencies or  
64 subdivisions, waives sovereign immunity for liability to the  
65 extent specified in this act. This provision shall be applied  
66 retroactively to May 11, 1995. ~~This section does not affect the~~  
67 ~~sovereign immunity of government.~~

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