



HB 0113

2003
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CHAMBER ACTION

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The Committee on Local Government & Veterans' Affairs recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to private property rights; amending s. 70.001, F.S., the "Bert J. Harris, Jr., Private Property Rights Protection Act"; limiting the definition of the term "action of a governmental entity"; providing that the state land planning agency rather than the Department of Legal Affairs shall receive notice of claims; amending procedures for determining a governmental entity's final decision identifying the allowable uses for a property; providing that enactment of a law or adoption of a regulation does not constitute application of the law or regulation; providing for a prospective limited waiver of sovereign immunity for liability; providing an effective date.

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



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28 Section 1. Paragraph (d) of subsection (3), paragraph (b)
29 of subsection (4), paragraph (a) of subsection (5), and
30 subsections (11) and (13) of section 70.001, Florida Statutes,
31 are amended to read:

32 70.001 Private property rights protection.--

33 (3) For purposes of this section:

34 (d) The term "action of a governmental entity" means a
35 specific action of a governmental entity which affects real
36 property, including action on an application or permit. The term
37 does not include action to enforce compliance with uniform laws
38 enacted or regulations adopted to protect public safety, such as
39 building codes and fire codes. In addition, the term does not
40 include action involving the construction, expansion, or
41 maintenance of capital facilities.

42 (4)

43 (b) The governmental entity shall provide written notice
44 of the claim to all parties to any administrative action that
45 gave rise to the claim, and to owners of real property
46 contiguous to the owner's property at the addresses listed on
47 the most recent county tax rolls. Within 15 days after the claim
48 is being presented, the governmental entity shall report the
49 claim in writing to the state land planning agency ~~Department of~~
50 ~~Legal Affairs,~~ and shall provide the agency ~~department~~ with the
51 name, address, and telephone number of the employee of the
52 governmental entity from whom additional information may be
53 obtained about the claim during the pendency of the claim and
54 any subsequent judicial action.



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55 (5)(a) During the 180-day-notice period, unless a
56 settlement offer is accepted by the property owner, each of the
57 governmental entities provided notice pursuant to paragraph
58 (4)(a) shall issue a written ripeness decision identifying the
59 allowable uses to which the subject property may be put. The
60 failure of the governmental entity to issue such a written
61 ~~ripeness~~ decision during the 180-day-notice period shall cause
62 ~~be deemed to ripen~~ the prior action of the governmental entity
63 to become its final decision identifying the uses for the
64 subject property. Whether rendered by submission of a written
65 decision during the 180-day-notice period or by failure to
66 submit such a written decision, the final decision of a
67 governmental entity produced under this paragraph operates as a
68 final decision that has been rejected by the property owner.
69 This final decision, and shall operate as a ripeness decision
70 ~~that has been rejected by the property owner. The ripeness~~
71 ~~decision,~~ as a matter of law, constitutes the last prerequisite
72 to judicial review of the merits, ~~and the matter shall be deemed~~
73 ~~ripe or final~~ for the purposes of the judicial proceeding
74 created by this section, notwithstanding the availability of
75 other administrative remedies.

76 (11) A cause of action may not be commenced under this
77 section if the claim is presented more than 1 year after a law
78 or regulation is first applied by the governmental entity to the
79 property at issue. Enacting a law or adopting a regulation does
80 not constitute applying the law or regulation to a property. If
81 an owner seeks relief from the governmental action through
82 lawfully available administrative or judicial proceedings, the



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83 | time for bringing an action under this section is tolled until
84 | the conclusion of such proceedings.

85 | (13) In accordance with s. 13, Art. X of the State
86 | Constitution, the state, for itself and for its agencies or
87 | subdivisions, prospectively waives sovereign immunity for
88 | liability for actions subject to this section, but only to the
89 | extent specified in this section. ~~This section does not affect~~
90 | ~~the sovereign immunity of government.~~

91 | Section 2. This act shall take effect January 1, 2004.

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