

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Kottkamp offered the following:

**Substitute Amendment for Amendment (228877) (with title amendment)**

Remove everything after the enacting clause, and insert:

Section 1. Paragraph (d) of subsection (3), paragraph (b) of subsection (4), 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 action on an application or permit. The term does not include action to enforce compliance with uniform laws enacted or regulations adopted to protect public safety, such as building codes and fire codes. In addition, the term does not

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28 include action involving the construction, expansion, or  
29 maintenance of capital facilities.

30 (4)

31 (b) The governmental entity shall provide written notice  
32 of the claim to all parties to any administrative action that  
33 gave rise to the claim, and to owners of real property  
34 contiguous to the owner's property at the addresses listed on  
35 the most recent county tax rolls. Within 15 days after the claim  
36 is being presented, the governmental entity shall report the  
37 claim in writing to the state land planning agency ~~Department of~~  
38 ~~Legal Affairs,~~ and shall provide the agency department with the  
39 name, address, and telephone number of the employee of the  
40 governmental entity from whom additional information may be  
41 obtained about the claim during the pendency of the claim and  
42 any subsequent judicial action.

43 (5)(a) During the 180-day-notice period, unless a  
44 settlement offer is accepted by the property owner, each of the  
45 governmental entities provided notice pursuant to paragraph  
46 (4)(a) shall issue a written ~~ripeness~~ decision identifying the  
47 allowable uses to which the subject property may be put. The  
48 failure of the governmental entity to issue such a written  
49 ~~ripeness~~ decision during the 180-day-notice period shall cause  
50 ~~be deemed to ripen~~ the prior action of the governmental entity  
51 to become its final decision identifying the uses for the  
52 subject property. Whether rendered by submission of a written  
53 decision during the 180-day-notice period or by failure to  
54 submit such a written decision, the final decision of a  
55 governmental entity produced under this paragraph operates as a  
56 final decision that has been rejected by the property owner.

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57 ~~This final decision, and shall operate as a ripeness decision~~  
58 ~~that has been rejected by the property owner. The ripeness~~  
59 ~~decision,~~ as a matter of law, constitutes the last prerequisite  
60 to judicial review of the merits, ~~and the matter shall be deemed~~  
61 ~~ripe or final~~ for the purposes of the judicial proceeding  
62 created by this section, notwithstanding the availability of  
63 other administrative remedies.

64 (11) A cause of action may not be commenced under this  
65 section if the claim is presented more than 1 year after a law  
66 or regulation is first applied by the governmental entity to the  
67 property at issue. Enacting a law or adopting a regulation does  
68 not constitute applying the law or regulation to a property. If  
69 an owner seeks relief from the governmental action through  
70 lawfully available administrative or judicial proceedings, the  
71 time for bringing an action under this section is tolled until  
72 the conclusion of such proceedings.

73 (13) In accordance with s. 13, Art. X of the State  
74 Constitution, the state, for itself and for its agencies or  
75 subdivisions, waives sovereign immunity for liability for  
76 actions subject to this section, but only to the extent  
77 specified in this section. ~~This section does not affect the~~  
78 ~~sovereign immunity of government.~~

79 Section 2. If any provision of this act or the application  
80 thereof to any person or circumstance is held invalid, the  
81 invalidity does not affect other provisions or applications of  
82 this act which can be given effect without the invalid provision  
83 or application, and to this end the provisions of this act are  
84 declared severable.

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85 Section 3. This act shall take effect July 1, 2003, and  
86 shall not operate to affect any litigation or claim brought  
87 under section 70.001, Florida Statutes, which is pending on the  
88 date this act becomes a law.

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91 ===== T I T L E A M E N D M E N T =====

92 Remove the entire title, and insert:

93 A bill to be entitled  
94 An act relating to private property rights; amending s.  
95 70.001, F.S., the "Bert J. Harris, Jr., Private Property  
96 Rights Protection Act"; limiting the definition of the  
97 term "action of a governmental entity"; providing that the  
98 state land planning agency rather than the Department of  
99 Legal Affairs shall receive notice of claims; amending  
100 procedures for determining a governmental entity's final  
101 decision identifying the allowable uses for a property;  
102 providing that enactment of a law or adoption of a  
103 regulation does not constitute application of the law or  
104 regulation; providing for a limited waiver of sovereign  
105 immunity for liability; providing an effective date.