

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.