

By Senators Pruitt and Geller

28-665A-03

1 A bill to be entitled
2 An act relating to property rights; amending s.
3 70.001, F.S., the "Bert J. Harris, Jr., Private
4 Property Rights Protection Act"; amending
5 procedures for determining a governmental
6 entity's final decision identifying the
7 allowable uses for a property; providing that
8 enactment of a law or adoption of a regulation
9 does not constitute applying the law or
10 regulation; providing for a retroactive waiver
11 of sovereign immunity for liability; providing
12 an effective date.

13 WHEREAS, the Legislature wishes to clarify its original
14 intent with respect to a waiver of sovereign immunity under
15 section 70.001(13), Florida Statutes, the Bert J. Harris, Jr.,
16 Private Property Rights Protection Act, and, therefore, to
17 make the effective date of the clarification retroactive to
18 May 11, 1995, the date of adjournment sine die of the
19 Legislative Session in which section 70.001, Florida Statutes,
20 was enacted, and

21 WHEREAS, the Legislature wishes to make other changes
22 to clarify provisions of this act and to improve the reporting
23 of cases filed under the act, NOW, THEREFORE,

24
25 Be It Enacted by the Legislature of the State of Florida:

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

30 70.001 Private property rights protection.--
31 (4)

1 (b) The governmental entity shall provide written
2 notice of the claim to all parties to any administrative
3 action that gave rise to the claim, and to owners of real
4 property contiguous to the owner's property at the addresses
5 listed on the most recent county tax rolls. Within 15 days
6 after the claim is ~~being~~ presented, the governmental entity
7 shall report the claim in writing to the state land planning
8 agency ~~Department of Legal Affairs~~, and shall provide the
9 agency ~~department~~ with the name, address, and telephone number
10 of the employee of the governmental entity from whom
11 additional information may be obtained about the claim during
12 the pendency of the claim and any subsequent judicial action.

13 (5)(a) During the 180-day-notice period, unless a
14 settlement offer is accepted by the property owner, each of
15 the governmental entities provided notice pursuant to
16 paragraph (4)(a) shall issue a written ~~ripeness~~
17 identifying the allowable uses to which the subject property
18 may be put. The failure of the governmental entity to issue
19 such a written ~~ripeness~~ decision during the 180-day-notice
20 period shall cause be deemed to ripen the prior action of the
21 governmental entity to become its final decision identifying
22 the uses for the subject property, and shall operate as a
23 ripeness decision that has been rejected by the property
24 owner. Whether rendered by submission of a written decision
25 during the 180-day-notice period or by failure to submit such
26 a written decision, the final decision of a governmental
27 entity produced under this paragraph operates as a final
28 decision that has been rejected by the property owner. This
29 final decision ~~The ripeness decision~~, as a matter of law,
30 constitutes the last prerequisite to judicial review of the
31 merits, and the matter shall be deemed ripe or final for the

1 purposes of the judicial proceeding created by this section,
2 notwithstanding the availability of other administrative
3 remedies.

4 (11) A cause of action may not be commenced under this
5 section if the claim is presented more than 1 year after a law
6 or regulation is first applied by the governmental entity to
7 the property at issue. Enacting a law or adopting a regulation
8 does not constitute applying the law or regulation to a
9 property. If an owner seeks relief from the governmental
10 action through lawfully available administrative or judicial
11 proceedings, the time for bringing an action under this
12 section is tolled until the conclusion of such proceedings.

13 (13) In accordance with s. 13, Art. X of the State
14 Constitution, the state, for itself and for its agencies or
15 subdivisions, waives sovereign immunity for liability for
16 actions subject to this section, but only to the extent
17 specified in this section. This subsection applies
18 retroactively to May 11, 1995. ~~This section does not affect~~
19 ~~the sovereign immunity of government.~~

20 Section 2. This act shall take effect July 1, 2003,
21 and the amendment to section 70.001(13), Florida Statutes,
22 shall operate retroactively to May 11, 1995.

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25 SENATE SUMMARY

26 Amends s. 70.001, F.S., the "Bert J. Harris, Jr., Private
27 Property Rights Protection Act." Amends procedures for
28 identifying the allowable uses for a property. Provides
29 that enactment of a law or regulation does not constitute
30 application of the law or regulation. Provides for a
31 waiver of sovereign immunity for liability, retroactive
to May 11, 1995.