

By the Committee on Comprehensive Planning; and Senators
Pruitt and Geller

316-2107-03

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"; providing for

5 the state land planning agency to receive

6 notice of claims; amending procedures for

7 determining a governmental entity's final

8 decision identifying the allowable uses for a

9 property; providing that enactment of a law or

10 adoption of a regulation does not constitute

11 applying the law or regulation; providing for a

12 waiver of sovereign immunity for liability;

13 providing an effective date.

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15 WHEREAS, the Legislature wishes to clarify its original

16 intent with respect to allowing appropriate compensation for

17 unduly burdened real property and to provide a waiver of

18 sovereign immunity under section 70.001, Florida Statutes, the

19 Bert J. Harris, Jr., Private Property Rights Protection Act,

20 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,

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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 section does not affect the~~
18 ~~sovereign immunity of government.~~

19 Section 2. This act shall take effect July 1, 2003.

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21 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
22 COMMITTEE SUBSTITUTE FOR
23 Senate Bill 1164

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25 The committee substitute removes language retroactively
26 applying a waiver of sovereign immunity for actions brought
27 under s. 70.001, F.S. It also deletes preamble language
28 expressing the Legislature's intent to clarify the waiver of
29 sovereign immunity and retroactively apply the waiver. This
30 committee substitute adds preamble language stating the
31 Legislature's intent to allow appropriate compensation for
unduly burdened real property and to provide a waiver of
sovereign immunity.

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