

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

.
.
.
.

Representative Kottkamp offered the following:

Amendment (with title amendment)

Remove line(s) 612, and insert:

Section 20. 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

Amendment No. (for drafter's use only)

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

29 (4)

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

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

603379

Amendment No. (for drafter's use only)

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

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

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

78 Section 21. If any provision of this act or the
79 application thereof to any person or circumstance is held
80 invalid, the invalidity does not affect other provisions or
81 applications of this act which can be given effect without the
82 invalid provision or application, and to this end the provisions
83 of this act are declared severable.

Amendment No. (for drafter's use only)

84 Section 22. This act shall take effect July 1, 2003, and
85 shall not operate to affect any litigation or claim brought
86 under s. 70.001, Florida Statutes, which is pending on the date
87 this act becomes a law.

88
89

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

91 Remove the entire title, and insert:

92 A bill to be entitled
93 An act relating to governmental entities; creating s. 20.101,
94 F.S.; creating the Department of State and Community Affairs;
95 providing the mission of the department; providing that the
96 department shall be headed by a secretary appointed by and
97 serving at the pleasure of the Governor; establishing divisions
98 within the department; providing that the Florida Housing
99 Finance Corporation and the Division of Emergency Management
100 shall be placed in the department for administrative purposes;
101 requiring appointment of division directors; providing for the
102 appointment of deputy and assistant secretaries; providing for
103 the establishment of bureaus, sections, and subsections deemed
104 necessary by the secretary for certain purposes, under certain
105 conditions; providing for the appointment of directors or
106 executive directors of any commission or council; providing for
107 the appointment by the Governor of the director of the Division
108 of Emergency Management; repealing s. 20.10, F.S., relating to
109 the Department of State; repealing s. 20.18, F.S., relating to
110 the Department of Community Affairs; providing for the transfer
111 of programs, functions, activities, powers, duties, rules,
112 records, personnel, property, and unexpended balances among

Amendment No. (for drafter's use only)

113 certain state agencies; providing that the Secretary of State
114 shall continue in office as the secretary of the Department of
115 State and Community Affairs without further appointment or
116 confirmation; providing transitional provisions; amending ss.
117 11.011, 11.021, 11.03, 11.07, 15.01, 15.02, 15.03, 15.07, and
118 15.155, F.S., to conform; amending s. 257.36, F.S.; deleting
119 responsibilities regarding the records and information
120 management program; creating s. 257.361, F.S.; providing
121 responsibilities for records storage to the Department of
122 Management Services; directing the Division of Statutory
123 Revision to prepare a reviser's bill for the 2004 Regular
124 Session of the Legislature; amending s. 70.001, F.S., the "Bert
125 J. Harris, Jr., Private Property Rights Protection Act";
126 limiting the definition of the term "action of a governmental
127 entity"; providing that the state land planning agency rather
128 than the Department of Legal Affairs shall receive notice of
129 claims; amending procedures for determining a governmental
130 entity's final decision identifying the allowable uses for a
131 property; providing that enactment of a law or adoption of a
132 regulation does not constitute application of the law or
133 regulation; providing for a limited waiver of sovereign immunity
134 for liability; providing an effective date.

135