

1 subsection (5), paragraph (c) of subsection (6), and
2 subsections (11) and (13) of section 70.001, Florida Statutes,
3 are amended to read:

4 70.001 Private property rights protection.--

5 (3) For purposes of this section:

6 (e) The terms "inordinate burden" or "inordinately
7 burdened" mean that an action of one or more governmental
8 entities has directly restricted or limited the use of real
9 property such that the property owner is permanently unable to
10 attain the reasonable, investment-backed expectation for the
11 existing use of the real property or a vested right to a
12 specific use of the real property with respect to the real
13 property as a whole, or that the property owner is left with
14 existing or vested uses that are unreasonable such that the
15 property owner bears permanently a disproportionate share of a
16 burden imposed for the good of the public, which in fairness
17 should be borne by the public at large. The terms "inordinate
18 burden" or "inordinately burdened" do not include temporary
19 impacts to real property; impacts to real property occasioned
20 by governmental abatement, prohibition, prevention, or
21 remediation of a public nuisance at common law or a noxious
22 use of private property; or impacts to real property caused by
23 an action of a governmental entity taken to grant relief to a
24 property owner under this section; however, a moratorium on
25 development, as defined in s. 380.04, which is in effect for
26 longer than 1 year is not a temporary impact to real property
27 and is included within the terms "inordinate burden" or
28 "inordinately burdened".

29 (4)(a) Not less than 120 ~~180~~ days prior to filing an
30 action under this section against a governmental entity, a
31 property owner who seeks compensation under this section must

1 present the claim in writing to the head of the governmental
2 entity, except that if the property is classified as
3 agricultural pursuant to s. 193.461, the notice period is 90
4 days. The property owner must submit, along with the claim, a
5 bona fide, valid appraisal that supports the claim and
6 demonstrates the loss in fair market value to the real
7 property. If the action of government is the culmination of a
8 process that involves more than one governmental entity, or if
9 a complete resolution of all relevant issues, in the view of
10 the property owner or in the view of a governmental entity to
11 whom a claim is presented, requires the active participation
12 of more than one governmental entity, the property owner shall
13 present the claim as provided in this section to each of the
14 governmental entities.

15 (b) The governmental entity shall provide written
16 notice of the claim to all parties to any administrative
17 action that gave rise to the claim, and to owners of real
18 property contiguous to the owner's property at the addresses
19 listed on the most recent county tax rolls. Within 15 days
20 after the claim ~~is being~~ presented, the governmental entity
21 shall report the claim in writing to the state land planning
22 agency ~~Department of Legal Affairs~~, and shall provide the
23 agency ~~department~~ with the name, address, and telephone number
24 of the employee of the governmental entity from whom
25 additional information may be obtained about the claim during
26 the pendency of the claim and any subsequent judicial action.

27 (c) During the 90-day-notice period or the
28 120-day-notice ~~180-day-notice~~ period, unless extended by
29 agreement of the parties, the governmental entity shall make a
30 written settlement offer to effectuate:
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1 1. An adjustment of land development or permit
2 standards or other provisions controlling the development or
3 use of land.

4 2. Increases or modifications in the density,
5 intensity, or use of areas of development.

6 3. The transfer of developmental rights.

7 4. Land swaps or exchanges.

8 5. Mitigation, including payments in lieu of onsite
9 mitigation.

10 6. Location on the least sensitive portion of the
11 property.

12 7. Conditioning the amount of development or use
13 permitted.

14 8. A requirement that issues be addressed on a more
15 comprehensive basis than a single proposed use or development.

16 9. Issuance of the development order, a variance,
17 special exception, or other extraordinary relief.

18 10. Purchase of the real property, or an interest
19 therein, by an appropriate governmental entity or payment of
20 compensation.

21 11. No changes to the action of the governmental
22 entity.

23
24 If the property owner accepts the settlement offer, the
25 governmental entity may implement the settlement offer by
26 appropriate development agreement; by issuing a variance,
27 special exception, or other extraordinary relief; or by other
28 appropriate method, subject to paragraph (d).

29 (5)(a) During the 90-day-notice period or the
30 120-day-notice ~~180-day notice~~ period, unless a settlement
31 offer is accepted by the property owner, each of the

1 governmental entities provided notice pursuant to paragraph
2 (4)(a) shall issue a written ~~ripeness~~ decision identifying the
3 allowable uses to which the subject property may be put. The
4 failure of the governmental entity to issue such a written
5 ~~ripeness~~ decision during the applicable 90-day-notice period
6 or 120-day-notice ~~180-day-notice~~ period shall cause ~~be deemed~~
7 ~~to ripen~~ the prior action of the governmental entity to become
8 its final decision, for purposes of the act, identifying the
9 uses for the subject property, and shall operate as a ripeness
10 decision that has been rejected by the property owner. Whether
11 rendered by submission of a written decision during the
12 120-day-notice period or by failure to submit such a written
13 decision, the final decision of the governmental entity
14 produced under this paragraph operates as a final decision
15 that has been rejected by the property owner. This final ~~The~~
16 ~~ripeness~~ decision, as a matter of law, constitutes the last
17 prerequisite to judicial review of the merits, ~~and the matter~~
18 ~~shall be deemed ripe or final~~ for the purposes of the judicial
19 proceeding created by this section, notwithstanding the
20 availability of other administrative remedies.

21 (6)

22 (c)1. In any action filed pursuant to this section,
23 the property owner is entitled to recover reasonable costs and
24 attorney fees incurred by the property owner, from the
25 governmental entity or entities, according to their
26 proportionate share as determined by the court, from the date
27 of the filing of the circuit court action, if the property
28 owner prevails in the action and the court determines that the
29 settlement offer, including the ripeness decision, of the
30 governmental entity or entities did not constitute a bona fide
31 offer to the property owner which reasonably would have

1 resolved the claim, based upon the knowledge available to the
2 governmental entity or entities and the property owner during
3 the 90-day-notice period or the 120-day-notice ~~180-day-notice~~
4 period.

5 2. In any action filed pursuant to this section, the
6 governmental entity or entities are entitled to recover
7 reasonable costs and attorney fees incurred by the
8 governmental entity or entities from the date of the filing of
9 the circuit court action, if the governmental entity or
10 entities prevail in the action and the court determines that
11 the property owner did not accept a bona fide settlement
12 offer, including the ripeness decision, which reasonably would
13 have resolved the claim fairly to the property owner if the
14 settlement offer had been accepted by the property owner,
15 based upon the knowledge available to the governmental entity
16 or entities and the property owner during the 90-day-notice
17 period or the 120-day-notice ~~180-day-notice~~ period.

18 3. The determination of total reasonable costs and
19 attorney fees pursuant to this paragraph shall be made by the
20 court and not by the jury. Any proposed settlement offer or
21 any proposed ripeness decision, except for the final written
22 settlement offer or the final written ripeness decision, and
23 any negotiations or rejections in regard to the formulation
24 either of the settlement offer or the ripeness decision, are
25 inadmissible in the subsequent proceeding established by this
26 section except for the purposes of the determination pursuant
27 to this paragraph.

28 (11) A cause of action may not be commenced under this
29 section if the claim is presented more than 2 years ~~1-year~~
30 after a law or regulation is first applied by the governmental
31 entity to the property at issue. Enacting a law or adopting a

1 regulation does not constitute applying the law or regulation
2 to a property. If an owner seeks relief from the governmental
3 action through lawfully available administrative or judicial
4 proceedings, the time for bringing an action under this
5 section is tolled until the conclusion of such proceedings.
6 (13) In accordance with s. 13, Art. X of the State
7 Constitution, the state, for itself and for its agencies or
8 political subdivisions, waives sovereign immunity for
9 liability for actions subject to this section, but only to the
10 extent specified in this section. This section does not affect
11 the sovereign immunity of government.

12 Section 2. This act shall take effect July 1, 2007.
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