

1 A bill to be entitled
2 An act relating to public access to beaches; creating
3 part V of ch. 161, F.S.; providing definitions; declaring
4 the policy and effect; prohibiting a local government
5 from adopting an ordinance, resolution, or development
6 order that has the effect of excluding certain
7 individuals from a public beach; prohibiting obstruction
8 of beach access under certain conditions; requiring that
9 the display of certain signs meet criteria concerning
10 beach access; providing that a violation of such
11 prohibition is a first-degree misdemeanor; providing a
12 penalty; prohibiting a governmental entity from placing
13 an obstruction upon a public beach under certain
14 conditions; defining the term "recreational use";
15 authorizing owners of land within a specified distance of
16 specified coastal waters to record or revoke a notice
17 concerning the granting of permission for the public's
18 recreational use of the land; providing limitations on
19 the duty or liability of an owner while such a notice is
20 recorded; prohibiting an owner from preventing certain
21 public uses of the land while such a notice is recorded;
22 providing an effective date.

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

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26 Section 1. Part V of chapter 161, Florida Statutes,
27 consisting of sections 161.80, 161.81, 161.82, and 161.83, is
28 created to read:

PART V

PUBLIC BEACH ACCESS

161.80 Definitions.--As used in this part, the term:

(1) "Beach access" means the public's right to laterally traverse and make recreational use of the sandy beaches of this state where such access exists on or after July 1, 1987, or the public has established an accessway through private lands to lands seaward of the mean high tide or water line by prescription, prescriptive easement, or any other legal means, and the public's right of ingress and egress to public beaches and the waters of the Gulf of Mexico, the Atlantic Ocean, or the Straits of Florida.

(2) "Public beach" means any sovereign beach, any recreational beach owned or operated by the state or a local government, or any sandy beach area where the public has established or acquired a right of use by prescription, dedication, custom, or any other legal means.

(3) "Sovereign beach" means that portion of a sandy beach lying seaward of the line of mean high water or a recorded erosion control line.

161.81 Declaration of policy and effect.--

(1) It is the policy of this state that the public, individually and collectively, shall have the free and unrestricted right to enter and use public beaches.

(2) This part does not affect in any way the title held to land in this state which is adjacent to any beach on the Gulf of Mexico, the Atlantic Ocean, or the Straits of Florida, and does not reduce or limit in any way the rights of the public in

57 public beaches which have been defined in law or custom.

58 161.82 Use of public beaches.--

59 (1) A local government may not adopt an ordinance,
 60 resolution, or development order that has the effect of
 61 excluding nonresidents or a particular class of user from a
 62 public beach.

63 (2) (a) A person may not:

64 1. Obstruct or cause obstruction of beach access by
 65 fencing, barricading, or causing any other obstruction, unless
 66 such obstruction is otherwise authorized by law.

67 2. Display or cause to be displayed on any public beach
 68 any sign, marker, or warning or communicate in any other manner
 69 that a public beach is private property.

70 (b) A person who violates this subsection commits a
 71 misdemeanor of the first degree, punishable as provided in s.
 72 775.082 or s. 775.083.

73 (3) A governmental entity may not place or cause to be
 74 placed any fencing, barricade, or any other obstruction upon a
 75 public beach, unless such obstruction is a response to an
 76 emergency or is otherwise authorized by law. This subsection
 77 does not prevent any agency, department, institution,
 78 subdivision, or instrumentality of the state or of the Federal
 79 Government from erecting or maintaining any groin, seawall,
 80 barrier, pass, channel, jetty, or other structure as an aid to
 81 navigation, as protection of the shore, or for fishing, safety,
 82 or other lawful purpose.

83 161.83 Recording permission to access beaches; limitation
 84 of liability.--

85 (1) As used in this section, the term "recreational use"
86 includes, but is not limited to, walking, hiking, fishing,
87 swimming, surfing, sunbathing, nature study, or other
88 traditional beach activities; visiting historical,
89 archaeological, scenic, or scientific sites; accessing a public
90 beach; and providing noncommercial parking areas in proximity to
91 beach access points.

92 (2) The holder of record title to land within 1,500 feet
93 of the Gulf of Mexico, the Atlantic Ocean, or the Straits of
94 Florida may record in any county in which any part of the land
95 is situated a description of the land and a notice reading
96 substantially as follows: "The right of the public or any person
97 to make recreational use of the above described land or any
98 portion thereof, other than any use expressly allowed by a
99 written or recorded map, agreement, deed, or dedication, is by
100 permission of owner pursuant to section 161.86, Florida
101 Statutes." The holder of record title may revoke any such
102 recorded notice by recording a notice of revocation in each
103 county wherein the notice is recorded. The recording of a notice
104 under this subsection does not affect any right of the public
105 which was vested at the time of recording through prescription,
106 dedication, custom, or other legal means.

107 (3) During any period when notice concerning a parcel of
108 land is recorded and not revoked:

109 (a) If the dedication of all or a portion of the parcel to
110 public use or the public's prescriptive or customary right in
111 all or a portion of the parcel is at issue in a legal
112 proceeding, the recorded notice is conclusive evidence that the

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113 use of the parcel by the public or by any user for any purpose,
114 other than a use expressly allowed by a written or recorded map,
115 agreement, deed, or dedication, is permissive and with the
116 consent of the holder of record title to the parcel.

117 (b) The holder of record title to the parcel may not
118 prevent a public use of the parcel which is appropriate to the
119 notice by physical obstruction, notice, or otherwise.

120 (c) The holder of record title to the parcel owes no duty
121 of care to keep the parcel safe for entry or use by the public
122 or to give warning to persons entering or going of any hazardous
123 conditions, structures, or activities thereon, and such
124 titleholder does not, by providing public recreational use of
125 the parcel:

126 1. Extend any assurance that the parcel is safe for any
127 purpose;

128 2. Incur any duty of care to any person who goes on the
129 parcel; or

130 3. Become liable or responsible for any injury to persons
131 or property caused by the act or omission of a person who goes
132 on the parcel.

133 Section 2. This act shall take effect July 1, 2008.