

Amendment No.

CHAMBER ACTION

Senate

House

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Representatives Seiler and Precourt offered the following:

**Amendment (with title amendment)**

Remove lines 49-174 and insert:

defined in s. 380.04, that is in effect for longer than 1 year does not necessarily constitute a temporary impact to real property and, thus, depending upon the particular circumstances, may constitute an "inordinate burden" as provided herein.

(4) (a) Not less than 120 ~~180~~ days prior to filing an action under this section against a governmental entity, a property owner who seeks compensation under this section must present the claim in writing to the head of the governmental entity, except that if the property is classified as agricultural pursuant to s. 193.461, the notice period is 90 days. The property owner must submit, along with the claim, a bona fide, valid appraisal that supports the claim and

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17 demonstrates the loss in fair market value to the real property.  
18 If the action of government is the culmination of a process that  
19 involves more than one governmental entity, or if a complete  
20 resolution of all relevant issues, in the view of the property  
21 owner or in the view of a governmental entity to whom a claim is  
22 presented, requires the active participation of more than one  
23 governmental entity, the property owner shall present the claim  
24 as provided in this section to each of the governmental  
25 entities.

26 (c) During the 90-day-notice period or the 120-day-notice  
27 ~~180-day-notice~~ period, unless extended by agreement of the  
28 parties, the governmental entity shall make a written settlement  
29 offer to effectuate:

30 1. An adjustment of land development or permit standards  
31 or other provisions controlling the development or use of land.

32 2. Increases or modifications in the density, intensity,  
33 or use of areas of development.

34 3. The transfer of developmental rights.

35 4. Land swaps or exchanges.

36 5. Mitigation, including payments in lieu of onsite  
37 mitigation.

38 6. Location on the least sensitive portion of the  
39 property.

40 7. Conditioning the amount of development or use  
41 permitted.

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

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

46 10. Purchase of the real property, or an interest therein,  
47 by an appropriate governmental entity, or payment of  
48 compensation.

49 11. No changes to the action of the governmental entity.  
50

51 If the property owner accepts the settlement offer, the  
52 governmental entity may implement the settlement offer by  
53 appropriate development agreement; by issuing a variance,  
54 special exception, or other extraordinary relief; or by other  
55 appropriate method, subject to paragraph (d).

56 (5) (a) During the 90-day-notice period or the 120-day-  
57 notice ~~180-day notice~~ period, unless a settlement offer is  
58 accepted by the property owner, each of the governmental  
59 entities provided notice pursuant to paragraph (4) (a) shall  
60 issue a written ripeness decision identifying the allowable uses  
61 to which the subject property may be put. The failure of the  
62 governmental entity to issue such a written ~~ripeness~~ decision  
63 during the applicable 90-day-notice period or 120-day-notice  
64 ~~180-day notice~~ period shall cause ~~be deemed to ripen~~ the prior  
65 action of the governmental entity to become its final decision,  
66 for purposes of this section, identifying the uses for the  
67 subject property, ~~and shall operate as a ripeness decision that~~  
68 ~~has been rejected by the property owner.~~ Whether rendered by  
69 submission of a written decision during the 120-day-notice  
70 period or by failure to submit such a written decision, the  
71 final decision of the governmental entity produced under this

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72 paragraph operates as a final decision that has been rejected by  
73 the property owner. This final ~~The ripeness~~ decision, as a  
74 matter of law, constitutes the last prerequisite to judicial  
75 review on the merits, ~~and the matter shall be deemed ripe or~~  
76 ~~final~~ for the purposes of the judicial proceeding created by  
77 this section, notwithstanding the availability of other  
78 administrative remedies.

79 (6)

80 (c)1. In any action filed pursuant to this section, the  
81 property owner is entitled to recover reasonable costs and  
82 attorney fees incurred by the property owner, from the  
83 governmental entity or entities, according to their  
84 proportionate share as determined by the court, from the date of  
85 the filing of the circuit court action, if the property owner  
86 prevails in the action and the court determines that the  
87 settlement offer, including the ripeness decision, of the  
88 governmental entity or entities did not constitute a bona fide  
89 offer to the property owner which reasonably would have resolved  
90 the claim, based upon the knowledge available to the  
91 governmental entity or entities and the property owner during  
92 the 90-day-notice period or the 120-day-notice ~~180-day-notice~~  
93 period.

94 2. In any action filed pursuant to this section, the  
95 governmental entity or entities are entitled to recover  
96 reasonable costs and attorney fees incurred by the governmental  
97 entity or entities from the date of the filing of the circuit  
98 court action, if the governmental entity or entities prevail in  
99 the action and the court determines that the property owner did

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100 not accept a bona fide settlement offer, including the ripeness  
101 decision, which reasonably would have resolved the claim fairly  
102 to the property owner if the settlement offer had been accepted  
103 by the property owner, based upon the knowledge available to the  
104 governmental entity or entities and the property owner during  
105 the 90-day-notice period or the 120-day-notice ~~180-day notice~~  
106 period.

107 3. The determination of total reasonable costs and  
108 attorney fees pursuant to this paragraph shall be made by the  
109 court and not by the jury. Any proposed settlement offer or any  
110 proposed ripeness decision, except for the final written  
111 settlement offer or the final written ripeness decision, and any  
112 negotiations or rejections in regard to the formulation either  
113 of the settlement offer or the ripeness decision, are  
114 inadmissible in the subsequent proceeding established by this  
115 section except for the purposes of the determination pursuant to  
116 this paragraph.

117 (11) A cause of action may not be commenced under this  
118 section if the claim is presented more than 1 year after a law  
119 or regulation is first applied by the governmental entity to the  
120 property at issue. For purposes of this section, enacting a law  
121 or adopting a regulation does not constitute applying the law or  
122 regulation to a property; however, in determining whether an  
123 inordinate burden has been imposed on the real property as  
124 provided for in this section, consideration may be given to the  
125 length of time that has elapsed since the enactment of a law or  
126 the adoption of a rule, regulation, or ordinance and its  
127 application. If an owner seeks relief from the governmental

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128 action through lawfully available administrative or judicial  
129 proceedings, the time for bringing an action under this section  
130 is tolled until the conclusion of such proceedings.

131 (13) In accordance with s. 13, Art. X of the State  
132 Constitution, the state, for itself and for its agencies or  
133 political subdivisions, waives sovereign immunity for causes of  
134 action based upon the application of any law, regulation, or  
135 ordinance subject to this section, but only to the extent

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**T I T L E A M E N D M E N T**

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Remove lines 7-10 and insert:

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identifying the allowable uses for a property; providing that  
141 enactment of a law or adoption of a regulation does not  
142 constitute applying the law or regulation; provides a factor  
143 that may be considered in determining whether an inordinate  
144 burden has been imposed on the real property; providing for a