



917246

LEGISLATIVE ACTION

Senate

.  
. .  
. .  
. .  
. .

House

---

The Committee on Judiciary (Simmons) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 20 - 102

and insert:

Section 1. Subsection (6) and paragraph (a) of subsection (11) of section 70.001, Florida Statutes, are amended to read:

70.001 Private property rights protection.-

(6) (a) The circuit court shall determine whether an existing use of the real property or a vested right to a specific use of the real property existed and, if so, whether, considering the settlement offer and statement of allowable



917246

12 uses, the governmental entity or entities have inordinately  
13 burdened the real property. If the actions of more than one  
14 governmental entity, considering any settlement offers and  
15 statement of allowable uses, are responsible for the action that  
16 imposed the inordinate burden on the real property of the  
17 property owner, the court shall determine the percentage of  
18 responsibility each such governmental entity bears with respect  
19 to the inordinate burden. A governmental entity may take an  
20 interlocutory appeal of the court's determination that the  
21 action of the governmental entity has resulted in an inordinate  
22 burden. An interlocutory appeal does not automatically stay the  
23 proceedings; however, the court may stay the proceedings during  
24 the pendency of the interlocutory appeal. If the governmental  
25 entity does not prevail in the interlocutory appeal, the court  
26 shall award to the prevailing property owner the costs and a  
27 reasonable attorney fee incurred by the property owner in the  
28 interlocutory appeal.

29 (b) Following its determination of the percentage of  
30 responsibility of each governmental entity, and following the  
31 resolution of any interlocutory appeal, the court shall impanel  
32 a jury to determine the total amount of compensation to the  
33 property owner for the loss in value due to the inordinate  
34 burden to the real property. The property owner may waive the  
35 right to a jury and request that the court make such  
36 determination. The award of compensation shall be determined by  
37 calculating the difference in the fair market value of the real  
38 property, as it existed at the time of the governmental action  
39 at issue, as though the owner had the ability to attain the  
40 reasonable investment-backed expectation or was not left with



917246

41 uses that are unreasonable, whichever the case may be, and the  
42 fair market value of the real property, as it existed at the  
43 time of the governmental action at issue, as inordinately  
44 burdened, considering the settlement offer together with the  
45 statement of allowable uses, of the governmental entity or  
46 entities. In determining the award of compensation,  
47 consideration may not be given to business damages relative to  
48 any development, activity, or use that the action of the  
49 governmental entity or entities, considering the settlement  
50 offer together with the statement of allowable uses has  
51 restricted, limited, or prohibited. The award of compensation  
52 shall include a reasonable award of prejudgment interest from  
53 the date the claim was presented to the governmental entity or  
54 entities as provided in subsection (4).

55 (c)1. In any action filed pursuant to this section, the  
56 property owner is entitled to recover reasonable costs and  
57 attorney fees incurred by the property owner, from the  
58 governmental entity or entities, according to their  
59 proportionate share as determined by the court, from the date of  
60 the governmental entity's denial of the claim made pursuant to

61  
62 ===== T I T L E A M E N D M E N T =====

63 And the title is amended as follows:

64 Delete lines 3 - 7

65 and insert:

66 70.001, F.S.; authorizing a property owner to waive  
67 the right to a jury and