



413412

LEGISLATIVE ACTION

Senate

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House

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The Committee on Judiciary (Lee) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 31 - 153

and insert:

Section 1. Subsections (4), (5), and (6) and paragraph (a) of subsection (11) of section 70.001, Florida Statutes, are amended to read:

70.001 Private property rights protection.-

(4) (a) Not less than 90 ~~150~~ days before ~~prior to~~ filing an action under this section against a governmental entity, a property owner who seeks compensation under this section must



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12 present the claim in writing to the head of the governmental  
13 entity, ~~except that if the property is classified as~~  
14 ~~agricultural pursuant to s. 193.461, the notice period is 90~~  
15 ~~days.~~ The property owner must submit, along with the claim, a  
16 bona fide, valid appraisal that supports the claim and  
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 (b) The governmental entity shall provide written notice of  
27 the claim to all parties to any administrative action that gave  
28 rise to the claim, and to owners of real property contiguous to  
29 the owner's property at the addresses listed on the most recent  
30 county tax rolls. Within 15 days after the claim is presented,  
31 the governmental entity shall report the claim in writing to the  
32 Department of Legal Affairs, and shall provide the department  
33 with the name, address, and telephone number of the employee of  
34 the governmental entity from whom additional information may be  
35 obtained about the claim during the pendency of the claim and  
36 any subsequent judicial action.

37 (c) During the 90-day-notice period ~~or the 150-day-notice~~  
38 ~~period,~~ unless extended by agreement of the parties, the  
39 governmental entity shall make a written settlement offer to  
40 effectuate:



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41 1. An adjustment of land development or permit standards or  
42 other provisions controlling the development or use of land.

43 2. Increases or modifications in the density, intensity, or  
44 use of areas of development.

45 3. The transfer of developmental rights.

46 4. Land swaps or exchanges.

47 5. Mitigation, including payments in lieu of onsite  
48 mitigation.

49 6. Location on the least sensitive portion of the property.

50 7. Conditioning the amount of development or use permitted.

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

53 9. Issuance of the development order, a variance, a special  
54 exception, or any other extraordinary relief.

55 10. Purchase of the real property, or an interest therein,  
56 by an appropriate governmental entity or payment of  
57 compensation.

58 11. No changes to the action of the governmental entity.

59  
60 If the property owner accepts a settlement offer, ~~either~~ before  
61 or after filing an action, the governmental entity may implement  
62 the settlement offer by appropriate development agreement; by  
63 issuing a variance, a special exception, or any other  
64 extraordinary relief; or by any other appropriate method,  
65 subject to paragraph (d).

66 (d)1. When a governmental entity enters into a settlement  
67 agreement under this section which would have the effect of a  
68 modification, variance, or ~~a~~ special exception to the  
69 application of a rule, regulation, or ordinance as it would



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70 otherwise apply to the subject real property, the relief granted  
71 shall protect the public interest served by the regulations at  
72 issue and be the appropriate relief necessary to prevent the  
73 governmental regulatory effort from inordinately burdening the  
74 real property. Settlement offers made pursuant to paragraph (c)  
75 shall be presumed to protect the public interest.

76           2. When a governmental entity enters into a settlement  
77 agreement under this section which would have the effect of  
78 contravening the application of a statute as it would otherwise  
79 apply to the subject real property, the governmental entity and  
80 the property owner shall jointly file an action in the circuit  
81 court where the real property is located for approval of the  
82 settlement agreement by the court to ensure that the relief  
83 granted protects the public interest served by the statute at  
84 issue and is the appropriate relief necessary to prevent the  
85 governmental regulatory effort from inordinately burdening the  
86 real property.

87  
88 ===== T I T L E   A M E N D M E N T =====

89 And the title is amended as follows:

90           Delete lines 3 - 11

91 and insert:

92           70.001, F.S.; revising notice of claim requirements  
93           for property owners; creating a presumption that  
94           certain settlement offers protect the public interest;  
95           specifying that property owners retain the