



184698

LEGISLATIVE ACTION

Senate

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House

Senator Hutson moved the following:

Senate Amendment (with title amendment)

Delete lines 82 - 290

and insert:

may be recovered by a business may not exceed the present value
of the business' future lost profits for the lesser of 7 years
or the number of years the business had been in operation in the
jurisdiction before the ordinance or charter provision was
enacted.

(c) A county or municipality is not liable for business
damages caused by:



- 12 1. An ordinance or charter provision that is required to
13 comply with state or federal law;
- 14 2. Emergency ordinances, declarations, or orders adopted by
15 a county or municipality under ss. 252.31-252.60, the State
16 Emergency Management Act;
- 17 3. A temporary emergency ordinance enacted pursuant to s.
18 125.66 or s. 166.041 which remains in effect for no more than 90
19 days;
- 20 4. An ordinance or charter provision enacted to implement:
- 21 a. Part II of chapter 163, relating to growth policy,
22 county and municipal planning, and land development regulation;
- 23 b. Section 553.73, relating to the Florida Building Code;
24 or
- 25 c. Section 633.202, relating to the Florida Fire Prevention
26 Code;
- 27 5. An ordinance or charter provision required to implement
28 a contract or agreement, including, but not limited to, any
29 federal, state, local, or private grant, or other financial
30 assistance accepted by a county or municipal government;
- 31 6. An ordinance or charter provision relating to the
32 issuance or refinancing of debt;
- 33 7. An ordinance or charter provision relating to the
34 adoption of a budget or budget amendment;
- 35 8. An ordinance or charter provision relating to
36 procurement; or
- 37 9. An ordinance or charter provision intended to promote,
38 enable, or facilitate economic competition.
- 39 (3) PRESUIT PROCEDURES; ATTORNEY FEES AND COSTS.-
40 (a) At least 180 days before a business files an action



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41 under this section against a county or municipality and within
42 180 days after the effective date of the relevant ordinance or
43 charter provision, the business must present a written offer to
44 settle the business' claim for business damages to the head of
45 the county or municipality enacting or amending the ordinance.
46 The settlement offer must be made in good faith and include an
47 explanation of the nature, extent, and monetary amount of
48 damages and must be prepared by the owner, a certified public
49 accountant, or a business damage expert familiar with the nature
50 of the operations of the business. The business must also
51 provide copies of the business' records that substantiate the
52 offer to settle the business damage claim. If additional
53 information is needed beyond the data that may be obtained from
54 business records existing at the time of the offer, the business
55 and county or municipality may agree on a schedule for the
56 submission of that information.

57 (b) Within 120 days after receipt of the good faith
58 business damage offer and accompanying business records, the
59 county or municipality must, by certified mail, accept or reject
60 the business' offer or make a counteroffer, which may include an
61 offer to grant a waiver to the application of the ordinance or
62 charter provision.

63 (c) If a business files an action for business damages, it
64 must be filed within 1 year after the effective date of the
65 relevant ordinance, ordinance amendment, or charter provision.

66 (d) Evidence of negotiations or of any written or oral
67 statements used in mediation or negotiations between the parties
68 under this section is inadmissible in any proceeding for
69 business damages, except in a proceeding to determine reasonable



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costs and attorney fees.

(e) In an action for business damages, the court may award reasonable attorney fees and costs to the prevailing party.

(4) OPPORTUNITY TO CURE.—There is no liability under this section for a county or municipality that, within the 120-day timeframe provided for in paragraph (3) (b):

(a) Repeals the ordinance or charter provision that gave rise to the business' claim;

(b) Amends the ordinance or charter provision that gave rise to the business' claim in a manner that returns the ordinance or charter provision to its form in existence before the business' claim arose;

(c) Publishes notice of its intent to repeal or amend the ordinance that gave rise to the business' claim and, within 30 days after publication of the notice, amends the ordinance in a manner that returns the ordinance to its form in existence before the business' claim arose or repeals the ordinance;

(d) Grants a waiver of the ordinance or charter provision to a business submitting a claim for business damages; or

(e) With respect to a charter provision, the county provides notice of its intent to amend or repeal the charter provision that is the basis of the business damage claim and the charter provision is amended or repealed by the voters at an election or special election that occurs within 90 days after publication of the notice.

(5) APPLICATION; CONSTRUCTION.—This section does not apply

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

And the title is amended as follows:



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99 Delete lines 13 - 31
100 and insert:
101 business damages; authorizing courts to award
102 reasonable attorney fees and costs to prevailing
103 parties; specifying that counties and municipalities
104 are not liable for damages if they take certain
105 actions within a specified timeframe;