



184698

LEGISLATIVE ACTION

Senate

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House

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Floor: 1/RS/2R

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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:



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- 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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70 costs and attorney fees.  
71 (e) In an action for business damages, the court may award  
72 reasonable attorney fees and costs to the prevailing party.  
73 (4) OPPORTUNITY TO CURE.—There is no liability under this  
74 section for a county or municipality that, within the 120-day  
75 timeframe provided for in paragraph (3) (b):  
76 (a) Repeals the ordinance or charter provision that gave  
77 rise to the business' claim;  
78 (b) Amends the ordinance or charter provision that gave  
79 rise to the business' claim in a manner that returns the  
80 ordinance or charter provision to its form in existence before  
81 the business' claim arose;  
82 (c) Publishes notice of its intent to repeal or amend the  
83 ordinance that gave rise to the business' claim and, within 30  
84 days after publication of the notice, amends the ordinance in a  
85 manner that returns the ordinance to its form in existence  
86 before the business' claim arose or repeals the ordinance;  
87 (d) Grants a waiver of the ordinance or charter provision  
88 to a business submitting a claim for business damages; or  
89 (e) With respect to a charter provision, the county  
90 provides notice of its intent to amend or repeal the charter  
91 provision that is the basis of the business damage claim and the  
92 charter provision is amended or repealed by the voters at an  
93 election or special election that occurs within 90 days after  
94 publication of the notice.

95 (5) APPLICATION; CONSTRUCTION.—This section does not apply  
96

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

98 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;