

THE FLORIDA SENATE
2018 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/HB 631 — Possession of Real Property

by Civil Justice and Claims Subcommittee and Rep. Edwards-Walpole and others (CS/SB 804 by Rules Committee and Senator Passidomo)

The bill amends and modernizes real property provisions controlling ejectment, unlawful and forcible entry, and unlawful detainer actions. These actions all involve a person entitled to possession of real property who is wrongfully removed but seeks to recover possession of the property. The relevant statutes are amended to create new definitions, clarify that circuit courts have jurisdiction over these actions, modernize statutory pleading requirements, and provide remedies.

The final section of the bill creates a new statute governing the “customary use” of private property for public use. The language details the process by which a governmental entity may seek the judicial determination of a recreational customary use of private beach property.

The new process requires a governmental entity, at a public hearing, to adopt a formal notice of intent to affirm the existence of a recreational customary use. The parcel owner must be notified of the intent at least 30 days before the public meeting. Within 60 days after adopting the notice of intent, the governmental entity must file a Complaint for Declaration of Recreational Customary Use with the circuit court and provide each parcel owner with the option to intervene. The court must then make a determination if the recreational customary use exists.

The section does not apply to a governmental entity that had an ordinance or rule adopted and in effect on or before January 1, 2016. However, a governmental entity may raise the customary use as an affirmative defense in a proceeding challenging an ordinance or rule adopted before July 1, 2018.

If approved by the Governor, these provisions take effect July 1, 2018.

Vote: Senate 29-7; House 95-17