

By Senator Diaz de la Portilla

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1 A bill to be entitled
2 An act relating to permitting; amending ss. 253.763,
3 373.617, and 403.90, F.S.; specifying additional
4 issues that may be reviewed by circuit courts with
5 respect to certain permits issued by state agencies
6 and water management districts; providing additional
7 remedies in the event of an exactions taking;
8 providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Subsections (2) and (3) of section 253.763,
13 Florida Statutes, are amended to read:

14 253.763 Judicial review relating to permits and licenses.—

15 (2) Any person substantially affected by a final action of
16 any agency with respect to a permit may seek review within 90
17 days of the rendering of such decision and request monetary
18 damages and other relief in the circuit court in the judicial
19 circuit in which the affected property is located; however,
20 circuit court review shall be confined solely to determining
21 whether final agency action is an unreasonable exercise of the
22 state's police power constituting a taking without just
23 compensation or is an unreasonable exercise of the state's
24 police power constituting an exactions taking as a result of
25 extortionate demands that impermissibly burden the
26 constitutional right not to have the property taken without just
27 compensation. Review of final agency action for the purpose of
28 determining whether the action is in accordance with existing
29 statutes or rules and based on competent substantial evidence

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30 shall proceed in accordance with chapter 120.

31 (3) If the circuit court determines the decision reviewed
32 is an unreasonable exercise of the state's police power
33 constituting a taking without just compensation or is an
34 unreasonable exercise of the state's police power constituting
35 an exactions taking as a result of extortionate demands that
36 impermissibly burden the constitutional right not to have the
37 property taken without just compensation, the court shall remand
38 the matter to the agency which shall, within a reasonable time:

39 (a) Agree to issue the permit;

40 (b) Agree to pay appropriate monetary damages for having
41 imposed such improper condition; however, in determining the
42 amount of compensation to be paid, consideration shall be given
43 by the court to any enhancement to the value of the land
44 attributable to governmental action; or

45 (c) Agree to modify its decision to avoid an unreasonable
46 exercise of police power.

47 Section 2. Subsections (2) and (3) of section 373.617,
48 Florida Statutes, are amended to read:

49 373.617 Judicial review relating to permits and licenses.—

50 (2) Any person substantially affected by a final action of
51 any agency with respect to a permit may seek review under
52 chapter 120 within 90 days of the rendering of such decision and
53 request monetary damages and other relief in the circuit court
54 in the judicial circuit in which the affected property is
55 located; however, circuit court review shall be confined solely
56 to determining whether final agency action is an unreasonable
57 exercise of the state's police power constituting a taking
58 without just compensation or is an unreasonable exercise of the

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59 state's police power constituting an exactions taking as a
60 result of extortionate demands that impermissibly burden the
61 constitutional right not to have the property taken without just
62 compensation. Review of final agency action for the purpose of
63 determining whether the action is in accordance with existing
64 statutes or rules and based on competent substantial evidence
65 shall proceed in accordance with chapter 120.

66 (3) If the circuit court determines the decision reviewed
67 is an unreasonable exercise of the state's police power
68 constituting a taking without just compensation or constituting
69 an exactions taking as a result of extortionate demands that
70 impermissibly burden the constitutional right not to have the
71 property taken without just compensation, the court shall remand
72 the matter to the agency which shall, within a reasonable time:

73 (a) Agree to issue the permit;

74 (b) Agree to pay appropriate monetary damages for having
75 imposed such improper condition; however, in determining the
76 amount of compensation to be paid, consideration shall be given
77 by the court to any enhancement to the value of the land
78 attributable to governmental action; or

79 (c) Agree to modify its decision to avoid an unreasonable
80 exercise of police power.

81 Section 3. Subsections (2) and (3) of section 403.90,
82 Florida Statutes, are amended to read:

83 403.90 Judicial review relating to permits and licenses.—

84 (2) Any person substantially affected by a final action of
85 any agency with respect to a permit may seek review within 90
86 days of the rendering of such decision and request monetary
87 damages and other relief in the circuit court in the judicial

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88 circuit in which the affected property is located; however,
89 circuit court review shall be confined solely to determining
90 whether final agency action is an unreasonable exercise of the
91 state's police power constituting a taking without just
92 compensation or is an unreasonable exercise of the state's
93 police power constituting an exactions taking as a result of
94 extortionate demands that impermissibly burden the
95 constitutional right not to have the property taken without just
96 compensation. Review of final agency action for the purpose of
97 determining whether the action is in accordance with existing
98 statutes or rules and based on competent substantial evidence
99 shall proceed in accordance with chapter 120.

100 (3) If the court determines the decision reviewed is an
101 unreasonable exercise of the state's police power constituting a
102 taking without just compensation, the court shall remand the
103 matter to the agency which shall, within a reasonable time:

104 (a) Agree to issue the permit;

105 (b) Agree to pay appropriate monetary damages for having
106 imposed such improper condition; however, in determining the
107 amount of compensation to be paid, consideration shall be given
108 by the court to any enhancement to the value of the land
109 attributable to governmental action; or

110 (c) Agree to modify its decision to avoid an unreasonable
111 exercise of police power.

112 Section 4. This act shall take effect July 1, 2015.