



170490

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2009	.	
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The Committee on Environmental Preservation and Conservation
(Constantine) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (7) of section 253.03, Florida
Statutes, is amended to read:

253.03 Board of trustees to administer state lands; lands
enumerated.—

(7) (a) The Board of Trustees of the Internal Improvement
Trust Fund is hereby authorized and directed to administer all
state-owned lands and shall be responsible for the creation of



12 an overall and comprehensive plan of development concerning the
13 acquisition, management, and disposition of state-owned lands so
14 as to ensure maximum benefit and use. The Board of Trustees of
15 the Internal Improvement Trust Fund has authority to adopt rules
16 pursuant to ss. 120.536(1) and 120.54 to implement the
17 provisions of this act.

18 (8) (b) With respect to administering, controlling, and
19 managing sovereignty submerged lands, the Board of Trustees of
20 the Internal Improvement Trust Fund also may adopt rules
21 governing all uses of sovereignty submerged lands by vessels,
22 floating homes, or any other watercraft, which shall be limited
23 to regulations for anchoring, mooring, or otherwise attaching to
24 the bottom; the establishment of anchorages; and the discharge
25 of sewage, pumpout requirements, and facilities associated with
26 anchorages. The regulations must not interfere with commerce or
27 the transitory operation of vessels through navigable water, but
28 shall control the use of sovereignty submerged lands as a place
29 of business or residence.

30 (9) Rules adopted for the uses of sovereignty submerged
31 lands shall provide, at a minimum, for the following:

32 (a) A standard lease term of at least 10 years.

33 (b) An extended term lease not to exceed 25 years, where
34 the use of the sovereignty submerged lands and the associated
35 existing or proposed structures on sovereignty submerged lands
36 have or will have an expected life, or amortization period,
37 equal to or greater than the requested lease term. Such extended
38 term leases shall be limited to those facilities that provide
39 exclusive access to public waters by the general public on a
40 first-come, first-served basis; is constructed, operated or



41 maintained by government, or funded by government secured bonds
42 with a term greater than or equal to the requested lease term;
43 or the applicant demonstrates the existence of an extreme
44 hardship that is unique to the applicant provided such hardship
45 is not self-imposed or the result of any law, ordinance, rule or
46 regulation.

47 (c) For the purposes of this section "first-come, first-
48 served" means any water dependent facility operated on state-
49 owned submerged land the services of which are open to the
50 general public by at least 90 percent of all slips over the
51 state-owned submerged land with no qualifying requirements such
52 as club membership, stock ownership, or equity interest, with no
53 longer than one-year rental terms, and with no automatic renewal
54 rights or conditions. For the purposes of this section all other
55 leases are considered private.

56 (d) A non-refundable application fee of \$250 for a private
57 residential single-family dock or pier. All other facilities
58 shall remit an application fee of \$500 unless a different fee is
59 specifically provided for in general law.

60 (e) New private leases, expansions of private leases, lease
61 conversions from first-come, first served to private, and lease
62 conversions for changes of use shall be assessed a one-time
63 premium or qualifies for a waiver of payment in accordance with
64 18-21, F.A.C. The one-time premium shall be 10 percent of the
65 applicant's projected retail price or the current market price,
66 whichever is greater, to an end user for the use of the slips
67 within the leased area. For applicants proposing to rent or
68 lease the slips, or proposing to provide the slips to members at
69 a below-market rate, the one-time premium shall be based on the



70 current market price. The projected pricing shall be provided by
71 the applicant and must be itemized by slip. All prices provided
72 shall be reviewed by the department and verified with market
73 data as reflective of the market prior to approval.

74 a. An appraisal report will be required if the department
75 cannot verify with market data and accept the applicant's
76 pricing documentation. The appraisal report conditions will
77 assume that the income to the lease area is at market rates and
78 not encumbered by the Board of Trustees lease. If an appraisal
79 report is required, it will be obtained by the department and
80 paid for by the applicant.

81 b. For all private lease expansions the surcharge shall be
82 charged only on the expansion area.

83 (f) Annual lease fees shall be as follows:

84 1. For leases located outside of an aquatic preserve and
85 open on a first-come, first-served basis \$0.10 per square foot
86 or a minimum of \$250. All other leases located outside of an
87 aquatic preserve shall be \$0.30 per square foot or a minimum of
88 \$500.

89 2. For leases located within an aquatic preserve and open
90 on a first-come, first-served basis \$0.30 per square foot or a
91 minimum of \$500. All other leases located within an aquatic
92 preserve shall be \$0.60 per square foot or a minimum of \$1,000.

93 3. The annual lease fees provided for in this paragraph
94 shall be revised every 5 years beginning March 1, 2014 and
95 increased or decreased based on the average change in the
96 Consumer Price Index, calculated by averaging the Consumer Price
97 Index over the previous five-year period. Adjustments to the
98 fees shall be to the nearest cent for the per square foot rates



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99 and to the nearest \$25 for the minimums. Any increase or
100 decrease may not exceed 10 percent and may not have the effect
101 of lowering the fees below those established in the paragraph.

102 4. There shall be a late payment assessment for lease fees
103 or other charges due which are not paid within 30 days after the
104 due date. This assessment shall be computed at the rate of 12
105 percent per annum, calculated on a daily basis for every day the
106 payment is late.

107 (g) Government, research, or education facilities shall be
108 exempt from the annual lease fees in paragraph (d) except as
109 otherwise defined by rule.

110 (h) The department is required to provide a draft lease, to
111 the applicant, 14 days prior to the scheduled hearing before the
112 Board of Trustees. The applicant may waive this requirement.

113 (i) Rules adopted by the board must also provide for:

114 1. The assessment of fines and penalties for violation of
115 lease conditions. Such fines or penalties shall be in addition
116 to those authorized pursuant to s. 253.04.

117 2. Events that may require the installation and use of
118 temporary structures, including docks, moorings, pilings, and
119 access walkways on sovereign submerged lands solely for the
120 purposes of facilitating boat shows or boat displays in , or
121 adjacent to, established marinas or government owned upland
122 property. The Board shall also establish appropriate fees for
123 these events.

124 3. Compliance methods to be utilized by the department and
125 applicants. At a minimum the applicant must supply an aerial
126 photograph of the lease area that is date stamped and shows the
127 structures. A first aerial photograph shall be given to the



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128 department within the first year of the lease term and an
129 additional aerial photograph shall be provided to the department
130 within 60 days of the fifth year of the lease.

131 ~~(e)~~ (j) Structures which are listed in or are eligible for
132 the National Register of Historic Places or the State Inventory
133 of Historic Places which are over the waters of the State of
134 Florida and which have a submerged land lease, or have been
135 grandfathered-in to use sovereignty submerged lands until
136 January 1, 1998, pursuant to rule 18-21.00405, Florida
137 Administrative Code, shall have the right to continue such
138 submerged land leases, regardless of the fact that the present
139 landholder is not an adjacent riparian landowner, so long as the
140 lessee maintains the structure in a good state of repair
141 consistent with the guidelines for listing. If the structure is
142 damaged or destroyed, the lessee shall be allowed to
143 reconstruct, so long as the reconstruction is consistent with
144 the integrity of the listed structure and does not increase the
145 footprint of the structure. If a structure so listed falls into
146 disrepair and the lessee is not willing to repair and maintain
147 it consistent with its listing, the state may cancel the
148 submerged lease and either repair and maintain the property or
149 require that the structure be removed from sovereignty submerged
150 lands.

151 ~~(d)~~ (k) By January 1, 2001, the owners of habitable
152 structures built on or before May 1, 1999, located in
153 conservation areas 2 or 3, on district or state-owned lands, the
154 existence or use which will not impede the restoration of the
155 Everglades, whether pursuant to a submerged lease or not, must
156 provide written notification to the South Florida Water



157 Management District of their existence and location, including
158 an identification of the footprint of the structures. This
159 notification will grant the leaseholders an automatic 20-year
160 lease at a reasonable fee established by the district, or the
161 Department of Environmental Protection, as appropriate, to
162 expire on January 1, 2020. The district or Department of
163 Environmental Protection, as appropriate, may impose reasonable
164 conditions consistent with existing laws and rules. If the
165 structures are located on privately owned lands, the landowners
166 must provide the same notification required for a 20-year
167 permit. If the structures are located on state-owned lands, the
168 South Florida Water Management District shall submit this
169 notification to the Department of Environmental Protection on
170 the owner's behalf. At the expiration of this 20-year lease or
171 permit, the South Florida Water Management District or the
172 Department of Environmental Protection, as appropriate, shall
173 have the right to require that the leaseholder remove the
174 structures if the district determines that the structures or
175 their use are causing harm to the water or land resources of the
176 district, or to renew the lease agreement. The structure of any
177 owner who does not provide notification to the South Florida
178 Water Management District as required under this subsection,
179 shall be considered illegal and subject to immediate removal.
180 Any structure built in any water conservation area after May 1,
181 1999, without necessary permits and leases from the South
182 Florida Water Management District, the Department of
183 Environmental Protection, or other local government, as
184 appropriate, shall be considered illegal and subject to removal.
185 ~~(e)~~ (1) Failure to comply with the conditions contained in



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186 any permit or lease agreement as described in paragraph (d)
187 makes the structure illegal and subject to removal. Any
188 structure built in any water conservation area on or after July
189 1, 2000, is also illegal and subject to immediate removal.

190 Section 2. Subsection (2) of section 253.04, Florida
191 Statutes, is amended to read

192 253.04 Duty of board to protect, etc., state lands; state
193 may join in any action brought.-

194 (2) ~~In lieu of seeking~~ Upon election by the board to not
195 assess monetary damages pursuant to subsection (1) against any
196 person or the agent of any person who has been found to have
197 willfully damaged lands of the state, the ownership or
198 boundaries of which have been established by the state, to have
199 willfully damaged or removed products thereof in violation of
200 state or federal law, to have knowingly refused to comply with
201 or willfully violated the provisions of this chapter, or to have
202 failed to comply with an order of the board to remove or alter
203 any structure or vessel that is not in compliance with
204 applicable rules or with conditions of authorization to locate
205 such a structure or vessel on state-owned land, the board ~~may~~
206 must impose a fine for each offense in an amount of at least
207 \$100 and up to \$10,000 to be fixed by rule and imposed and
208 collected by the board in accordance with the provisions of
209 chapter 120. Each day during any portion of which such violation
210 occurs constitutes a separate offense. This subsection does not
211 apply to any act or omission which is currently subject to
212 litigation wherein the state or any agency of the state is a
213 party as of October 1, 1984, or to any person who holds such
214 lands under color of title. Nothing contained herein impairs the



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215 rights of any person to obtain a judicial determination in a
216 court of competent jurisdiction of such person's interest in
217 lands that are the subject of a claim or proceeding by the
218 department under this subsection.

219 Section 3. This act shall take effect July 1, 2009.

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221

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

223 And the title is amended as follows:

224 Delete lines 2 - 6

225 and insert:

226 An act relating to state lands; amending s. 253.03, F.S.;
227 providing rulemaking authority to the Board; defining lease
228 types; providing for fees and lease rates; allowing for special
229 events; and detailing minimum compliance standards; amending s.
230 253.04, F.S.; requiring for the assessment of fines; providing
231 an effective date.