

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Geller offered the following:

2  
3 **Amendment (with directory and title amendments)**

4 Remove lines 50-172 and insert:

5 (b) The governmental entity shall provide written  
6 notice of the claim to all parties to any administrative  
7 action that gave rise to the claim, and to owners of real  
8 property contiguous to the owner's property at the  
9 addresses listed on the most recent county tax rolls.

10 Within 15 days after the claim is ~~being~~ presented, the  
11 governmental entity shall report the claim in writing to  
12 the Department of Legal Affairs, and shall provide the  
13 department with the name, address, and telephone number of  
14 the employee of the governmental entity from whom

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15 additional information may be obtained about the claim  
16 during the pendency of the claim and any subsequent  
17 judicial action.

18 (c) During the 90-day-notice period or the 150-day-  
19 notice period, unless extended by agreement of the parties,  
20 the governmental entity shall make a written settlement  
21 offer to effectuate:

22 1. An adjustment of land development or permit  
23 standards or other provisions controlling the development  
24 or use of land.

25 2. Increases or modifications in the density,  
26 intensity, or use of areas of development.

27 3. The transfer of developmental rights.

28 4. Land swaps or exchanges.

29 5. Mitigation, including payments in lieu of onsite  
30 mitigation.

31 6. Location on the least sensitive portion of the  
32 property.

33 7. Conditioning the amount of development or use  
34 permitted.

35 8. A requirement that issues be addressed on a more  
36 comprehensive basis than a single proposed use or  
37 development.

38 9. Issuance of the development order, a variance,  
39 special exception, or other extraordinary relief.

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40           10. Purchase of the real property, or an interest  
41 therein, by an appropriate governmental entity or payment  
42 of compensation.

43           11. No changes to the action of the governmental  
44 entity.

45  
46 If the property owner accepts a ~~the~~ settlement offer,  
47 either before or after filing an action, the governmental  
48 entity may implement the settlement offer by appropriate  
49 development agreement; by issuing a variance, special  
50 exception, or other extraordinary relief; or by other  
51 appropriate method, subject to paragraph (d).

52           (d)1. When ~~Whenever~~ a governmental entity enters into  
53 a settlement agreement under this section which would have  
54 the effect of a modification, variance, or a special  
55 exception to the application of a rule, regulation, or  
56 ordinance as it would otherwise apply to the subject real  
57 property, the relief granted shall protect the public  
58 interest served by the regulations at issue and be the  
59 appropriate relief necessary to prevent the governmental  
60 regulatory effort from inordinately burdening the real  
61 property.

62           2. When ~~Whenever~~ a governmental entity enters into a  
63 settlement agreement under this section which would have  
64 the effect of contravening the application of a statute as  
65 it would otherwise apply to the subject real property, the

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66 governmental entity and the property owner shall jointly  
67 file an action in the circuit court where the real property  
68 is located for approval of the settlement agreement by the  
69 court to ensure that the relief granted protects the public  
70 interest served by the statute at issue and is the  
71 appropriate relief necessary to prevent the governmental  
72 regulatory effort from inordinately burdening the real  
73 property.

74  
75 This paragraph applies to any settlement reached between a  
76 property owner and a governmental entity regardless of when  
77 the settlement agreement was entered so long as the  
78 agreement fully resolves all claims asserted under this  
79 section.

80 (10) (a) This section does not apply to any actions  
81 taken by a governmental entity which relate to the  
82 operation, maintenance, or expansion of transportation  
83 facilities, and this section does not affect existing law  
84 regarding eminent domain relating to transportation.

85 (b) This section does not apply to any actions taken  
86 by a county with respect to the adoption of a Flood  
87 Insurance Rate Map issued by the Federal Emergency  
88 Management Agency for the purpose of participating in the  
89 National Flood Insurance Program, unless such adoption  
90 incorrectly applies an aspect of the Flood Insurance Rate

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91 Map to the property, in such a way as to, but not limited  
92 to, incorrectly assess the elevation of the property.

93 Section 2. Section 70.45, Florida Statutes, is  
94 created to read:

95 70.45 Governmental exactions.—

96 (1) As used in this section, the term:

97 (a) "Damages" means, in addition to the right to  
98 injunctive relief, the reduction in fair market value of  
99 the real property or the amount of the fee or  
100 infrastructure cost that exceeds what would be permitted  
101 under this section.

102 (b) "Governmental entity" has the same meaning as  
103 provided in s. 70.001(3)(c).

104 (c) "Prohibited exaction" means any condition imposed  
105 by a governmental entity on a property owner's proposed use  
106 of real property that lacks an essential nexus to a  
107 legitimate public purpose and is not roughly proportionate  
108 to the impacts of the proposed use that the governmental  
109 entity seeks to avoid, minimize, or mitigate.

110 (d) "Property owner" has the same meaning as provided  
111 in s. 70.001(3)(f).

112 (e) "Real property" has the same meaning as provided  
113 in s. 70.001(3)(g).

114 (2) In addition to other remedies available in law or  
115 equity, a property owner may bring an action in a court of  
116 competent jurisdiction under this section to recover

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117 damages caused by a prohibited exaction. Such action may  
 118 not be brought until a prohibited exaction is actually  
 119 imposed or required in writing as a final condition of  
 120 approval for the requested use of real property. The right  
 121 to bring an action under this section may not be waived.  
 122 This section does not apply to impact fees adopted under s.  
 123 163.31801 or non-ad valorem assessments as defined in s.  
 124 197.3632.

125 (3) At least 90 days before filing an action under  
 126 this section, but no later than 180 days after imposition  
 127 of the prohibited exaction, the property owner shall  
 128 provide to the relevant governmental entity written notice  
 129 of the proposed action. This written notice shall identify  
 130 the exaction that the property owner believes is  
 131 prohibited, briefly explain why the property owner believes  
 132 the exaction is prohibited, and provide an estimate of the  
 133 damages. Upon receipt

135 -----  
 136 **D I R E C T O R Y A M E N D M E N T**

137 Remove lines 32-36 and insert:  
 138 , paragraphs (f) and (g) of subsection (3), and subsection  
 139 (10) of section 70.001, Florida Statutes, are amended to  
 140 read:

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**T I T L E   A M E N D M E N T**

Remove lines 4-19 and insert:  
and "real property"; providing that any settlement  
agreement reached between an owner and a governmental  
entity applies so long as the agreement resolves all  
issues; providing exceptions to the applicability of  
the Bert J. Harris, Jr., Private Property Rights  
Protection Act; creating s. 70.45, F.S.,; defining  
terms; authorizing a property owner to bring an action  
to recover damages caused by a prohibited exaction;  
requiring a property owner to provide written notice  
of such action to the relevant governmental entity;  
specifying the burdens of proof imposed on

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