



Legislation Text

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TO: Mayor and City Commission

FROM: Cale Curtis, City Manager

DATE: March 4, 2020

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF MARGATE, FLORIDA, OPPOSING HOUSE BILL 519, RELATING TO PRIVATE PROPERTY RIGHTS PROTECTION; PROVIDING FOR EFFECTIVE DATE.

BACKGROUND: The U.S. Constitution requires the government to pay just compensation when taking private property for public use. The State of Florida enacted the Bert J. Harris, Jr., Private Property Rights Protection Act (Harris Act) in 1995, which provides a specific process for landowners to seek relief when their property is unfairly affected by government action. House Bill 519 filed on January 15, 2020, seeks to amend the Harris Act to:

- Change the timeframe under which a claimant must notify the government before filing an action from 150 days to 90 days;
- Allow the claimant to have the court, rather than a jury, determine damages;
- Remove the prohibition that the factfinder cannot consider business damages in making a determination of the claimant's damages; and
- Change the process for attorney fees and costs by: Allowing a prevailing claimant to recover attorney fees and costs incurred from the time he or she files notice with the government instead of from the time he or she files suit; and o Removing the provision allowing a government to recover attorney fees and costs.

RECOMMENDATION: For approval.

FISCAL IMPACT: Fiscal impact is to be determined; however, the House of Representatives Staff Analysis has indicated that, "The bill may have an indeterminate negative fiscal impact on local governments by:

- Making it easier for a private property owner to challenge a local government regulation that burdens the property.
- Requiring a local government, when it makes a settlement offer to a property owner, to treat all other similarly situated residential properties within the political subdivision similarly.
- Allowing a jury or the court to consider business damages in making its calculation to determine a property owner's damages.
- Removing the right of a government to seek attorney fees and costs when a property owner unreasonably refuses a bona fide offer to settle a property claim.
- Requiring a court to award a landowner attorney fees and costs in certain situations under the Land Use and Environmental Dispute Resolution Act.
- Requiring the Department of Transportation, in certain situations, to offer a previous property owner a

right of first refusal.”

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