



Fair Management of Submerged Lands

Proposed SB-332

Proposed HB-173

**Pinellas County Legislative Delegation Meeting
January 7, 2011**



Table of Contents

Executive Summary 1

Pinellas Delegation Presentation Slides2-8

Proposed Bill Draft9-13



Background

Florida Homeowners for Fair Treatment was formed during the summer of 2008 in an effort to fight the gross inequities, over-regulation, and runaway fees by the Department of Environmental Protection (DEP) in regards to the (submerged land lease) SLL program.

The sovereign submerged lands are the state-owned lands under the waters of Florida and are governed by the Board of Trustees of the Internal Improvement Trust Fund.

The SLL program was instituted in the early 1990's to collect revenue from commercial, profit-making, revenue-generating entities. Before long the DEP looked upon multi-family residences (MFR) as another source of income & started including them in the lease fee program. Initially, the fee was very small & inconsequential but with time the fees & additional regulations have increased dramatically.

During the summer of 2008 the DEP tried to increase the fees by 350% despite the fact that there was an annual 10% cap on any increases. Our organization was able to defeat this increase. Then during the 2009 Legislative Session the DEP tried to increase the fees again by over 425%. In terms of a dollar value this type of increase meant one association would go from its current fee of \$16,000, to over \$72,000 annually, an increase they could not afford.

We have been working closely with Senator Fasano over the past 2 years to exempt MFR from the numerous, unreasonable, unfair fees, taxes, regulations, and restrictions. SB-332 and HB-173 will finally put us on the same footing as single family residences (SFR) and allow us to enjoy the same exemptions as SFR.

Key Issues

- MFR already pay high property taxes on their waterfront property & this includes the slip/docking facility that is listed on their property tax bill & has an assessed value. The property taxes are based on residential tax base (not commercial). SFR on the same submerged lands pay the same base residential property tax as MFR, HOWEVER, they are exempt from all the fees, taxes, surcharges, regulations, and restrictions that MFR are targeted with.
- Multi-family dwellings are private non-profit residences yet the DEP has labeled them as commercial & is charging the same rate as commercial properties even though there is no income generated. We are the same as SFR, except we choose to live in a multi-family environment.
- MFR have to pay annual lease fees PLUS 7% sales tax and now they have to pay a renewal fee PLUS 7% sales tax. The renewal fee is just to verify the data on the annual lease.
- Private MFR must pay a 6% fee when the residence is sold based on the value of the assigned slip which is on the property tax deed. The DEP views the sale of one's home as income generated & in many instances has determined the "value" of the docking facility, not necessarily the market value.
- MFR have to submit detailed & notarized documentation of any rental income of the slips. Most all associations are prohibited from renting their slips due to their bylaws, but the DEP still demands all of this paperwork.
- Some MFR have to pay 6% of their budgeted maintenance fees that they collect to maintain their docks, cleats, pilings, light fixtures, etc. as the DEP views it as income generated and wants their 6%.



Florida Homeowners
for
Fair Treatment
WWW.FHFT.ORG
Because Democracy Works.

Managing Submerged Lands

Why you must Support SB-332 & HB-173

Pinellas County Legislative Delegation Meeting
January 7, 2011



To govern *effectively*, you must govern with **FAIRNESS**

The gross inequities and over-regulation of the submerged land lease program, in particular as it affects private multi-family residences, must be remedied now.



Original Intent

(It all made sense in the beginning)

- Single Family Residences on sovereign submerged lands are **EXEMPT** from all lease fees, taxes on the lease fees, renewal fees, taxes on the renewal fees, 6% requirement when their residence is sold, 6% of dock maintenance fees, rental reporting requirements, etc.
- Rule 18-21.005 (1)(b), F.A.C. which sites to Section 403.813 (1), F.S., specifically exempts single family docking facilities up to 1000 square feet.



DEP “Interpretations”

- Multi-family dwellings are private non-profit residences yet the Department of Environmental Protection (DEP) has labeled them as “commercial” and is charging the same rates as commercial properties even though there is no income generated.



Devastating Results

- During the summer of 2008 the DEP tried to increase the fees by 350% despite the fact that there was an annual 10% cap on any increases.
 - Our organization was able to defeat this increase.
- Then during the 2009 Legislative Session the DEP tried to increase the fees again by over 425%. In terms of a dollar value this type of increase meant one association would go from its current fee of \$16,000, to over \$72,000 annually, an increase most could not afford.
 - Once again, this was defeated.



Current Status of Multi-Family Residences

- MFRs have to pay an annual lease fee plus 7% sales tax.
- MFRs have to pay a renewal fee every 5 years plus 7% sales tax.
- Some MFRs have to pay 6% of their budgeted maintenance fees that they collect to maintain their docks, cleats, pilings, etc. as the DEP views it as income generated.



Additional Inequities

- MFRs have to pay a 6% fee when a residence is sold based on the value of the assigned slip which is on the property tax deed. The DEP views the sale of one's home as income generated.
- MFRs have to submit detailed & notarized documentation of any rental income of the slips. Most associations are prohibited from renting their slips due to their by-laws, but the DEP still demands this paperwork.

Fee Fairness?

(200' apart)



- Exempt
- Exempt
- Exempt
- Exempt



- Pays Annual Fee at COMMERCIAL Rates
- Pays Renewal Fee
- Pays 6% of Dock Maintenance Fee
- Notarized Reporting Requirements

Tax Fairness?

(200' apart)



- Exempt
- Exempt
- Exempt



- Pays 7% Tax on Lease Fee
- Pays 7% Tax on Renewal Fee
- Pays 6% of Slip Value on Sale of Residence



Proposed Solution

- All residential homes, whether single or multi-family, must be put on a level playing field
- Easily accomplished with your support of:
 - **SB-332** sponsored by Senator Mike Fasano
 - **HB-173** sponsored by Representative Jim Frishe



SB-332 & HB-173

- Short and to the point – 4 pages
- Defines “private residential use”
- Codifies fair and equal treatment for **all** residential homes



Summary

- Request Unanimous Support of the Local Delegation
- Urge your colleagues to support this Legislation
- In Tallahassee you represent US, not the DEP
- In the end, Just Be Fair



Key Contacts

- Florida Homeowners for Fair Treatment
 - Terri Pentek (priority38@aol.com)
 - 727-573-5386 (W)
 - 727-515-5687 (C)
- Tallahassee Representative
 - Travis Moore (mooret@tampabay.rr.com)
 - 727-421-6902 (C)

Senate 0332: Relating to Submerged Lands

S332 GENERAL BILL by Fasano (Identical [H 0173](#))

Submerged Lands: Authorizes the Board of Trustees of the Internal Improvement Trust Fund to lease sovereign submerged lands for private residential use. Defines "private residential use." Provides for the term of the lease, rental fees, lease assignability, disposition of improvements, and construction of the act. EFFECTIVE DATE: July 1, 2011

History

Date	Chamber	Action
01/03/2011	Senate	• Filed
01/05/2011	Senate	• Referred to Environmental Preservation and Conservation; Community Affairs; Judiciary; Budget

Bill Text

Version	Posted	Format
S 0332	01/03/2011	HTML PDF

Committee Amendments

NO COMMITTEE AMENDMENTS AVAILABLE

Floor Amendments

NO FLOOR AMENDMENTS AVAILABLE

Bill Analyses

NO BILL ANALYSES AVAILABLE

Vote History - Floor

NO VOTE HISTORY AVAILABLE

Citations - Statutes

[253.0346](#)

Citations - Constitution

NO CONSTITUTIONAL CITATIONS FOUND FOR SENATE BILL 0332.

By Senator Fasano

11-00320-11

2011332__

1 A bill to be entitled
2 An act relating to submerged lands; creating s.
3 253.0346, F.S.; authorizing the Board of Trustees of
4 the Internal Improvement Trust Fund to lease sovereign
5 submerged lands for private residential use; defining
6 "private residential use"; providing for the term of
7 the lease, rental fees, lease assignability,
8 disposition of improvements, and construction of the
9 act; providing an effective date.

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

12
13 Section 1. Section 253.0346, Florida Statutes, is created
14 to read:

15 253.0346 Lease of submerged lands for private residential
16 use.—

17 (1) AUTHORITY.—To the extent that it is not contrary to the
18 public interest, and subject to any limitations and requirements
19 under this chapter, the Board of Trustees of the Internal
20 Improvement Trust Fund may lease and authorize the use of
21 sovereign submerged lands to which it has title to individuals
22 or private entities for private residential use.

23 (2) DEFINITION.—As used in this section, the term "private
24 residential use" means a use for private, recreational, or
25 leisure purposes for a single-family residence, cottage, or
26 other such single dwelling unit, or a noncommercial multifamily
27 development, including condominiums under chapter 718,
28 cooperatives under chapter 719, and homeowners' associations
29 under chapter 720, including resident-owned mobile home parks

11-00320-11

2011332__

30 where the owners of such dwelling units own an undivided
31 interest in the common areas or properties associated with the
32 dwelling units or an interest in a not-for-profit entity that
33 owns and operates the common areas or properties for the use and
34 benefit of the owners and occupants.

35 (3) TERM.—The maximum initial term of a lease shall be 10
36 years. The lease is renewable for successive terms of up to 10
37 years upon agreement of the parties.

38 (4) RENTAL FEES.—The lease contract for private residential
39 use of submerged lands must specify the amount of rental per
40 acre of leased bottom land as agreed to by the parties and must
41 take the form of fixed rental to be paid throughout the term of
42 the lease. A surcharge of \$10 per acre, or any fraction of an
43 acre, per annum shall be levied upon each lease according to the
44 guidelines set forth in s. 597.010(7). Notwithstanding any other
45 provision of law, private residential use is exempt from all
46 lease charges, which include, but are not limited to, all fees,
47 taxes, or surcharges including fees upon transfer of fee simple
48 or beneficial ownership in units in multifamily residential
49 developments engaged in private residential use, as follows:

50 (a) As to single-family residences, cottages, or other such
51 single-family dwelling units that have a dock that is designed
52 to moor up to two boats, or docks that have mooring for up to
53 four boats located on property lines between two upland single-
54 family residences where the dock is shared by both upland
55 single-family residences, a lease charge does not apply to
56 submerged land that has an area less than or equal to 10 times
57 the riparian waterfront frontage of the affected water body of
58 the applicant, or the square footage attendant to providing a

11-00320-11

2011332__

59 single dock in accordance with the criteria for private
60 residential single-family docks, whichever is greater.

61 (b) As to private residential use for multifamily
62 developments that have docks that are designed to moor no more
63 boats than the number of units within the multifamily
64 development, a lease charge does not apply to submerged land
65 that has an area less than or equal to 10 times the riparian
66 waterfront frontage of the affected water body of the applicant
67 times the number of units in the multifamily development.

68 (5) ASSIGNABILITY.—Leases granted under this section may
69 not allow the leasing or assignment of the right to use to:

70 (a) Absent any other legally binding agreements or
71 otherwise specified by association documents, an individual or
72 entity that is not an owner or occupant of a multifamily
73 development;

74 (b) An individual using the submerged land for commercial
75 activities such as food service or a marina that has private or
76 public members who are not also owners or occupants of the
77 multifamily development; or

78 (c) The public for any fee-based service, other than
79 maintenance fees or assessments due from unit owners or
80 occupants.

81 (6) DISPOSITION OF IMPROVEMENTS.—The lease contract must
82 stipulate the disposition of any improvements or assets upon the
83 leased lands and waters.

84 (7) CONSTRUCTION.—This section does not authorize any lease
85 or consent of use which would result in harm to the natural
86 resources of the area as a result of any structures built or
87 activities conducted on the submerged lands.

11-00320-11

2011332__

88

Section 2. This act shall take effect July 1, 2011.