

ASSOCIATED INDUSTRIES OF FLORIDA  
**LEGISLATIVE  
DAILY BRIEF**



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Today was a slower than usual day at the capitol; activities should pick up tomorrow morning with the House in session. The House will welcome the Weather Channel's Dr. Steve Lyon, who will brief the members on what the 2006 hurricane season might look like. In addition, the Health and Families Council will be hosting the Health Transformation Summit. Featured speakers include Newt Gingrich from the Center for Health Transformation and David Brailer, National Coordinator for Health Information Technology. After the joint session, participants will be breaking into three sessions on Health Care Transparency, Epidemics and Access and Affordability.

#### **PRIVATE PROPERTY RIGHTS**

The House Select Committee to Protect Private Property rights met to consider HB 1567, House Joint Resolution 1569 and House Joint Resolution 1571. Chairman Marco Rubio (R-Miami) explained the Committee was not voting to pass the bills out of committee, but rather to decide whether the bills would be part of the Committee's recommendations in its report. Chairman Rubio explained that the bills were filed under his name, because procedurally that was the only way that the bills could be filed.

HB 1567, the Committee's comprehensive eminent domain bill, was passed unanimously by the committee. The bill would eliminate the ability to take property for the purpose of eliminating slum or blight conditions in a geographical area and to enhance the tax base in community redevelopment areas, but allows takings of a parcel of land to eliminate an existing threat to public health or safety. HB 1567 provides additional notice requirements to property owners; provides that the condemning authority must demonstrate by clear and convincing evidence that they are taking the property in order to eliminate a threat to public safety or public health. The bill also prohibits transfers of taken property to private entities with some exceptions.

Representative Greg Evers (R-Milton) offered an amendment which was adopted which clarifies that property that has been taken by a condemning entity cannot be sold to a private party for 5 years after acquiring title to the property. Representative Jack Seiler (D-Pompano Beach) expressed concern that the amendment placed too much restriction on public entities. Representative Bill Galvano (R-Bradenton) also expressed opposition to the amendment, noting that the amendment put the Legislature in the position of dictating how property is used. Representative Ralph Poppell (R-Titusville) and Representative Dean Cannon (R-Winter Park) expressed support for the amendment, observing that if a public entity is going to take a parcel of land, it should have to wait 5 years before selling it to a private party. Representative Jeff Kottkamp (R-Cape Coral) also expressed support for the amendment, noting that it was needed in order for the bill to be consistent with the Committee's purpose.

Representative Dwight Stansel (D-Live Oak) proposed an amendment which requires public notice of the sale and competitive bidding for property taken pursuant to eminent domain after the 5 year holding period. Representative Stansel explained that the purpose of this amendment is to ensure that the previous property owner has a chance to repurchase the taken property. The amendment was adopted without debate.

Representative Dick Kravitz (R-Orange Park) attempted to offer an amendment which would require the condemning authority to hold a parcel of land taken for 7 years instead of 5 years. Representative Jack Seiler (D-Pompano Beach) and Representative Ron Greenstein (D-Coconut Creek) opposed the amendment, observing that the amendment would place an additional burden on local government. The amendment failed, with a vote of 4-10.

Representative Bill Galvano (R-Brandon) offered an amendment that added factors for consideration by a court or condemning authority which provide when a parcel of a property is condemnation eligible. The amendment, which was adopted, provides that property is condemnation eligible when the current condition of the property poses an existing threat to public health or safety as evidenced by: substantial dilapidation which is physically or economically incurable; the property is unsanitary, unsafe, or vermin infested; the property represents a fire or safety hazard; the property contains a structure where the utilities or other facilities have been disconnected, destroyed, or removed; or the property constitutes a public nuisance.

Representative Dick Kravitz (R-Orange Park) presented two amendments which require the conspicuous posting of notice of eminent domain (what is eminent domain) on the premises of private and business property that is to be acquired. Representative Kravitz explained that the purpose of the amendments is to give the public notice of what is occurring with the parcel of land. The amendments both received favorable committee votes.

The Committee also passed HJR 1569, which proposes to amend the Florida Constitution to prohibit the transfer of private property taken by eminent domain pursuant to a petition filed on or after January 2, 2007 except under limited circumstances. The proposed amendment would allow the transfer of property taken pursuant to eminent domain for: use by a party providing common carrier services; use as a road or right of way open to the public for transportation; use by an entity in providing electricity, gas, water, wastewater, storm water, runoff, sewer, pipeline or telephone services or to eliminate an existing threat to public health or safety.

Representative Evers again offered an amendment, which was adopted, that clarified that a condemning entity may only transfer property after it has held the parcel for 5 years. The Committee voted favorably for HJR 1569 as amended, with Representatives Joyner, Greenstein and Seiler voting against the resolution.

HJR 1571, which proposes to amend the Florida Constitution to provide that when a person's homestead property is taken by eminent domain and the person purchases another property within 2 years of the taking and establishes the property as his or her homestead, the newly established homestead property must be initially assessed at less than just value, as provided by general law. HJR 1571 also received a favorable vote.

Both of these House Joint Resolutions, if passed by the Legislature, would be placed on the next general election ballot for the citizens of Florida to approve.

Chairman Rubio asked the Committee to give suggestions for which House committees the bills should be referred to for consideration. The Committee members suggested that the bills be considered by the House Growth Management Committee, House Local Government Council and the House Justice Council.

**While AIF strongly supports efforts to boost economic development throughout the state, these projects should not proceed through the sacrifice of existing businesses. AIF supports legislation to ensure that when local government takes private property through eminent domain there are proper limitations and procedures in place to protect the rights of private property owners.**

## COMMITTEE PRESENTATIONS

### Affordable Housing

The Legislative Committee on Intergovernmental Relations heard a presentation from Jaimie Ross of 1000 Friends of Florida on the current and critical issues affecting affordable housing in Florida. The national housing market's average appreciation for a home is just over 13%. Here in Florida, it is approximately 24%, making it very difficult for employees to afford homes in some of the markets where jobs are available. In its many forms, affordable housing includes workforce housing which is critical to Florida's industries. The presentation centered around three main points to create affordable housing in the state: (1) Community Land Trusts, (2) The Sadowski Act, and (3) Mobile Home Parks.

Community land trusts are a tool for providing options to those who would otherwise have to rent or leave the community all together. The trusts make housing more affordable because the homeowner is not paying for the land. The benefit of keeping these people in the community comes in the way of mortgages and other loans. However, in order for this program to work, the state must seek partnerships with local governments. The biggest challenge to the community land trusts are Ad Valorem taxes, since most municipalities want to hold on to this revenue source as much as possible.

Senator Evelyn Lynn (R-Ormond Beach) inquired about the effect of land trusts on impact fees. The response was that impact fees are a local issue but they are usually waived or deferred by the local government.

The Sadowski Act, created in 1992, grants funds for affordable housing on a population basis. The projected Sadowski budget for FY 06-07 is approximately \$588 million. Unfortunately, there is a \$243 million dollar cap on Sadowski Act funds currently in place. The projected need for FY 2007-2008 is around \$500 million. In order to fund this need the cap would have to be removed by the legislature.

Representative Adam Hasner (R-Delray Beach) asked how the state arrived at a figure of \$500 million dollars worth of need and how many subsidies actually depend on these local programs. He also inquired about Ad Valorem taxes on the affected property. Ms. Ross responded that on average there were 15,000 units a year benefiting from this program. In 2002, the funding dropped and numbers fell to around 8,000 units. She also stated that Ad Valorem taxes could be deferred.

Mobile home parks are an important part of the affordable housing stock but they are disappearing at rapid rates across the state because parks are closing and being redeveloped, thereby depleting affordable housing stock. Current law provides that local governments can not change the land use if it will make the current residents homeless. However, local governments have been ignoring this on the basis that the law does not dictate “affordable” it simply dictates housing.

The committee voted to send the Speaker and President a letter urging removal of the cap on the Sadowski Act funds and full appropriation for state and local housing trusts funds.

**The issue of affordable or “workforce” housing is a priority for our state. AIF applauds the efforts of the legislature in trying to find a solution. We look forward to working with all bill sponsors on finding common sense approaches to this complex issue.**

Please send your comments or suggestions to us at [aif@aif.com](mailto:aif@aif.com) or call the Governmental Affairs department at (850)224-7173.

- For more information on all of the important legislative information concerning the business community, go to our “members only” Florida Business Network web site at <http://fbnnet.com>
- Send us your E-mail address and we will begin to send this report to you automatically via E-mail.