



# DAILY BRIEF

For the 2020 Legislative Session

**From January 16, 2020**

## **LEGAL & JUDICIAL**

### **HB 519 – Relating to Private Property Rights Protection**

On Thursday, January 16, **HB 519** by Representative James Grant (R-Tampa) was heard in the House Civil Justice Subcommittee and was reported favorable with 10 yeas and 5 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

The Takings Clause of the U.S. Constitution prohibits the government from depriving a person of his or her private property for public use "without just compensation." However, not every government action burdening private property amounts to an illegal "taking" under the Takings Clause. Florida law provides legal remedies when a local government burdens property rights in a manner that does not amount to a "taking".

The bill requires a local government, when settling property rights claims, to treat similar properties similarly. If the government settles or the property owner secures a judgment declaring an inordinate burden, there is a presumption that similarly situated parcels are also inordinately burdened and entitled to the same settlement terms or judicial determination. The bill also makes it easier for a private property owner to challenge a local regulation burdening his or her property by:

- Allowing a jury or the court to consider business damages in making its damages calculation;
- Removing a provision allowing the government to seek attorney fees and costs when a property owner refuses a bona fide offer which reasonably would have resolved the property claim fairly.

Additionally, when a local government is poised to impose an exaction upon private property, the bill allows the property owner to sue without having to wait for written notice of the exaction.

HB 519 will now move to the House Commerce Committee.

**AIF supports private property rights which create a prosperous business climate in Florida.**

## **HB 741 – Asbestos Trust Claims**

On Thursday, January 16, **HB 741** by Representative Tom Leek (R-Daytona Beach) was heard in the House Civil Justice Subcommittee and was reported favorable with 10 yeas and 5 nays. **AIF’s Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

Asbestos is the name given to six naturally occurring fibrous minerals resistant to chemical, thermal, and electricity damage historically used in construction, manufacturing, and fireproofing. When handled, asbestos separates into microscopic particles, exposure to which causes cancer and other diseases, including lung cancer, mesothelioma, and asbestosis, which can take 20 to 40 years to develop following initial exposure.

Workers exposed to asbestos began falling ill and in turn sued the corporations responsible for their exposure. As the suits against these corporations piled up, many filed for reorganization under Chapter 11 of the United States Bankruptcy Code, which in turn stayed all current suits against the respective corporation.

The bankruptcy court faced a unique scenario, where corporations were able to reorganize while shielded from future suits. These suits would instead be filed against a trust fund formed by the company seeking bankruptcy reorganization.

Presently, where liability for an asbestos injury comes from both a trust and a solvent corporation, an injured person may sue the solvent corporation to recover its share of the harm, and a court may offset the judgment by the amount of trust payments the plaintiff received for the same injury. However, where a plaintiff files a trust claim after obtaining a judgment in a civil action alleging the same injury, a court loses its ability to offset the judgment against the solvent defendant. Plaintiffs use this loophole to increase their compensation for a single injury, essentially double-dipping.

This bill:

- Requires a plaintiff to:
  - Provide a sworn statement verifying that he or she conducted an investigation of all asbestos trust claims and filed all asbestos trust claims he or she is eligible to file.
  - Identify all asbestos trust claims the plaintiff filed and provide all trust claim material.
- Allows a court stay an asbestos action if the plaintiff did not file an asbestos trust claim he or she was eligible to file.
- Allows a defendant to seek discovery directly from an asbestos trust and requires the plaintiff to provide all necessary permissions for the release of trust claim material and governance documents.
- Allows a trial court to adjust the judgment in an asbestos action by the amount of any subsequent asbestos trust payments made to the plaintiff if the plaintiff makes an asbestos trust claim after obtaining a judgment in the asbestos action.

HB 741 will now move to the House Justice Appropriations Subcommittee.

**AIF supports legislation that curbs “double dipping” of the asbestos trust fund which ensures that all Floridians affected may be adequately compensated.**

## **JDC1 – Relating to Constitutional Amendments Proposed by Initiative**

On Thursday, January 16, **JDC1** by the House Judiciary Committee was heard in the House Judiciary Committee and was reported favorable with 12 yeas and 6 nays. **AIF’s Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

The Florida Constitution is the charter of the liberties of Floridians. It may be amended only if the voters approve an amendment originating from the Legislature, the Constitution Revision Commission, the Taxation and Budget Reform Commission, a constitutional convention, or a citizen initiative.

The PCB modifies several aspects of the citizen initiative process to increase transparency, strengthen the integrity of the ballot, and reduce costs for the supervisors of elections. Specifically, the PCB changes the deadline for gathering signatures, the Fiscal Impact Estimating Conference (FIEC) analysis process, the ballot language requirements, and the requirements for supervisors of elections.

**AIF supports the measures contained in this bill to prevent interest groups’ circumvention of the legislature in revising Florida’s constitution.**

## **ECONOMIC DEVELOPMENT**

### **HB 115 – Keep Our Graduates Working Act**

On Thursday, January 16, **HB 115** by Representative Nicholas Duran (D-Miami) was heard in the House Commerce Committee and was reported favorable with 22 yeas and 0 nays.

The bill removes the state authority to take disciplinary action against a healthcare practitioner who defaults on a student loan or who fails to comply with the terms of a service scholarship. Under the bill, a healthcare practitioner may not have his or her license suspended or revoked by the Department of Health (DOH) solely because of a loan default or failure to complete service scholarship obligations.

Additionally, the bill specifies that a state authority may not suspend or revoke a license that it has issued to a person who is in default on or delinquent in the payment of his or her student loans solely on the basis of such default or delinquency. The bill defines the term “state authority” to mean any department, board, or agency with the authority to grant a license to any person in this state.

SB 356 will now move to the Senate floor.

**AIF supports efforts to protect Florida’s workforce from professional license revocation exclusively due to loan default.**