

**STORAGE NAME:** h1173a.ca

**DATE:** April 4, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
COMMUNITY AFFAIRS  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT - LOCAL LEGISLATION**

**BILL #:** HB 1173

**RELATING TO:** Collier County

**SPONSOR(S):** Representative Saunders and Spratt

**COMPANION BILL(S):** None

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) COMMUNITY AFFAIRS YEAS 7 NAYS 0
  - (2)
  - (3)
  - (4)
  - (5)
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**I. SUMMARY:**

This bill extinguishes certain perimeter and bisecting easements within the Golden Gate Estates subdivisions, located in Collier County, as of midnight, December 31, 1999, because of nonuse. However, those easements which are in actual use as a road, for drainage, or for utility facilities, will not be extinguished if proper notice of claim to the easements is recorded in the official records of Collier County not later than December 31, 1999.

The Economic Impact Statement indicates that expected costs are those associated with newspaper advertising once each year for three years, for approximately \$350.00 per year.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

In the mid-to-late 1960's the Gulf American Corporation began developing the Golden Gate Estates subdivision located in Collier County. The subdivision was platted in 5-acre plots. Included in the recordation of the plats was the reservation of perimeter and bisecting easements. The purpose of the reservation of the perimeter and bisecting easements was to allow for the subdivision of the 5-acre plots and allowing for the creation of roadways, drainage, etc.

Development of the Golden Gate Estates subdivision is controlled by the Collier County Land Development Regulations (LDR). The LDRs prohibit the subdivision of plots in this area into parcels smaller than 2 ½-acres. Because of the perimeter and bisecting easements reserved in each 5-acre plot, effectively, the plots cannot be subdivided.

Chapter 712, Florida Statutes, the "*Marketable Record Titles to Real Property Act*" provides that interests in real property, including unused easements, are extinguished if the respective interest clouds the otherwise marketable title and the interest was recorded 30 years or more preceding the date when the "marketability" of the respective affected real property is being determined. The potentially negatively affected (clouded) title to the real property becomes "free and clear of all [such] claims."

B. EFFECT OF PROPOSED CHANGES:

Easements that have not and are not being used will be extinguished as of midnight, December 31, 1999. This will clear the titles of many 5-acre plots currently clouded, and allow them to be subdivided into 2 ½-acre plots.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

None.

D. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

Not applicable.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

(2) what is the cost of such responsibility at the new level/agency?

(3) how is the new agency accountable to the people governed?

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

Not applicable.

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

- b. Does the bill directly affect the legal rights and obligations between family members?

Not applicable.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

Not applicable.

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

E. SECTION-BY-SECTION RESEARCH:

Section 1. Provides that all perimeter and bisecting easements shall be extinguished and be void as of midnight, December 31, 1999, except to the extent that an easement in actual use is claimed. Provides that notice of claim to the right of an easement, as described in section 712.06, Florida Statutes, must be recorded in the official records of Collier County not later than December 31, 1999.

Section 2. Provides that this act does not modify any effect that chapter 712, Florida Statutes, could have over any of the easements.

Section 3. Provides that a copy of this law be published prior to July 1, 1997, and prior to July 1 for the next 3 years in a newspaper of general circulation within the Golden Gate Estates subdivision areas.

Section 4. Provides an effective date of upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 15, 1996

WHERE? Naples Daily News, Naples, Florida

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

IV. COMMENTS:

Comments of the Collier County Attorney

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- This bill does not affect any power of any lot owner who desires that an easement exist on, over or across his parcel of land. The landowner may grant such an easement to whomever the landowner chooses.
- If an easement is claimed by the filing of a "notice of claim," that claimed easement can later be vacated in whole or in part.
- To the extent that a private road is in actual use within the bisecting and/or perimeter easement, the owner of any interior lot can validly claim all used parts of such easements for the road from the lot out to one or both of the nearest intersecting roads. Each landowner's claim for a private road easement automatically includes all drainage and utility purposes associated therewith.
- Any owner or any drainage facilities in any easement and any owner of any utility facilities in any easement can claim the entire width and length of so much of the easement in which any of those facilities then exist. Claims for a utility easement or a drainage easement are valid if any of those facilities are in place even though the easement is not being used as a road or never has been used as a road.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

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Marjorie Renee Hill

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