

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Environmental Preservation Committee

BILL: CS/SB 964

SPONSOR: Environmental Preservation Committee and Senator Smith

SUBJECT: Coastal Properties

DATE: February 15, 2005 REVISED: 3/29/05

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kiger	Kiger	EP	Fav/CS
2.			RI	
3.				
4.				
5.				
6.				

I. Summary:

This bill prescribes additional requirements for sellers of certain coastal real property to include when providing a disclosure statement regarding the character of regulations for properties impacted by the coastal construction control line. The proposed new requirements would require the seller to disclose:

- That the property may be subject to coastal erosion and certain federal, state, or local environmental laws that regulate coastal property.
- The Department of Environmental Protection (DEP) designates areas of the coastline as critically eroding, and if so, provides information that the designated critical erosion areas may prove hazardous to coastal structures and human life.
- Whether there are sea turtle issues or other environmental concerns that may effect the permitting of certain activities.

This bill substantially amends s. 161.57, F.S.:

II. Present Situation:

Section 161.57, F.S. requires that the seller of coastal property inform the buyer if the property is located partially or totally seaward of the coastal construction control line. It does not require the seller to provide any further information such as if the property is located in a critically eroding area, is known to have sea turtle nests, or is in an area that has restrictions on the use of lights.

The current statute also allows the purchaser to waive the right to be informed of the location of the coastal construction control line.

Erosion is defined by the DEP, pursuant to section 161.161, F.S. The DEP designates each area along Florida's coast as eroding, critically eroding or accreting. This information is posted on the DEP webpage under the *Beaches* section, and a property owner can find out his or her designation by looking under the county map where the property is located.¹ The map is set up by dividing areas into R-monuments or range monuments. By comparing the location of the property under the county maps with the location of the areas designated as eroding, critically eroding or accreting, the property owner can see how the DEP has classified the property.²

Critical erosion impacts the value of property a great deal more than is often acknowledged. Estimation of the amount of depression of coastal property values due to erosion over the next twenty years for properties along the Atlantic coast of the U.S. have been between \$1.7 and \$2.7 billion.³ In Florida, the annual budget of federal funds for beach nourishment is over \$42 million. The 2003-04 fiscal year budget for Florida state funds was over \$48 million and local municipalities spent over \$65 million.⁴

Throughout the country, other states such as California, Oregon, and South Carolina have begun to recognize that the potential of natural hazards, specific erosion rates and any other issue concerning the value of coastal property should be disclosed to potential buyers.⁵

III. Effect of Proposed Changes:

The bill amends section 161.57, F.S., known as "Coastal Properties Disclosure Statement", new provisions would:

- Ensure that the purchasers of interests in real property located in coastal areas partially or totally seaward of the coastal construction line as defined in s. 161.053, F.S. are fully apprised of the character of the regulation of the real property in such coastal areas and, in particular, that such lands are subject to frequent and severe fluctuations that may prove hazardous to coastal structures and human life.
- Require the seller to provide the purchaser with an affidavit which explains the property may be subject to coastal erosion and any federal, state or local laws that regulate coastal property.
- Require the affidavit to provide information that DEP has designated areas of the coastline as critically eroding, and if so, the DEP has information stating that critical erosion may prove hazardous to coastal structures and human life, and that information

¹ Florida Department of Environmental Protection, *Beaches and Coastal Publications. Technical Reports (2003)* at <http://www.dep.state.fl.us/beaches/publications/centymaps.htm#county-maps>

² Florida Department of Environmental Protection, *Critical Erosion Areas (Maps Only) (1999)* at <http://www.dep.state.fl.us/beaches/publications/pdf/ero-area.pdf>

³ The H. John Heinz III Center, *Evaluation of Erosion Hazards Summary 1 (2000)* at http://www.heinzctr.org/NEW_WEB/PDF/erosnum.pdf#zoom=100

⁴ Florida Department of Environmental Protection, *Florida Beach Erosion Control Program Fixed capital Outlay Legislative Budget Request for FY 2003-04 (2002)* at <http://www.dep.state.fl.us/beaches/programs/pdf/fco03-04.pdf>

⁵ Ryan Osborne, and Thomas Ankersen, *University of Florida Conservation Clinic Document, Amendment Report, April 2004.*

about whether the property being transferred is located in an area that has been designated as critically eroding can be obtained by contacting DEP's Bureau of Beaches and Coastal Systems.

- Require the seller to disclose that the beach may be a sea turtle nesting site or have the presence of marine turtle hatchlings, and to state that other environmental concerns may affect the ability of a property owner to install rigid coastal armoring.

This act shall take effect July 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A seller of property can anticipate additional expenses related to identifying the additional information needed in the affidavit.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

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