



Civil Justice Subcommittee

**Tuesday, February 10, 2015
10:30 AM - 1:30 PM
Sumner Hall (404 HOB)**

ACTION PACKET

**Steve Crisafulli
Speaker**

**Kathleen Passidomo
Chair**

COMMITTEE MEETING REPORT

Civil Justice Subcommittee

2/10/2015 10:30:00AM

Location: Sumner Hall (404 HOB)

Summary:

Civil Justice Subcommittee

Tuesday February 10, 2015 10:30 am

HB 133	Favorable With Committee Substitute	Yeas: 13	Nays: 0
	Amendment 578825 Adopted Without Objection		
	Strike All		
HB 283	Favorable	Yeas: 13	Nays: 0
HB 307	Favorable With Committee Substitute	Yeas: 13	Nays: 0
	Amendment 048279 Adopted Without Objection		
	Am 1		
	Amendment 160859 Adopted Without Objection		
	Am 2		
	Amendment 504217 Adopted Without Objection		
	Am 3		
HB 343	Favorable With Committee Substitute	Yeas: 13	Nays: 0
	Amendment 037403 Adopted Without Objection		
	Am 1		
	Amendment 116099 Adopted Without Objection		
	Am 2		
	Amendment 281593 Adopted Without Objection		
	Am 3		
	Amendment 646371 Adopted Without Objection		
	Am 4		
HB 383	Favorable With Committee Substitute	Yeas: 13	Nays: 0
	Amendment 621959 Adopted Without Objection		
	Am 1		
	Amendment 846659 Adopted Without Objection		
	Am 2		

Committee meeting was reported out: Tuesday, February 10, 2015 2:41:18PM

COMMITTEE MEETING REPORT

Civil Justice Subcommittee

2/10/2015 10:30:00AM

Location: Sumner Hall (404 HOB)

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Kathleen Passidomo (Chair)	X		
Lori Berman	X		
Colleen Burton	X		
Dwight Dudley	X		
Walter Hill	X		
Kionne McGhee	X		
Larry Metz	X		
George Moraitis, Jr.	X		
Cary Pigman	X		
Cynthia Stafford	X		
Charlie Stone	X		
Jennifer Sullivan	X		
John Wood	X		
Totals:	13	0	0

Committee meeting was reported out: Tuesday, February 10, 2015 2:41:18PM

COMMITTEE MEETING REPORT

Civil Justice Subcommittee

2/10/2015 10:30:00AM

Location: Sumner Hall (404 HOB)

HB 133 : Sexual Offenses

Favorable With Committee Substitute

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Lori Berman	X				
Colleen Burton	X				
Dwight Dudley	X				
Walter Hill	X				
Kionne McGhee	X				
Larry Metz	X				
George Moraitis, Jr.	X				
Cary Pigman	X				
Cynthia Stafford	X				
Charlie Stone	X				
Jennifer Sullivan	X				
John Wood	X				
Kathleen Passidomo (Chair)	X				
	Total Yeas: 13	Total Nays: 0			

HB 133 Amendments

Amendment 578825

Adopted Without Objection

Appearances:

HB 133

Sullivan, Danielle - Proponent

43 Days Initiative

687 Mourning Dove Circle

Lake Mary Florida 32746

Phone: 407-340-5104

Committee meeting was reported out: Tuesday, February 10, 2015 2:41:18PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> ✓ </u>	(Y/N) 2/10/15
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Plasencia offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

6 Section 1. This act may be cited as the "43 Days
7 Initiative Act."

8 Section 2. Subsection (14) of section 775.15, Florida
9 Statutes, is amended to read:

10 775.15 Time limitations; general time limitations;
11 exceptions.—

12 (13)

13 (b) If the offense is a first degree felony violation of
14 s. 794.011 and the victim was under 18 years of age at the time
15 the offense was committed, a prosecution of the offense may be
16 commenced at any time. This paragraph applies to any such



Amendment No. 1

17 offense except an offense the prosecution of which would have
18 been barred by subsection (2) on or before October 1, 2003.

19 (14) (a) A prosecution for a first or second degree felony
20 violation of s. 794.011, if the victim is 16 ~~18~~ years of age or
21 older at the time of the offense and the offense is reported to
22 a law enforcement agency within 72 hours after commission of the
23 offense, may be commenced at any time. ~~If the offense is not~~
24 ~~reported within 72 hours after the commission of the offense,~~
25 ~~the prosecution must be commenced within the time periods~~
26 ~~prescribed in subsection (2).~~

27 (b) Except as provided in paragraph (a) or paragraph
28 (13) (b), a prosecution for a first or second degree felony
29 violation of s. 794.011, if the victim is 16 years of age or
30 older at the time of the offense, must be commenced within 10
31 years after the violation is committed. This paragraph applies
32 to any such offense except an offense the prosecution of which
33 would have been barred by subsection (2) on or before July 1,
34 2015.

35 Section 3. This act shall take effect July 1, 2015.

37 -----
38 **T I T L E A M E N D M E N T**

39 Remove everything before the enacting clause and insert:

40 A bill to be entitled

41 An act relating to sexual offenses; providing a short
42 title; amending s. 775.15, F.S.; revising time



Amendment No. 1

43 | limitations for the criminal prosecution of specified
44 | sexual battery offenses if the victim is 16 years of
45 | age or older; providing applicability; providing an
46 | effective date.

COMMITTEE MEETING REPORT

Civil Justice Subcommittee

2/10/2015 10:30:00AM

Location: Sumner Hall (404 HOB)

HB 283 : Transfers to Minors

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Lori Berman	X				
Colleen Burton	X				
Dwight Dudley	X				
Walter Hill	X				
Kionne McGhee	X				
Larry Metz	X				
George Moraitis, Jr.	X				
Cary Pigman	X				
Cynthia Stafford	X				
Charlie Stone	X				
Jennifer Sullivan	X				
John Wood	X				
Kathleen Passidomo (Chair)	X				
	Total Yeas: 13	Total Nays: 0			

Appearances:

HB 283

Edenfield, Martha (Lobbyist) - Waive In Support

Real Property, Probate & Trust Law Section of the Florida Bar
215 S Monroe St, #815
Tallahassee FL 32301
Phone: 850-999-4100

HB 283

Pratt, Kenneth - Waive In Support

Florida Bankers Association
1001 Thomasville Rd, Ste 201
Tallahassee FL 32303
Phone: 850-224-2265

Committee meeting was reported out: Tuesday, February 10, 2015 2:41:18PM

COMMITTEE MEETING REPORT

Civil Justice Subcommittee

2/10/2015 10:30:00AM

Location: Sumner Hall (404 HOB)

HB 307 : Mobile Homes

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Lori Berman	X				
Colleen Burton	X				
Dwight Dudley	X				
Walter Hill	X				
Kionne McGhee	X				
Larry Metz	X				
George Moraitis, Jr.	X				
Cary Pigman	X				
Cynthia Stafford	X				
Charlie Stone	X				
Jennifer Sullivan	X				
John Wood	X				
Kathleen Passidomo (Chair)	X				
	Total Yeas: 13	Total Nays: 0			

HB 307 Amendments

Amendment 048279

Adopted Without Objection

Amendment 160859

Adopted Without Objection

Amendment 504217

Adopted Without Objection

Appearances:

HB 307

Killinger, Lori (Lobbyist) - Waive In Support
Florida Manufactured Housing Association
315 S Calhoun St
Tallahassee FL 32301
Phone: 850-222-5702

Committee meeting was reported out: Tuesday, February 10, 2015 2:41:18PM

COMMITTEE MEETING REPORT

Civil Justice Subcommittee

2/10/2015 10:30:00AM

Location: Sumner Hall (404 HOB)

HB 307 : Mobile Homes (continued)

Appearances: (continued)

HB 307

Stewart, Nancy (Lobbyist) - Waive In Support

Federation of Manufactured Home Owners of Florida, Inc

1535 Killearn Center Blvd

Tallahassee FL 32309

Phone: (850)385-7805

Committee meeting was reported out: Tuesday, February 10, 2015 2:41:18PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)	
ADOPTED AS AMENDED	—	(Y/N)	
ADOPTED W/O OBJECTION	√	(Y/N)	2/10/15
FAILED TO ADOPT	—	(Y/N)	
WITHDRAWN	—	(Y/N)	
OTHER	—		

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Latvala offered the following:

Amendment (with title amendment)

T I T L E A M E N D M E N T

7 Remove lines 27-34 and insert:
 8 revising requirements for the recall of board members; creating
 9 s. 723.1255, F.S.; providing requirements for the alternative
 10 resolution of recall disputes; creating s. 723.0781, F.S.;
 11 specifying certification or educational requirements for a newly
 12 elected or appointed board member;



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)	
ADOPTED AS AMENDED	—	(Y/N)	
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N)	2/10/15
FAILED TO ADOPT	—	(Y/N)	
WITHDRAWN	—	(Y/N)	
OTHER	_____		

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Latvala offered the following:

Amendment

Between lines 104 and 105, insert:

6 (7) (a) "Mediation" means a process whereby a mediator
 7 appointed by the Division of Florida Condominiums, Timeshares,
 8 and Mobile Homes or mutually selected by the parties acts to
 9 encourage and facilitate the resolution of a dispute. It is an
 10 informal and nonadversarial process with the objective of
 11 helping the disputing parties reach a mutually acceptable
 12 agreement.

13 (b) For purposes of mediation, under s. 723.037 and s.
 14 723.038, the term "parties" means a park owner as defined by s.
 15 723.003(13) and a homeowners' committee selected pursuant to s.
 16 723.037.

17



Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<input type="checkbox"/>	(Y/N)
ADOPTED AS AMENDED	<input type="checkbox"/>	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N) <i>2/10/15</i>
FAILED TO ADOPT	<input type="checkbox"/>	(Y/N)
WITHDRAWN	<input type="checkbox"/>	(Y/N)
OTHER	<input type="checkbox"/>	

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Latvala offered the following:

Amendment

Remove line 124 and insert:

6 (10)-(5) The term "Mobile home owner," "mobile homeowner,"
 7 or "home owner," or "homeowner" means

COMMITTEE MEETING REPORT

Civil Justice Subcommittee

2/10/2015 10:30:00AM

Location: Sumner Hall (404 HOB)

HB 343 : Estates

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Lori Berman	X				
Colleen Burton	X				
Dwight Dudley	X				
Walter Hill	X				
Kionne McGhee	X				
Larry Metz	X				
George Moraitis, Jr.	X				
Cary Pigman	X				
Cynthia Stafford	X				
Charlie Stone	X				
Jennifer Sullivan	X				
John Wood	X				
Kathleen Passidomo (Chair)	X				
Total Yeas: 13		Total Nays: 0			

HB 343 Amendments

Amendment 037403

Adopted Without Objection

Amendment 116099

Adopted Without Objection

Amendment 281593

Adopted Without Objection

Amendment 646371

Adopted Without Objection

Appearances:

HB 343 Am 1 & Bill
Edenfield, Martha (Lobbyist) - Waive In Support
Real Property, Probate & Trust Law Section of the Florida Bar
215 S Monroe St
Tallahassee FL 32399
Phone: (850)999-4100

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COMMITTEE MEETING REPORT

Civil Justice Subcommittee

2/10/2015 10:30:00AM

Location: Sumner Hall (404 HOB)

HB 343 : Estates (continued)

Appearances: (continued)

HB 343 Amendment 1

Pitts, Brian - Opponent

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

Committee meeting was reported out: Tuesday, February 10, 2015 2:41:18PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)	
ADOPTED AS AMENDED	—	(Y/N)	
ADOPTED W/O OBJECTION	<u>✓</u>	(Y/N)	2/10/15
FAILED TO ADOPT	—	(Y/N)	
WITHDRAWN	—	(Y/N)	
OTHER	—		

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Moraitis offered the following:

Amendment (with title amendment)

Between lines 12 and 13, insert:

Section 1. Paragraph (c) of subsection (2) and subsection (3) of section 733.212, Florida Statutes, is amended to read:

733.212 Notice of administration; filing of objections.—

(2) The notice shall state:

(c) That any interested person on whom a copy of the notice of administration is served must file on or before the date that is 3 months after the date of service of a copy of the notice of administration on that person any objection that challenges the validity of the will, ~~the qualifications of the personal representative,~~ the venue, ~~or~~ the jurisdiction of the court, or as otherwise provided by subsection (3). Except for estoppel based solely on a misstatement by the personal



Amendment No. 1

18 representative as to the time period within which an objection
19 must be filed, the 3 month time period may not be extended for
20 any reason, including affirmative representation, failure to
21 disclose information, or misconduct by the personal
22 representative or any other person. Unless sooner barred by
23 subsection (3), all objections to the validity of a will, or the
24 venue or jurisdiction of the court must be filed not later than
25 the earlier of entry of an order of final discharge of the
26 personal representative or one year after service of notice of
27 administration.

28 (3) Any interested person on whom a copy of the notice of
29 administration is served must object to the validity of the
30 will, ~~the qualifications of the personal representative,~~ the
31 venue, or the jurisdiction of the court by filing a petition or
32 other pleading requesting relief in accordance with the Florida
33 Probate Rules on or before the date that is 3 months after the
34 date of service of a copy of the notice of administration on the
35 objecting person, or those objections are forever barred. Except
36 for estoppel based solely on a misstatement by the personal
37 representative as to the time period within which an objection
38 must be filed, the 3 month time period may not be extended for
39 any reason, including affirmative representation, failure to
40 disclose information, or misconduct by the personal
41 representative or any other person. Unless sooner barred under
42 this subsection, all objections to the validity of a will, or
43 the venue or jurisdiction of the court must be filed not later

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Amendment No. 1

44 than the earlier of one year after service of notice of
45 administration or entry of an order of final discharge of the
46 personal representative.

47 Section 2. Section 733.2123, Florida Statutes, is amended
48 to read:

49 733.2123 Adjudication before issuance of letters.—A
50 petitioner may serve formal notice of the petition for
51 administration on interested persons. A copy of the will offered
52 for probate must be attached to the notice. A person who is
53 served with such notice before the issuance of letters or who
54 has waived notice may not challenge the validity of the will,
55 testacy of the decedent, ~~qualifications of the personal~~
56 ~~representative,~~ venue, or jurisdiction of the court, except in
57 the proceedings before issuance of letters.

58 Section 3. Effective upon this act becoming a law, section
59 733.3101, Florida Statutes, is amended to read:

60 733.3101 Personal representative not qualified.—

61 (1) A personal representative shall resign immediately
62 when the personal representative knows that he or she was not
63 qualified to act at the time of appointment.

64 (2) Any time a personal representative who was qualified
65 to act at the time of appointment knows or should have known
66 that he or she would not be qualified for appointment if
67 application for appointment were then made, the personal
68 representative shall promptly file and serve a notice setting
69 forth the reasons. The notice must state that any interested



Amendment No. 1

70 person may petition to remove the personal representative. An
71 interested person on whom a copy of the notice is served may
72 file a petition within 30 days after service of the notice
73 requesting the personal representative's removal.

74 (3) A personal representative who fails to comply with
75 this section shall be personally liable for costs, including
76 attorney's fees, incurred in any removal proceeding, if the
77 personal representative is removed. The liability shall extend
78 to any personal representative who does not know but should have
79 known of the facts that would otherwise require the personal
80 representative to resign under subsection (1) or file and serve
81 notice under subsection (2). This liability shall be cumulative
82 to any other provided by law.

83 (4) As used in this section, the term "qualified" means
84 qualified under ss. 733.302-733.305.

85 Section 4. Effective upon this act becoming a law, section
86 733.504, Florida Statutes, is amended to read:

87 733.504 Removal of personal representative; causes for
88 removal.—

89 (1) A personal representative shall be removed and the
90 letters revoked if he or she was not qualified to act at the
91 time of appointment.

92 (2) A personal representative may be removed and the
93 letters revoked for any of the following causes, ~~and the removal~~
94 ~~shall be in addition to any penalties prescribed by law:~~

95 (a) ~~(1)~~ Adjudication that the personal representative is



Amendment No. 1

96 incapacitated.

97 ~~(b)(2)~~ Physical or mental incapacity rendering the
98 personal representative incapable of the discharge of his or her
99 duties.

100 ~~(c)(3)~~ Failure to comply with any order of the court,
101 unless the order has been superseded on appeal.

102 ~~(d)(4)~~ Failure to account for the sale of property or to
103 produce and exhibit the assets of the estate when so required.

104 ~~(e)(5)~~ Wasting or maladministration of the estate.

105 ~~(f)(6)~~ Failure to give bond or security for any purpose.

106 ~~(g)(7)~~ Conviction of a felony.

107 ~~(h)(8)~~ Insolvency of, or the appointment of a receiver or
108 liquidator for, any corporate personal representative.

109 ~~(i)(9)~~ Holding or acquiring conflicting or adverse
110 interests against the estate that will or may interfere with the
111 administration of the estate as a whole. This cause of removal
112 shall not apply to the surviving spouse because of the exercise
113 of the right to the elective share, family allowance, or
114 exemptions, as provided elsewhere in this code.

115 ~~(j)(10)~~ Revocation of the probate of the decedent's will
116 that authorized or designated the appointment of the personal
117 representative.

118 ~~(k)(11)~~ Removal of domicile from Florida, if domicile was
119 a requirement of initial appointment.

120 ~~(l)(12)~~ The personal representative was qualified to act
121 at the time of appointment but would not now be entitled to



Amendment No. 1

122 appointment.

123 (3) Removal pursuant to this section shall be in addition
124 to any penalties prescribed by law.

125 Section 5. (1) The amendments made by this act to s.
126 733.212, Florida Statutes, apply to proceedings filed on or
127 after July 1, 2015.

128 (2) The amendments made by this to s. 733.3101 and s.
129 733.504, Florida Statutes, apply to proceedings pending on the
130 date this act becomes a law.

131

132 -----

133 **T I T L E A M E N D M E N T**

134 Remove line 2 and insert:

135 An act relating to estates; amending s. 733.212, F.S.; revising
136 the content of a notice of administration; providing that the
137 time to file certain objections to a notice of administration
138 may not be extended; providing an exception; specifying the time
139 that all objections to the validity of the will, venue, or
140 jurisdiction of the court must be filed; amending s. 733.2123,
141 F.S.; requiring that a copy of the will be attached to a formal
142 notice of the petition for administration; amending s. 733.3101,
143 F.S.; requiring a personal representative to resign under
144 certain circumstances; requiring a personal representative to
145 provide notice if unqualified; specifying contents of notice;
146 authorizing interested persons to petition for the removal of
147 unqualified personal representative; defining the term



Amendment No. 1

148 "qualified"; amending s. 733.504, F.S.; requiring that a
149 personal representative who was unqualified at the time of
150 appointment be removed and have his or her letters of
151 administration revoked; providing that a previously qualified
152 personal represented may be removed if he or she is no longer
153 entitled to appointment; providing for applicability; amending
154 s. 733.817, F.S.;



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N) 2/10/15
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Moraitis offered the following:

Amendment

Remove lines 638-647 and insert:

6 Section 2. (1) Section 733.817(1)(g) and (2)(c), Florida
 7 Statutes, are intended to clarify existing law and apply
 8 retroactively to all proceedings pending or commenced after July
 9 1, 2015, in which the apportionment of taxes has not been
 10 finally determined or agreed for estates of decedents dying on
 11 or after January 1, 2005.

12 (2) Section 733.817(1)(e)3., (3)(e), (3)(g), (4)(b),
 13 (4)(c), (4)(d)1.b., (4)(e), (4)(h), and (6), Florida Statutes,
 14 apply to the estates of decedents dying on or after July 1,
 15 2015.



Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<u>Y</u>	(Y/N) 2/10/15
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Moraitis offered the following:

Amendment (with title amendment)

Between lines 653 and 654, insert:

Section 3. Subsection (4) of section 733.106, Florida Statutes, is amended to read:

733.106 Costs and attorney's fees.—

(4) (a) When costs and attorney's fees are to be paid from the estate pursuant to subsections (1)-(3), s. 733.6171(4), s. 736.1005, or s. 736.1006, the court, in its discretion, may direct from what part of the estate they shall be paid. If the court directs an assessment against a person's part of the estate and that part is insufficient to fully pay the assessment, the court may direct payment from the person's part of a trust, if any, if a pourover will is involved and the matter is interrelated with the trust. All or any part of costs



Amendment No. 3

18 and attorney's fees to be paid from the estate may be assessed
19 against one or more person's part of the estate in such
20 proportions as the court finds to be just and proper.

21 (b) The court in the exercise of its discretion may
22 consider the following factors:

23 1. The relative impact of an assessment on the estimated
24 value of each person's part of the estate;

25 2. The amount of costs and attorney's fees to be assessed
26 against a person's part of the estate;

27 3. The extent to which a person whose part of the estate
28 is to be assessed, individually or through counsel, actively
29 participated in the proceeding;

30 4. The potential benefit or detriment to a person's part
31 of the estate expected from the outcome of the proceeding;

32 5. The relative strength or weakness of the merits of the
33 claims, defenses, or objections, if any, asserted by a person
34 whose part of the estate is to be assessed;

35 6. Whether a person whose part of the estate is to be
36 assessed was a prevailing party with respect to one or more
37 claims, defenses, or objections;

38 7. Whether a person whose part of the estate is to be
39 assessed unjustly caused an increase in the amount of attorney's
40 fees and costs incurred by the personal representative or other
41 interested persons in connection with the proceeding; and

42 8. Any other relevant fact, circumstance or equity.



Amendment No. 3

43 (c) The court may assess a person's part of the estate
44 without finding that the person engaged in bad faith, wrongdoing
45 or frivolousness.

46 Section 4. Subsection (2) of section 736.1005, Florida
47 Statutes, is amended to read:

48 736.1005 Attorney's fees for services to the trust.—

49 (2)(a) When ~~Whenever~~ attorney's fees are to be paid from
50 out of the trust pursuant to subsection (1) or s.

51 736.1007(5)(a), or when the court assesses attorney's fees

52 against a person's part of an estate under s. 733.106(4)

53 involving a pourover will and the matter is interrelated with

54 the trust but the person's part of the estate is insufficient to

55 fully pay the assessment, the court, in its discretion, may

56 direct from what part of the trust the fees shall be paid. All

57 or any part of attorney's fees to be paid from the trust may be

58 assessed against one or more persons' part of the trust in such

59 proportions as the court finds to be just and proper.

60 (b) The court in the exercise of its discretion may
61 consider the following factors:

62 1. The relative impact of an assessment or not on the
63 estimated value of each person's part of the trust;

64 2. The amount of attorney's fees to be assessed against a
65 person's part of the trust;

66 3. The extent to which a person whose part of the trust is
67 to be assessed, individually or through counsel, actively
68 participated in the proceeding;



Amendment No. 3

69 4. The potential benefit or detriment to a person's part
70 of the trust expected from the outcome of the proceeding;

71 5. The relative strength or weakness of the merits of the
72 claims, defenses, or objections, if any, asserted by a person
73 whose part of the trust is to be assessed;

74 6. Whether a person whose part of the trust is to be
75 assessed was a prevailing party with respect to one or more
76 claims, defenses, or objections;

77 7. Whether a person whose part of the trust is to be
78 assessed unjustly caused an increase in the amount of attorney's
79 fees incurred by the trustee or other persons in connection with
80 the proceeding; and

81 8. Any other relevant fact, circumstance or equity.

82 (c) The court may assess a person's part of the trust
83 without finding that the person engaged in bad faith, wrongdoing
84 or frivolousness.

85 Section 5. Subsection (2) of section 736.1006, Florida
86 Statutes, is amended to read:

87 736.1006 Costs in trust proceedings.—

88 (2) When ~~Whenever~~ costs are to be paid from out of the
89 trust pursuant to subsection (1) or when the court assesses
90 costs against a person's part of an estate under s. 733.106(4)
91 involving a pourover will and the matter is interrelated with
92 the trust but that person's part of the estate is insufficient
93 to fully pay the assessment, the court, in its discretion, may
94 direct from what part of the trust the costs shall be paid. All



Amendment No. 3

95 or any part of costs to be paid from the trust may be assessed
96 against one or more persons' part of the trust in such
97 proportions as the court finds to be just and proper. The court
98 in the exercise of its discretion may consider the factors set
99 forth in s. 736.1005(2) as they relate to costs to be paid from
100 the trust.

101
102 -----
103 **T I T L E A M E N D M E N T**

104 Remove line 9 and insert:

105 applicability; amending ss. 733.106, 736.1005, and 736.1006,
106 F.S.; providing for payment of costs and attorney's fees in
107 probate and trust proceedings from estate and trust assets;
108 authorizing a court to assess any or all fees against the share
109 of one or more persons in the estate or trust in a proportion
110 found to be just and proper by the court; authorizing the court
111 to consider certain factors in the exercise of its discretion;
112 providing an effective date.



Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N) 2/10/15
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Moraitis offered the following:

Amendment

Remove line 654 and insert:

6 Section 3. Except as otherwise expressly provided in this
 7 act, and except for this section which shall take effect upon
 8 this act becoming a law, this act shall take effect July 1,
 9 2015.

COMMITTEE MEETING REPORT

Civil Justice Subcommittee

2/10/2015 10:30:00AM

Location: Sumner Hall (404 HOB)

HB 383 : Private Property Rights

Favorable With Committee Substitute

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Lori Berman	X				
Colleen Burton	X				
Dwight Dudley	X				
Walter Hill	X				
Kionne McGhee	X				
Larry Metz	X				
George Moraitis, Jr.	X				
Cary Pigman	X				
Cynthia Stafford	X				
Charlie Stone	X				
Jennifer Sullivan	X				
John Wood	X				
Kathleen Passidomo (Chair)	X				
Total Yeas: 13		Total Nays: 0			

HB 383 Amendments

Amendment 621959

Adopted Without Objection

Amendment 846659

Adopted Without Objection

Appearances:

HB 383

Milita, M. Dale (Lobbyist) - Waive In Support
CAS Governmental Services - Hardee County
Box 35
Canal Point FL 33438
Phone: 561-718-2100

HB 383

Cruz, David (Lobbyist) - Opponent
Florida League of Cities
P.O. Box 1757
Tallahassee Florida 32302
Phone: 850-701-3676

Committee meeting was reported out: Tuesday, February 10, 2015 2:41:18PM

COMMITTEE MEETING REPORT

Civil Justice Subcommittee

2/10/2015 10:30:00AM

Location: Sumner Hall (404 HOB)

HB 383 : Private Property Rights (continued)

Appearances: (continued)

HB 383

James, Stephen (Lobbyist) - Opponent

Florida Association of Counties
100 S Monroe Street
Tallahassee FL 32301
Phone: 850-922-4300

HB 383

Kelly, Katie (Lobbyist) - Waive In Support

Fl Chamber of Commerce

HB 383

Ard, Samuel (Lobbyist) - Waive In Support

Florida Cattlemen's Association
PO Box 10406
Tallahassee FL
Phone: (850)577-6500

HB 383

Pierce, Lance (Lobbyist) - Waive In Support

Assistant Director of State Legislative Affairs, Florida Farm Bureau
315 S Calhoun St
Tallahassee FL
Phone: 850-222-2517

HB 383

Busk, Sarah (Lobbyist) - Waive In Support

Associated Industries of Florida
215 S Monroe St #602
Tallahassee FL 32301
Phone: 850-222-8900

HB 383

Hunter, Gary (Lobbyist) - Proponent

Association of Florida Community Developers, Inc/Property Rights Coalition
Attorney-Hopping Green & Sams
119 S Monroe Street
Tallahassee FL 32301
Phone: (850)222-7500

Committee meeting was reported out: Tuesday, February 10, 2015 2:41:18PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> Y </u>	(Y/N) 2/10/15
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Edwards offered the following:

Amendment

Remove lines 27-34 and insert:

6 legal title to the real property that is the subject of and
 7 directly impacted by the action by a governmental entity at
 8 issue. The term does not include a governmental entity.

9 (g) The term "real property" means land and includes any
 10 appurtenances and improvements to the land, including any other
 11 relevant real property in which the property owner has had a
 12 relevant interest. The term includes only parcels that are the
 13 subject of and directly impacted by the action by a governmental
 14 entity.



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<input type="checkbox"/>	(Y/N)
ADOPTED AS AMENDED	<input type="checkbox"/>	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N) 2/10/15
FAILED TO ADOPT	<input type="checkbox"/>	(Y/N)
WITHDRAWN	<input type="checkbox"/>	(Y/N)
OTHER	<input type="checkbox"/>	

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Edwards offered the following:

Amendment

Remove lines 95-121 and insert:

6 (1) If governmental entities impose conditions on private
 7 property which are unrelated and disproportionate to the harm
 8 caused by the use requested by the property owner, such
 9 conditions may rise to a level constituting an unconstitutional
 10 exaction in contradiction of the State Constitution and United
 11 States Constitution unless the relevant governmental entity can
 12 demonstrate that the conditions imposed have an essential nexus
 13 to a legitimate public purpose and rough proportionality to the
 14 harm of the proposed use that the governmental entity is seeking
 15 to avoid, minimize, or mitigate. Where unconstitutional
 16 exactions exist in Florida, a cause of action for damages is
 17 created.



Amendment No. 2

18 (2) As used in this section, the term:

19 (a) "Governmental entity" has the same meaning as provided
20 in s. 70.001(3)(c).

21 (b) "Property owner" has the same meaning as provided in
22 s. 70.001(3)(f).

23 (c) "Real property" has the same meaning as provided in s.
24 70.001(3)(g).

25 (d) "Unconstitutional exaction" means a condition imposed
26 by a governmental entity on a property owner's proposed use of
27 real property that lacks an essential nexus to a legitimate
28 public purpose and is not roughly proportionate to the harm the
29 governmental entity seeks to avoid, minimize, or mitigate.

30 (3) In addition to other remedies available in law or
31 equity, a property owner may bring an action in a court of
32 competent jurisdiction under this section to recover damages
33 caused by an unconstitutional exaction.

34