



Doing Things!

**HB 631 Possession of Real Property
(Public Beach Access)**





Overview

- Background
- Effects of Changes
- Effects on Beach Nourishment
- Discussion



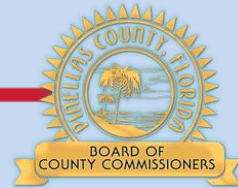
Background

- The term “customary use” refers to a general right of the public at large to use certain dry sand areas for recreational purposes.
- Where a customary use of dry sand area is shown, the property owner may not use traditional causes of action like ejectment, forcible entry, or trespass to stop such public use of the private land.
- Some counties and cities have adopted ordinances establishing customary use of privately owned dry sand areas in the past.



Effects of Changes

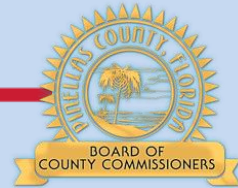
- HB 631 prohibits a governmental entity from adopting an ordinance or rule establishing recreational customary use of privately owned dry sand areas, unless the ordinance or rule is based upon a judicial declaration affirming recreational customary use of the beach.
- The bill establishes a process by which a governmental entity may seek the judicial determination of a recreational customary use of private beach property.



Effects of Changes

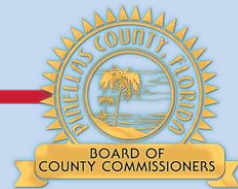
- A governmental entity seeking to establish the recreational customary use of privately owned land is required to:
 - Adopt, at a public hearing, a formal notice of intent;
 - Provide notice to affected parcel owners; and
 - File a complaint with the circuit court to determine whether the land is subject to the customary use doctrine.

- The court must determine whether the evidence presented by the governmental entity demonstrates that the recreational customary use identified in the notice of intent has been:
 - Ancient;
 - Reasonable;
 - Without interruption; and
 - Free from dispute.



Effects on Beach Nourishment

- HB 631 does not directly affect the statewide beach management program or any beach restoration, nourishment, or erosion control projects that participate in the program.
- These projects must have a statutory erosion control line (ECL) established, which replaces the mean high water line as the state/private property boundary.
 - Title to all lands seaward of the ECL is vested in the state.
 - Title to all lands landward of the ECL is vested in the upland owner.



Discussion