

## House Bill No. 273

An act relating to outdoor advertising; amending s. 479.106, F.S.; revising provisions relating to the proximity of vegetation and beautification projects to outdoor advertising signs; prohibiting planting that will block the signs; specifying distances that constitute a view zone on interstate highways, expressways, federal-aid primary highways, and the State Highway System for outdoor advertising signs; authorizing the Department of Transportation and owners of outdoor advertising signs to enter into agreements identifying view zone locations; providing for a claim of violation of view zone clearance requirements; providing procedures; providing for award of compensation; exempting certain curative measures from department permit requirements; requiring notice to the department; limiting liability of certain service providers under certain circumstances; providing for application to certain existing agreements; amending s. 479.25, F.S.; revising provisions for height increase of certain outdoor advertising signs; authorizing the height to be increased if visibility is blocked due to installation of certain noise-attenuation barriers; requiring sign reconstruction to meet certain requirements of the Florida Building Code; requiring notice by the department to the local government or jurisdiction; providing for resolution when a sign height increase would conflict with local ordinances or land development regulations; providing for a survey of impacted property owners; providing for a public hearing; providing for application to certain existing agreements; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (6) of section 479.106, Florida Statutes, is amended to read:

479.106 Vegetation management.—

(6) Beautification projects, trees, or other vegetation shall not be planted or located in the view zone of an area which will screen from view legally erected and permitted outdoor advertising signs which have been permitted prior to the date of the beautification project or other planting, where such planting will, at the time of planting or after future growth, screen such sign from view.

(a) View zones are established along the public rights-of-way of interstate highways, expressways, federal-aid primary highways, and the State Highway System in the state, excluding privately or other publicly owned property, as follows:

1. A view zone of 350 feet for posted speed limits of 35 miles per hour or less.

2. A view zone of 500 feet for posted speed limits of over 35 miles per hour.

(b) The established view zone shall be within the first 1,000 feet measured along the edge of the pavement in the direction of approaching traffic from a point on the edge of the pavement perpendicular to the edge of the sign facing nearest the highway and shall be continuous unless interrupted by existing, naturally occurring vegetation. The department and the sign owner may enter into an agreement identifying the specific location of the view zone for each sign facing. In the absence of such agreement, the established view zone shall be measured from the sign along the edge of the pavement in the direction of approaching traffic as provided in this subsection.

(c) If a sign owner alleges any governmental entity or other party has violated this subsection, the sign owner must provide 90 days' written notice to the governmental entity or other party allegedly violating this subsection. If the alleged violation is not cured by the governmental entity or other party within the 90-day period, the sign owner may file a claim in the circuit court where the sign is located. A copy of such complaint shall be served contemporaneously upon the governmental entity or other party. If the circuit court determines a violation of this subsection has occurred, the court shall award a claim for compensation equal to the lesser of the revenue from the sign lost during the time of screening or the fair market value of the sign, and the governmental entity or other party shall pay the award of compensation subject to available appeal. Any modification or removal of material within a beautification project or other planting by the governmental entity or other party to cure an alleged violation shall not require the issuance of a permit from the Department of Transportation provided not less than 48 hours' notice is provided to the department of the modification or removal of the material. A natural person, private corporation, or private partnership licensed under part II of chapter 481 providing design services for beautification or other projects shall not be subject to a claim of compensation under this section when the initial project design meets the requirements of this section.

(d) This subsection shall not apply to the provisions of any existing written agreement executed before July 1, 2006, between any local government and the owner of an outdoor advertising sign.

Section 2. Section 479.25, Florida Statutes, is amended to read:

479.25 Erection of noise-attenuation barrier blocking view of sign; procedures; application of chapter.—

(1) The owner of a lawfully erected sign that is governed by and conforms to state and federal requirements for land use, size, height, and spacing may increase the height above ground level of such sign. This chapter does not prevent a governmental entity from entering into an agreement allowing the height above ground level of a lawfully erected sign to be increased at its permitted location if a noise-attenuation barrier, visibility screen, or other highway improvement is permitted by or erected by any governmental entity in such a way as to screen or block visibility of the sign. However, if a

nonconforming sign is located on the federal-aid primary highway system, as such system existed on June 1, 1991, or on any highway that was not a part of such system as of that date but that is or becomes after June 1, 1991, a part of the National Highway System, the agreement must be approved by the Federal Highway Administration. Any increase in height permitted under this section may only be the increase in height which is required to achieve the same degree of visibility from the right-of-way which the sign had prior to the construction of the noise-attenuation barrier, notwithstanding the restrictions contained in s. 479.07(9)(b) visibility screen, or other highway improvement. A sign reconstructed under this section shall comply with the building standards and wind load requirements set forth in the Florida Building Code. If construction of a proposed noise-attenuation barrier will screen a sign lawfully permitted under this chapter, the department shall provide notice to the local government or local jurisdiction within which the sign is located prior to erection of the noise-attenuation barrier. Upon a determination that an increase in the height of a sign as permitted under this section will violate a provision contained in an ordinance or land development regulation of the local government or local jurisdiction, the local government or local jurisdiction shall so notify the department. When notice has been received from the local government or local jurisdiction prior to erection of the noise-attenuation barrier, the department shall:

(a) Conduct a written survey of all property owners identified as impacted by highway noise and who may benefit from the proposed noise-attenuation barrier. The written survey shall inform the property owners of the location, date, and time of the public hearing described in paragraph (b) and shall specifically advise the impacted property owners that:

1. Erection of the noise-attenuation barrier may block the visibility of an existing outdoor advertising sign;

2. The local government or local jurisdiction may restrict or prohibit increasing the height of the existing outdoor advertising sign to make it visible over the barrier; and

3. If a majority of the impacted property owners vote for construction of the noise-attenuation barrier, the local government or local jurisdiction will be required to:

a. Allow an increase in the height of the sign in violation of a local ordinance or land development regulation;

b. Allow the sign to be relocated or reconstructed at another location if the sign owner agrees; or

c. Pay the fair market value of the sign and its associated interest in the real property.

(b) Hold a public hearing within the boundaries of the affected local governments or local jurisdictions to receive input on the proposed noise-attenuation barrier and its conflict with the local ordinance or land development regulation and to suggest or consider alternatives or modifications to the proposed noise-attenuation barrier to alleviate or minimize the conflict

with the local ordinance or land development regulation or minimize any costs that may be associated with relocating, reconstructing, or paying for the affected sign. The public hearing may be held concurrently with other public hearings scheduled for the project. The department shall provide a written notification to the local government or local jurisdiction of the date and time of the public hearing and shall provide general notice of the public hearing in accordance with the notice provisions of s. 335.02(1). The notice shall not be placed in that portion of a newspaper in which legal notices or classified advertisements appear. The notice shall specifically state that:

1. Erection of the proposed noise-attenuation barrier may block the visibility of an existing outdoor advertising sign;

2. The local government or local jurisdiction may restrict or prohibit increasing the height of the existing outdoor advertising sign to make it visible over the barrier; and

3. If a majority of the impacted property owners vote for construction of the noise-attenuation barrier, the local government or local jurisdiction will be required to:

a. Allow an increase in the height of the sign in violation of a local ordinance or land development regulation;

b. Allow the sign to be relocated or reconstructed at another location if the sign owner agrees; or

c. Pay the fair market value of the sign and its associated interest in the real property.

(2) The department shall not permit erection of the noise-attenuation barrier to the extent the barrier screens or blocks visibility of the sign until after the public hearing is held and until such time as the survey has been conducted and a majority of the impacted property owners have indicated approval to erect the noise-attenuation barrier. When the impacted property owners approve of the noise-attenuation barrier construction, the department shall notify the local governments or local jurisdictions. The local government or local jurisdiction shall, notwithstanding the provisions of a conflicting ordinance or land development regulation:

(a) Issue a permit by variance or otherwise for the reconstruction of a sign under this section;

(b) Allow the relocation of a sign, or construction of another sign, at an alternative location that is permittable under the provisions of this chapter, if the sign owner agrees to relocate the sign or construct another sign; or

(c) Refuse to issue the required permits for reconstruction of a sign under this section and pay fair market value of the sign and its associated interest in the real property to the owner of the sign.

(3) This section shall not apply to the provisions of any existing written agreement executed before July 1, 2006, between any local government and the owner of an outdoor advertising sign.

Section 3. This act shall not apply to any existing settlement agreement executed before the effective date of this act between any local government and the owner of an outdoor advertising sign.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor June 20, 2006.

Filed in Office Secretary of State June 20, 2006.