



Setting the Record Straight: Public Access to Florida's Beaches

BOTTOM LINE: The law creates a framework to resolve disputes where property lines have been drawn on beachfront property. Nothing in the law privatizes public beaches.

Q: What did the Legislature pass?

A: In HB 631, the Legislature passed a structure for courts to ensure private property rights are not infringed while also maintaining the public's access to our beaches. Decisions that affect both public access to beaches and private property rights should be decided by courts, not political entities. In doing so, we are protecting the rights of *all* Floridians.

Q: How much beach access is currently impacted?

A: Currently, the controversy surrounding the enforcement of this process affects only 2% of Florida's coastline, and even in the area where this issue has come up—there are over 50 public beaches in a 26-mile stretch.

Q: People are claiming the Legislature privatized beaches and this will affect tourism. Is this true?

A: No. The legislation did not privatize any coastline, it created a process to ensure local governments are not improperly encroaching on private property through a unilateral ordinance. Furthermore, the overwhelming majority of Florida's beaches have never been subject to a local government's property ordinance, and the public has enjoyed beach access without issue.

Q: Why did we need HB 631?

A: Recently, a local government passed a blanket ordinance granting the public access to private beaches. The bill created a process that ensures decisions are made fairly with evidence and facts. The bill also ensures any ordinances are made with transparency and requirements for sufficient public notice.

Q: What is the customary use doctrine?

A: Under certain circumstances, the public may access private property under the longstanding legal doctrine of customary use. The doctrine applies where the public use of private property has been ancient, reasonable, without interruption, and free from dispute. If customary use is established, private property is available for public use. Historically, the public has enjoyed access to many dry sand portions of private beach property without issue. When disputes have arisen, courts have determined whether dry sand portions of private property were subject to the customary use doctrine. This law requires a court to review a customary use ordinance and determine whether the doctrine applies, after a full and fair hearing.

Q: Local governments are relying on their own interpretation of customary use in their ordinances. Why is this an issue?

A: A government entity should not be able to unilaterally infringe on private property rights. This is an issue because these governments can make these determinations without considering appropriate evidence or applying legal standards established by courts.

Q: Did the Governor's Executive Order overturn the law?

A: No. The Governor's Executive Order is a declaration to protect public access to Florida's public beaches. Nothing in the legislation infringes on that right.