

**2001 DRAFTING REQUEST**

**Senate Amendment (SA-SSA1-SB55)**

Received: 06/15/2001

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Senate Democratic Caucus

By/Representing: Keckhaver

This file may be shown to any legislator: NO

Drafter: nelsorp1

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Addl. Drafters:

Subject: Courts - miscellaneous

Extra Copies:

Submit via email: NO

Requester's email:

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**Pre Topic:**

SDC:.....Keckhaver - CN1021,

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**Topic:**

Property development rights contract review

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	nelsorp1 06/16/2001	jdye 06/16/2001	kfollet 06/16/2001	_____	irb_docadmin 06/16/2001		

FE Sent For:

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5 60459

Property development rights contract review

Instructions:

See Attached

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1?	nelsorp1	1 6/18 jld	6/16	6/16			

FE Sent For:

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CN#  
1021

Delete Freestanding Motion 800, which provides that when various entities purchase property development rights, the previous owners and their heirs could bring an action to recover the differences between what was paid and the "going rate."

JUSTICE

Property Development Rights

Motion:

Move to provide that when property development rights having a duration of 30 years or longer are sold by a property owner: (a) to a nonprofit organization that has partnered in the past or is currently partnering with any city, village, town, county or the state, as well as entities created by such units of government, financially or otherwise to acquire property development rights; or (b) to a city, village, town, county or the state, or to an entity created by such a unit of government; that the property owner, or his or her heirs, within three years of the sale of the property development rights may seek to recover the difference between what the nonprofit organization or the city, village, town, county or the state, or an entity created by a such a unit of government, paid for the property development rights and the property development rights' going rate. Define "going rate" as plus or minus 5% of what comparable property development rights sold for in the 12-month period prior to the sale of the property development rights in question.

Provide that compounded interest could also be recovered on the difference between the property development rights' "going rate" and what the property development rights sold for. Provide that the compounded interest rate would be the compounded interest rate charged by the county where the property is located for delinquent property taxes.

Provide that an affected property owner could either individually bring an action for recovery of the difference between what the property development rights sold for and the property development rights' "going rate" plus compounded interest, or could request the Department of Justice to bring the action on the property owner's behalf.

Provide that partial or complete gifting transactions where it was the intent of the property owner to partially or completely gift the property development rights shall be exempted.

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Note:

The motion would provide that when cities, villages, towns, counties and the state, as well as entities created by such units of government, and nonprofit organizations (partnering with such units of government and entities created by such units of government), purchase property development rights, the property owners who sold those rights and their heirs could bring an action to recover the difference between the "going rate" for the property development rights they sold and the actual amount they received plus compounded interest. Provide that to be eligible for such a recovery, the property development rights sold had a duration of 30 years or longer and the property owner or his or her heirs, or the Department of Justice on behalf of the property owner or heirs, brought an action to recover these amounts within three years of the sale of the property development rights.

**Subject:** Property development rights

**Prior Reference:** Freestanding Motion #800 (approved by Joint Finance on May 22 by a 9-7 vote).

**Fiscal Effect:** None

**Existing LRB #:** None

**Amendment:** Reverse the action of Joint Finance by deleting the provisions of freestanding motion #800. A copy of that motion is attached.

CN8509

RPW

JUSTICE

Property Development Rights

Motion:

Move to provide that when property development rights having a duration of 30 years or longer are sold by a property owner: (a) to a nonprofit organization that has partnered in the past or is currently partnering with any city, village, town, county or the state, as well as entities created by such units of government, financially or otherwise to acquire property development rights; or (b) to a city, village, town, county or the state, or to an entity created by such a unit of government; that the property owner, or his or her heirs, within three years of the sale of the property development rights may seek to recover the difference between what the nonprofit organization or the city, village, town, county or the state, or an entity created by a such a unit of government, paid for the property development rights and the property development rights' going rate. Define "going rate" as plus or minus 5% of what comparable property development rights sold for in the 12-month period prior to the sale of the property development rights in question.

Provide that compounded interest could also be recovered on the difference between the property development rights' "going rate" and what the property development rights sold for. Provide that the compounded interest rate would be the compounded interest rate charged by the county where the property is located for delinquent property taxes.

Provide that an affected property owner could either individually bring an action for recovery of the difference between what the property development rights sold for and the property development rights' "going rate" plus compounded interest, or could request the Department of Justice to bring the action on the property owner's behalf.

Provide that partial or complete gifting transactions where it was the intent of the property owner to partially or completely gift the property development rights shall be exempted.

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Note:

The motion would provide that when cities, villages, towns, counties and the state, as well as entities created by such units of government, and nonprofit organizations (partnering with such units of government and entities created by such units of government), purchase property development rights, the property owners who sold those rights and their heirs could bring an action to recover the difference between the "going rate" for the property development rights they sold and the actual amount they received plus compounded interest. Provide that to be eligible for such a recovery, the property development rights sold had a duration of 30 years or longer and the property owner or his or her heirs, or the Department of Justice on behalf of the property owner or heirs, brought an action to recover these amounts within three years of the sale of the property development rights.

LFB:.....Onsager – Allow seller of property development rights lasting longer than 30 years to bring an action to recover the difference in the sale price of those rights and the right's value

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

**LFB AMENDMENT**

**TO 2001 SENATE BILL 55 AND 2001 ASSEMBLY BILL 144**

1 At the locations indicated, amend the bill as follows:

2 1. Page 1663, line 23: after that line insert:

3 "SECTION 3862m. 893.335 of the statutes is created to read:

4 **893.335 Actions concerning property development rights.** (1) In this  
5 section:

6 (a) "Nonprofit organization" means an organization defined in s. 94.10 (1) (b)  
7 that has jointly pursued or is currently pursuing the acquisition of property  
8 development rights with the state, a state agency, or a political subdivision.

9 (b) "Political subdivision" means a city, village, town, or county, or a  
10 department, division board, or other agency of a city, village, town, or county.

1 (c) "Property development rights" means the holder's nonpossessory interest  
2 in real property imposing any limitation or affirmative obligation the purpose of  
3 which may include retaining or protecting natural, scenic, or open space values of  
4 real property, assuring the availability of real property for agricultural, forest,  
5 recreational, or open space use, protecting natural resources, maintaining or  
6 enhancing air or water quality, preserving a burial site, as defined in s. 157.70 (1) (b),  
7 or preserving the historical, architectural, archaeological, or cultural aspects of real  
8 property.

9 (d) "Value" means the amount paid for comparable property development  
10 rights in an arm's-length sale completed within 12 months before the sale in  
11 question.

12 (2) (a) A person who sells the property development rights for a period of 30  
13 years or longer in real property or his or her heir or devisee shall bring an action  
14 within 3 years after the sale of the property development rights to recover the  
15 difference between the value of the property development rights and the sale price  
16 of those rights or be barred.

17 (b) A person may bring an action under this subsection only if all of the  
18 following conditions are met:

19 1. The purchaser is a nonprofit organization, the state, an agency of the state,  
20 or a political subdivision.

21 2. The amount paid for the property development rights was at least 5% below  
22 the value of the property development rights.

23 (c) If the transfer of the property development rights involved a gift, a person  
24 may only recover for the portion of the transfer that was not a gift.



1           (3) The person who has the right to bring an action under sub. (2) may request  
2 that the department of justice bring the action on behalf of the person.

3           (4) If the person under sub. (2) or the department of justice under sub. (3) is  
4 successful in obtaining a judgment under this section, the court shall include in the  
5 judgment compounded interest from the date that the property was sold, using the  
6 interest rate charged for delinquent property taxes by the county in which the  
7 property is located.”

8

(END)

2001

Date (time) needed soon

LRB b 0980, 1

AMDT TO BUDGET SUB AMDT

RPN:jld

See form AMENDMENTS — COMPONENTS & ITEMS.

SENATE AMENDMENT  
~~TO SENATE AMENDMENT~~  
TO SENATE SUBSTITUTE AMENDMENT 1,  
TO 2001 SENATE BILL 55

At the locations indicated, amend the substitute amendment [amendment] as follows:

#. Page 1216, line 11: delete the material beginning with that line and ending with page 1217, line 25.

#. Page ....., line .....

#. Page ....., line .....: (End)

#. Page ....., line .....:

#. Page ....., line .....:

#. Page ....., line .....:

SDC:.....Keckhaver – CN1021, Property development rights contract review

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1216, line 11: delete the material beginning with that line and ending  
3 with page 1217, line 25.

4 (END)