

The Casey Key Conservation District

CHAPTER 70-937 – LAWS OF FLORIDA

House Bill No. 5158

Section 1. Findings of fact. The legislature of the State of Florida hereby finds that the hereinafter more particularly described area lying within Sarasota County and constituting the northerly part of Casey Key is an area of particular natural beauty, abundant in marine, animal and bird life. The preservation of the natural beauty, marine, animal and bird life of said area is in the best interests of the property owners of said area, the citizens of Sarasota County and of the State of Florida. It is the purpose of this act to preserve the natural beauty, marine, animal and bird life of said area.

Section 2. Short title. This act will be referred to as the North Casey Key Conservation District Act.

Section 3. Creation of district and setting boundaries. There is hereby created a special conservation district for the uses and purposes herein set forth, said district to be known as the North Casey Key Conservation District. The boundaries of said district are hereby set and determined as follows: An area encompassing a portion of Casey Key, Gulf of Mexico, and the waters lying along the easterly and northerly shores of Casey Key, Sarasota County, Florida, being more particularly described as follows: The area lying Northerly of a line lying 2200' Southerly of the North line of Section 35, Township 38 S, Range 18 E, Sarasota County, Florida, measured along the shores of the Gulf of Mexico, extending eastwardly to the Westerly right of way line of the Intracoastal Waterway and extending Westwardly to a line parallel to and 500' from the mean high water line of Gulf of Mexico; bounded on the West by said 500' parallel line and bounded on the East by said Westerly right of way line of intracoastal waterway and bounded on the North by the centerline on the channel of Midnight Pass, including all submerged lands, tidal lands and overflow lands and tidal ponds.

Section 4. Density, uses and structures permitted within the district. No lands within the district shall be used for any purpose other than single family residential purposes. No structure shall be constructed within the district so as to exceed two (2) stories in height. Structural density within the district shall not exceed one (1) main residential building unit per fifteen thousand (15,000) square feet of lot area, together with other customary out-buildings not to exceed one (1) guest house. No lands within the district

shall be used for commercial or multi-family purposes. Commercial and multi-family structures shall not be constructed within the district. This section shall not render existing uses and structures unlawful.

Section 5. Wildlife sanctuary. The area within the district is hereby declared to be a wildlife sanctuary subject to protection as provided by general law.

Section 6. Marine life sanctuary. The area within the district is hereby declared to be a marine life sanctuary. Accordingly, no undue or unreasonable dredging, filling or disturbance of submerged bottoms shall be permitted. All persons within the district are encouraged to preserve and protect marine nursery and breeding areas. This section shall not be construed to prohibit sports or commercial fishing within the district.

Section 7. Unreasonable destruction of natural vegetation prohibited. The unreasonable destruction of natural vegetation within the district in a manner which would be harmful or significantly contribute to air and water pollution is prohibited within the district.

Section 8. Board of appeals. In the event that any person owning real property within the district shall question the application or interpretation of this act to his lands or his intended use of the same, the building of any structure, the dredging or filling of any lands or the destruction of any natural vegetation, then in that event said real property owner shall have the right and responsibility to file a petition within the governing body of Sarasota County, requesting an interpretation of this act as same applies to said property owner and his lands. The governing body of Sarasota County shall, within thirty (30) days after the filing of said petition, appoint a board of appeals consisting of not less than five (5) nor more than nine (9) owners of real property within the district who are sui juris, twenty-one years of age or older and citizens of the United States of America. Said board of appeals shall convene within thirty (30) days from the date of its appointment at the Sarasota County court house in Sarasota, Florida, for the purpose of considering said petition and granting or denying the relief requested therein. The members of the board will serve without compensation. Upon appointment of the members of the board of appeals, the governing body of Sarasota County shall cause a copy of said petition, together with the names and addresses of each member of the board of appeals to be furnished by certified mail to each and every property owner within the district according to the latest tax assessment roll on file with the tax assessor of Sarasota County, Florida. The meetings of the board of appeals shall be open to the public and notice of the time and place of any meeting at which the board of appeals shall consider evidence and act upon the petition of a real property

owner shall be published one (1) time in a newspaper of general circulation in Sarasota County at least fifteen (15) days before the date of said meeting and the concerned property owner shall likewise receive at least fifteen (15) days notice by certified mail of the time and place of said meeting. The publication costs and the cost of providing notices by certified mail shall be paid by the petition property owner by depositing same with the governing body at the time of the filing of his petition. Any surplus in the cost deposit shall be refunded and any deficiency shall be paid by said property owner. The publication costs and the cost of providing notices by certified mail shall be paid by the petitioning property owner by depositing same with the governing body at the time of filing of his petition. Any surplus in the cost deposit shall be refunded and any deficiency shall be paid by said property owner. The board of appeals shall elect a chairman and other appropriate officers deemed necessary by said board for the proper conducting of its business. The board of appeals shall conduct its hearings on any petition in accordance with the requirements of chapter 120, Florida Statutes, known as the Florida administrative procedures act, as said act many from time to time be amended. The board shall evidence its decision on any petition by the adoption of an appropriate resolution. Should the petitioning property owner be aggrieved by the decision of the board of appeals, said property owner may, within ninety (90) days after the adoption of said resolution, seek review of the action of the board of appeals in a court of competent jurisdiction within Sarasota County. Upon the adoption of a resolution disposing of a property owner's petition, the duties of the board of appeals shall be deemed discharged, and said board will thereupon stand dissolved, it being the intent of this act to require the appointment and functioning of a new and separate board of appeals to act upon each and every petition of property owners within the district to serve upon successive boards of appeals, and the simultaneous appointment and functioning more than one board of appeals is hereby specifically authorized.

Section 9. Judicial relief. Any owner of real property within the district who determined that his rights have been adversely affected by the provisions of this act may seek relief in any court of competent jurisdiction in Sarasota County, Florida, provided said real property owner has exhausted his administrative remedy by seeking relief through the filing of a petition with the board of appeals in accordance with section 8 hereof.

Section 10. Enforcement. Any owner of real property within the district may enforce the provisions of this act or enjoin the violation of same by appropriate civil proceedings in any court of competent jurisdiction in Sarasota County, Florida. In order to enforce the provisions of this act and

to enjoin a violation of the same, a real property owner need not allege or prove that the concerned violation of this act will adversely affect the property rights of said real property owner to any great extent or different degree than it will affect any other real property owner within the district. A civil action for the enforcement of this act may include, but shall not be limited to a suit for injunction, including temporary and mandatory forms of injunction. A real property owner who is successful in his efforts to enforce this act, or any portion of same, through civil proceedings, shall be awarded his court costs, together with a reasonable attorney's fee, to be assessed as a judgement against the person or persons determined by the court to have violated this act. Said judgement may be collected in the same manner and in accordance with the procedure for the collection in the same manner and in accordance with the procedure in the State of Florida. No action by the board of appeals shall be required as a condition precedent to enforcement of this act pursuant to this section.

Section 11. Construction. This act shall not be construed as limiting or repealing the application of any law or regulations dealing with the subject of zoning, conservation and air and water pollution standards; but in the event that any of the standards of protection specified by this act shall be more restrictive than those specified in such other law or regulation by this act shall prevail, it being the intent of this act to provide for and apply such zoning, conservation and air and water pollution standards as will be the most protective of the natural beauty, marine and wildlife of the area. If any reason found or declared to be unconstitutional, inoperative or void, such holding of invalidity shall not affect the remaining portions of this act; and it shall be construed to have been the legislative intent to pass this act without such unconstitutional, invalid or inoperative part therein; and the remainder of this act, after the exclusion of such part or parts, shall be deemed and held to be valid as if such part or parts had not been included therein.

Section 12. Recording of this act. The secretary of state of Florida shall cause a certified copy of this act to be recorded with the clerk of the circuit court of Sarasota County, Florida, in the official records of said county, within thirty (30) days following approval of this act by referendum vote as hereinafter provided. The cost of recording is to be paid out of the general funds accruing to the Board of County Commissioners of Sarasota County.

Section 13. Referendum. This act shall become effective only upon approval by a two-thirds (2/3) majority vote of the free-holders voting in a referendum election to be held at a location within the district to be determined by the supervisor of elections of Sarasota County, on or before one hundred eighty (180) days from the date this act is filed with the

secretary of state of Florida. In order to qualify to vote in said referendum election, a person must be twenty-one years of age or over and a sui juris citizen of the United States of America and need not be a registered voter in Sarasota County nor a resident of the County of Sarasota, the district or the State of Florida. The supervisor of elections of Sarasota County may permit a person to vote in said referendum election who executes an affidavit stating that said person is the owner of a free-hold interest in real property within the district and that said person is twenty-one years or older and a sui juris citizen of the United States of America. Said affidavit may be considered by the supervisor of elections as prima facie evidence of such person's right to vote in said referendum election. Voting by absentee ballot shall be permitted in accordance with the procedure provided by the general laws of Florida. Became a law without the Governor's approval. Filed in Office Secretary of State July 2, 1970.