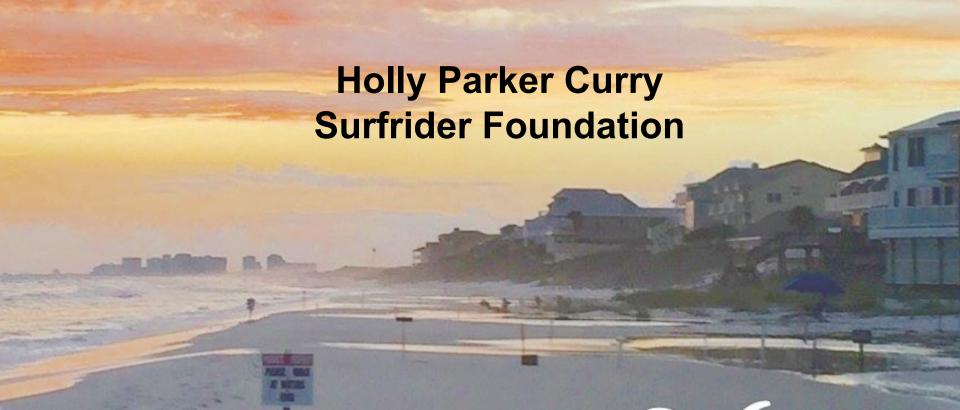


### Customary Use: Legislative Overview



#### SURFRIDER FOUNDATION

We are dedicated to the protection and enjoyment of the world's ocean, waves and beaches through a powerful activist network.



### 2017: Real Property

- HB 735 (Rep. Edwards-Walpole)
- Amendment in final committee stop
- "A local government shall not adopt or promulgate any ordinance or regulation that purports to establish a common law customary use of property."
- Passed full House, but Senator
  Passidomo stops it in the Senate



## 2018: Possession of Real Property

- HB 631 (Rep. Edwards-Walpole)
- Original version requires judicial determination, parcel by parcel, clear and convincing evidence
- Two committee stops
- Amended to grandfather in ordinances adopted before January 1, 2016, to add explicit preemption, and lower standard of proof

# 2018: Possession of Real Property

- · SB 804 (Sen. Passidomo)
- Original version requires judicial determination, parcel by parcel
- Three committee stops
- Amended with new quasi-judicial process & grandfather provision

#### **New Process:**

- Local government must hold a public hearing to adopt a formal notice of intent to affirm CU which must identify:
  - Portions/parcels where CU is sought
  - Specific uses of property to which CU is sought
  - Each source of evidence that the governmental entity will rely on to prove CU
- Notice the hearing to all potentially impacted property owners (certified mail, local newspaper, and government website)

#### **New Process:**

- Within 60 days of adopting the notice of intent, local government must file a Complaint for the Declaration of Recreational Customary Use with the circuit court where the impacted properties are located.
- Must again notice the owners. Owners have 45-days to intervene in the proceeding.
- Local government must prove use has been ancient, reasonable, without interruption, and free from dispute.

#### 2018: Timeline

- March 6<sup>th</sup>, Final passage in Senate, 29-7
- March 8<sup>th</sup>, Final passage in House, 95-17
- March 23<sup>rd</sup>, Approved by Governor
- July 1<sup>st</sup>, Took effect
- July 13<sup>th</sup>, Executive Order



#### But what does it do??

- Grandfathered in Volusia & St. Johns, eliminated Walton
- Requires local governments to go to court to ratify CU
- Mass confusion
- Bad precedent for signage, fencing, etc.
- Potentially makes it harder for local governments to protect beach access, but also creates a process



#### And what does it not do??

- Privatize Florida's beaches
- Eliminate perpendicular access points
- Give property owners new land/sand after public nourishment projects



#### **NEXT SESSION**

- FDEP Reporting: flbeachaccess.com
- Report due to Legislature & Governor before next session
- Sen. Darryl Rouson plans to file repeal

