

ENDANGERED SPECIES VS. DEVELOPMENT IN FLORIDA

Most people who live in rural areas of Florida consider their environment to be a significant benefit. Many continue to be drawn to these areas by their country atmosphere. In order to preserve the environment for future generations, federal and state governments have enacted a number of laws designed to protect Florida's plant and wildlife ecosystems, including threatened or endangered animal species.

The federal Endangered Species Act currently protects over 500 threatened or endangered animal species, many of which are found in rural areas of Florida. There are also separate federal laws designed to protect specific animals, such as bald eagles and migratory birds, and Florida has its own Endangered and Threatened Species Act. Generally, federal laws are administered by the U.S. Fish and Wildlife Service, while state laws are administered by the Florida Fish and Wildlife Conservation Commission and the Florida Department of Environmental Protection. These agencies enforce laws against harming or killing protected animals and regulate their capture, sale, import and export. They also regulate land use and development based on the presence of protected species, as do a number of other agencies, including state water management districts and city and county governments.

When land is developed, the developer will be required to minimize the impact of the development on any threatened or endangered species which live there. Protected species in Florida include scrub jays, gopher tortoises, and many other animals (such as some reptiles and wading birds). As a condition to development, developers may be prevented from building in certain areas, may be required to dedicate conservation areas (or provide funds for their establishment elsewhere) and may be required to relocate some species to other areas or pay compensation to the state for "taking" protected wildlife which the state then uses for wildlife mitigation.

While development activity can be prohibited if it would harm protected animals or their nesting sites, there is some question about whether development can be prohibited if it would harm only the habitats of endangered species which actually nest elsewhere. When land can't be developed it loses significant value. If the laws protecting endangered species are established in the "public" interest, is it fair to force individual landowners to bear the cost of those laws? Many people think that if government authorities prohibit or limit land development in the public interest, they should use public funds to reimburse the landowner for the loss in value of his land. These issues have been the subject of proposed legislation as well as lawsuits; however, it has generally been the case that landowners do not receive compensation when their property cannot be developed for environmental reasons.

How do these environmental laws affect you? If you buy an existing home, the cost of the developer's compliance is built into the cost of the home. If you want to build an addition, or if you own a lot you want to develop, you'll need a building permit. When you apply, the site location will be compared by local government officials to a database of environmental

information to determine if it's a habitat for endangered species or is environmentally sensitive. A site inspection may be performed, and you may be required to pay for an environmental survey. If protected species are affected, you'll need appropriate state and federal agencies to approve your plans. You may have to revise them to avoid adverse impacts, or you may be precluded from building altogether. If you're buying vacant land in a rural area, it's wise to have an environmental consultant survey the property for protected species as a condition to closing, reserving the right to terminate your contract if it would adversely affect your plans.

As more development occurs in Florida, the public's interest in protecting threatened and endangered species will continue to conflict with the rights of property owners who want to live in the natural surroundings which make the area attractive.