

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

CITY OF WESTON, FLORIDA, et al.,

Plaintiffs,

v.

Case No. 09-CA-2639

THE HONORABLE CHARLIE CRIST,
Governor of the State of Florida;
HONORABLE KURT S. BROWNING,
Secretary of State, State of Florida; THE
HONORABLE JEFF ATWATER,
President of the Senate, State of Florida;
and THE HONORABLE LARRY
CRETUL, Speaker of the House, State of
Florida,

Defendants.

DEFENDANTS' SUGGESTION OF MOOTNESS

Defendants respectfully submit that Plaintiffs' challenge to the validity of SB 360 based on an alleged violation of Art. III, § 6, Fla. Const., (single subject) is moot and should be dismissed. In support of this suggestion, Defendants state as follows:

1. In this case, Plaintiffs challenge the constitutionality of SB 360, passed during the 2009 session of the Florida Legislature, approved by the Governor June 1, 2009, and designated 2009-96, Laws of Florida.

2. During the 2010 session of the Florida Legislature, § 11.2421, Fla. Stat., was amended to adopt the previously enacted session laws and statutes “as the official statute law of the state under the title of “Florida Statutes 2010.” This so-called reenactment statute was signed by the Governor on March 30, 2010, designated ch. 2010-003, Laws of Florida, and becomes effective 60 days after adjournment of the Legislature. [See Ch. 2010-003, Laws of Florida, attached as exhibit 1]

3. “Once reenacted as a portion of the Florida Statutes, a Chapter law is no longer subject to challenge on the grounds that it violates the single subject requirement of article III, Section 6, of the Florida Constitution.” *State v. Johnson*, 616 So.2d 1, 2 (Fla.1993). *See also, Lescher v. Florida Dept. of Highway Safety and Motor Vehicles*, 985 So.2d 1078, 1080 (Fla. 2008) (Reenacting the statute cured the single subject defect.); *Loxahatchee River Environmental Control Dist. v. School Bd. of Palm Beach County*, 515 So.2d 217, 219 (Fla. 1987) (A law passed in violation of the requirements of article III, section 6, is invalid until such time as it is reenacted for codification into the Florida Statutes.); *Ellis v. Hunter*, 3 So.3d 373, 381 (Fla. 5th DCA 2009) (single subject violation cured by annual amendment of § 11.2421 – the adoption act.); *Diaz v. State*, 752 So.2d 105, 106 (Fla. 3rd DCA 2000) (same); *Lee v. State*, 739 So.2d 1175, 1176 (Fla. 3rd DCA 1999) (same).

4. Adoption of ch. 2010-003, Laws of Florida has now cured any alleged single subject violation to be found in SB 360 (ch. 2009-96, Laws of Florida). The question of whether ch. 2009-96, Laws of Florida, violated Art. III, § 6, Fla. Const., is now moot because that law has been incorporated into the Florida Statutes and the single subject requirement does not apply to the adopted statutes.

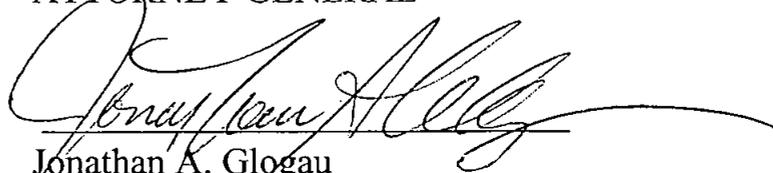
Finally, we recognize that the single subject requirement of Article III, section 6 only applies to chapter or session laws and sections of the Florida Statutes need not conform to the requirement. *Johnson*. Once reenacted by way of an adoption act as a portion of the Florida Statutes, a chapter or session law is no longer subject to challenge on the grounds that it violates the single subject requirement.

Department of Highway Safety and Motor Vehicles v. Critchfield, 805 So.2d 1034, 1038 (Fla. 5th DCA 2002); *State v. Combs*, 388 So.2d 1029, 1030 (Fla. 1980) (“[A]rticle III, section 6, does not require sections of the Florida Statutes to conform to the single subject requirement. The requirement applies to ‘laws’ in the sense of acts of the legislature.”)

WHEREFORE, Defendants respectfully request that this court declare Plaintiffs’ claims under Art. III, § 6, Fla. Const., moot and dismiss all claims raised pursuant to that section.

Respectfully submitted this 17th Day of May, 2010.

BILL McCOLLUM
ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "Jonathan A. Glogau", written over a horizontal line.

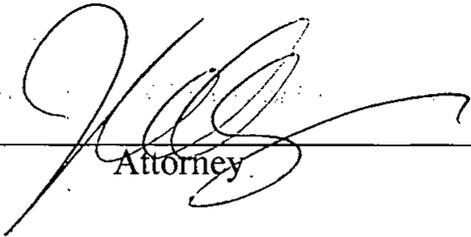
Jonathan A. Glogau
Chief, Complex Litigation
Fla. Bar No. 371823
PL-01, The Capitol
Tallahassee, FL 32399-1050
850-414-3300, ext. 4817
850-414-9650 (fax)
jon.glogau@myfloridalegal.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing document was served by U.S. mail and e-mail this 17th Day of May, 2010, on:

Jamie A. Cole
Susan L. Trevarthen
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.
200 East Broward Blvd., Suite 1900
Ft. Lauderdale, FL 33301

Edward G. Guedes
John J. Quick
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.
2525 Ponce de Leon Blvd., Suite 700
Coral Gables, FL 33134



Attorney

CHAPTER 2010-3

Senate Bill No. 1780

An act relating to the official Florida Statutes; amending ss. 11.2421, 11.2422, 11.2424, and 11.2425, F.S.; adopting the Florida Statutes 2010 and designating the portions thereof that are to constitute the official law of the state; providing that the Florida Statutes 2010 shall be effective immediately upon publication; providing that general laws enacted during the 2009 regular session and prior thereto and not included in the Florida Statutes 2010 are repealed; providing that general laws enacted during the December 3-8, 2009, special session and the 2010 regular session are not repealed by this adoption act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 11.2421, Florida Statutes, is amended to read:

11.2421 Florida Statutes 2010 ~~2009~~ adopted.—The accompanying revision, consolidation, and compilation of the public statutes of 2009 ~~2008~~ of a general and permanent nature, excepting tables, rules, indexes, and other related matter contained therein, prepared by the Office of Legislative Services under the provisions of s. 11.242, together with corrections, changes, and amendments to and repeals of provisions of Florida Statutes 2009 ~~2008~~ enacted in additional reviser's bill or bills by the 2010 ~~2009~~ Legislature, is adopted and enacted as the official statute law of the state under the title of "Florida Statutes 2010 ~~2009~~" and shall take effect immediately upon publication. Said statutes may be cited as "Florida Statutes 2010 ~~2009~~," "Florida Statutes," or "F.S. 2010 ~~2009~~."

Section 2. Section 11.2422, Florida Statutes, is amended to read:

11.2422 Statutes repealed.—Every statute of a general and permanent nature enacted by the State or by the Territory of Florida at or prior to the 2009 ~~2008~~ regular legislative session, and every part of such statute, not included in Florida Statutes 2010 ~~2009~~, as adopted by s. 11.2421, as amended, or recognized and continued in force by reference therein or in ss. 11.2423 and 11.2424, as amended, is repealed.

Section 3. Section 11.2424, Florida Statutes, is amended to read:

11.2424 Laws not repealed.—Laws enacted at the December 3-8, 2009, special session and the 2010 January 5-14, 2009, special session and the 2009 regular session are not repealed by the adoption and enactment of the Florida Statutes 2010 ~~2009~~ by s. 11.2421, as amended, but shall have full effect as if enacted after its said adoption and enactment.

Section 4. Section 11.2425, Florida Statutes, is amended to read:



11.2425 Rights reserved under repealed statutes.—The repeal of any statute by the adoption and enactment of Florida Statutes ~~2010 2009~~, by s. 11.2421, as amended, shall not affect any right accrued before such repeal or any civil remedy where a suit is pending.

Section 5. This act shall take effect on the 60th day after adjournment sine die of the session of the Legislature in which enacted.

Approved by the Governor March 30, 2010.

Filed in Office Secretary of State March 30, 2010.