

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Community Affairs

CS/CS/CS/HB 59 — Growth Management

by State Affairs Committee; Civil Justice and Property Rights Subcommittee; Local Administration and Veterans Affairs Subcommittee; and Rep. McClain and others (CS/CS/CS/SB 496 by Rules Committee; Judiciary Committee; Community Affairs Committee; and Senator Perry)

Under current law, local governments create and adopt local comprehensive plans to control and direct land use and development within a county or municipality. The Department of Economic Opportunity oversees the local comprehensive plan system at the state level. Notwithstanding, local governments in the state retain ample independence in the substance of land use regulation of private property within their jurisdiction. The bill amends various sections of Florida law related to local government regulation of land, which is commonly referred to as “growth management.”

Comprehensive Plans

The bill amends s. 163.3167, F.S., to provide that all local comprehensive plans *effective*, rather than *adopted*, after January 1, 2016, and all land development regulations adopted to implement the plan, must incorporate development orders existing before the plan's effective date, may not impair the completion of a development order, and must vest the density and intensity approved on the effective date of the comprehensive plan.

Property Rights Element

The bill requires all local governments to adopt a property rights element in their comprehensive plans. The bill provides a model statement of property rights a local government may adopt to satisfy this requirement. Notwithstanding, a local government may adopt a distinct property rights element as long as it does not conflict with the model statement. This bill provision instructs local governments to consider certain private property rights when regulating land. The bill directs local governments to adopt this element by the earlier of its next proposed plan amendment initiated after July 1, 2021, or the date of its next comprehensive plan evaluation, as required by s. 163.3191, F.S.

Altering a Development Agreement

The bill provides that a development agreement between a local government and a party, or its designated successor in interest, may be amended or canceled without securing the consent of parcel owners that were initially subject to the development agreement unless the amendment directly modifies the land uses of an owner's property.

Department of Transportation

The bill requires the Department of Transportation, when disposing of surplus real property, to give the property's prior owner the right of first refusal to purchase the property. This right of first refusal only applies to the department's disposal of property acquired within 10 years before the date of disposition.

Developments of Regional Impact

The bill specifies that development agreements for certain developments of regional impact that are classified as "built out" may be amended using the processes adopted by local governments. Any such amendment may authorize the developer to exchange approved land uses if the developer demonstrates that the exchange will not increase impacts to public facilities. This applies to such agreements and amendments effective on or after April 6, 2018.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 38-0; House 82-32