

STORAGE NAME: h4107s1.ca

DATE: April 5, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 4107

RELATING TO: Coastal Redevelopment

SPONSOR(S): Committee on Community Affairs and Representative Wiles and others

COMPANION BILL(S): CS/SB 1458 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) ENVIRONMENTAL PROTECTION YEAS 9 NAYS 0
 - (2) COMMUNITY AFFAIRS YEAS 9 NAYS 0
 - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

The bill provides for redevelopment of coastal resort and tourist areas which are deteriorating and economically distressed. The bill would make such areas subject to the provisions of Part III, Chapter 163, Florida Statutes (F.S.), the Community Redevelopment Act of 1969.

In addition, the bill creates two pilot projects to facilitate and demonstrate techniques for redeveloping economically distressed coastal resort and tourist areas. The pilot projects are located in the coastal areas of Florida's Atlantic coast between the St. Johns River entrance and the Ponce de Leon Inlet and the coastal areas of Florida's Gulf of Mexico between St. Andrews Bay and Perdido Bay. For a particular area to be eligible, all or part of the area must be within 1) the coastal building zone as defined by s.161.54, F.S., and 2) an economically deprived area as designated by a local government with jurisdiction over the area.

Local governments are encouraged to use the full range of available economic and tax incentives within the areas of the pilot projects. In addition, construction within the areas of the pilot projects are exempted from certain coastal construction permitting criteria pursuant to s. 161.053, F.S., provided that the construction is fronted by 1,000 feet of continuous, viable seawall or rigid coastal armoring structure. The Department of Environmental Protection (Department) is authorized to grant the necessary permits to close any "gaps" in an existing line of rigid coastal armoring structure. Authorization for the pilot projects and related provisions expire on December 31, 2002, and are subject to review by the Legislature prior to that date.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Community Redevelopment Agencies

Part III of Chapter 163, F.S., the "Community Redevelopment Act of 1969," grants local governments with the authority to establish community redevelopment agencies (CRAs). CRAs are used to assist local governments in the elimination of slum and blight and to restore the declining tax base of these areas. CRAs are required to develop a community redevelopment plan for the rehabilitation and redevelopment of designated slum and blighted areas. CRAs are permitted to establish a redevelopment trust fund utilizing revenues derived from tax increment financing.

Section 163.340(8), F.S. provides a two-part definition of "blighted area." The first part of the definition (s.163.340(8)(a), F.S.) relates to conditions that endanger life or property, impair or arrest the sound growth of a county or municipality, or constitute a menace to the public health, safety, or welfare. The second part of the definition (s. 163.340(8)(b), F.S.) relates to "infrastructure" conditions, such as inadequate street layout, inadequate parking, or roadways, bridges, or public transportation facilities incapable of handling the volume of traffic in the area. For purposes of qualifying for tax credits authorized by

Ch. 220, F.S., "blighted area" is defined in terms of the first part of the definition (s.163.340(8)(a), F.S.).

Section 163.355, F.S., requires the adoption of a resolution finding that:

1. One or more slum or blighted areas, or one or more areas in which there is a shortage of housing affordable to residents of low or moderate income, including the elderly, exist within the county or municipality; and
2. The rehabilitation, conservation, or redevelopment of these areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of the county or municipality.

The act also encourages participation by private entities. Section 163.345, F.S., directs a county or municipality, to the greatest extent feasible, to afford maximum opportunity to the rehabilitation or redevelopment of the community redevelopment area by private enterprise. Section 163.350, F.S., permits a county or municipality to establish a workable program for using appropriate private and public resources to eliminate and prevent the redevelopment or spread of slums and urban blight.

Coastal construction regulation

Chapter 161, F. S., provides the legal framework for Florida's coastal protection program. This chapter was initially created by the Beach and Shore Preservation Act, passed in 1965, and was significantly strengthened in regard to control of coastal development by the Coastal Zone Protection Act of 1985. These statutory provisions are administered by the Bureau of Beaches and Coastal Systems within the Florida Department of Environmental Protection. The Bureau is responsible for regulating

coastal construction, monitoring the state shoreline, and working with local governments and the U.S. Army Corps of Engineers to implement erosion control and beach restoration projects.

The Bureau regulates construction and restoration activities below the mean high water level as well as landward to the limits of the water effects of a 100-year frequency coastal storm. A Coastal Construction Control Line (CCCL) is established to define this landward limit of storm erosion damage from a 100-year storm. The CCCL has been established in 24 coastal counties, together representing 95 percent of Florida's sandy beach resource, or 800 coastline miles.

Construction or excavation seaward of the CCCL cannot be initiated until a permit is obtained from the Bureau. Coastal construction permitting focuses upon the protection of the beach/dune system from imprudent construction and the survival of major habitable structures from the effects of major coastal storms. Criteria are included for proper siting, or location, as well as the structural integrity of the proposed structure.

Section 161.053, F.S., provides for rebuilding and relocating existing structures. In general, repair, maintenance, or modification of existing structures within the confines of the existing foundation and not involving work on the foundation itself, is exempt from permitting. Structures that are damaged or being rebuilt for economic reasons may be rebuilt within the confines of the existing foundation upon compliance with design standards. Section 161.053(b), F.S., exempts new construction from certain siting and design criteria, if such construction is landward of existing armoring that is capable of providing protection from a 100-year storm surge.

Section 161.085, F.S., is the state's policy on rigid coastal armoring structures. Primarily, the policy provides for the state's protection of private property and public infrastructure. One way that the state achieves this policy is by issuing permits for the present and future installation of armoring structures or other emergency response measures.

Currently, the law does not provide construction permit exemptions, pursuant to s. 161.085, F.S. This covers construction and redevelopment of structures involving the coverage, excavation, and impervious surface criteria of s. 161.053, F.S., and to close the gap where a continuous line of rigid coastal armoring structure on either side of unarmored property and the adjacent line of rigid coastal armoring structures are having an adverse effect on or threaten the unarmored property, and the gap does not exceed 100 feet. No pilot projects exist to test such exemptions that may help encourage redevelopment of economically distressed coastal properties to use existing urban infrastructure to the fullest.

B. EFFECT OF PROPOSED CHANGES:

This bill expands the scope of the Community Redevelopment Act of 1969 to include coastal resort and tourist areas that are deteriorating and economically distressed due to outdated building density patterns, inadequate transportation and parking facilities, faulty lot layout, or inadequate street layout. More generally, it expands the definition of "blighted area":

- ▶ It adds “inadequate and outdated building density patterns” to s.163.340(8)(a), F.S., as a factor defining an area as blighted.
- ▶ It also adds “inadequate transportation and parking facilities” to 163.340(8)(a), F.S., which is currently included in the definition of “blighted area” provided in s. 163.340(8)(b), F.S.
- ▶ As a result of this change in definition, areas defined as blighted due to either of these two factors qualify for the tax credits authorized in Ch. 220, F.S.

In addition, the bill provides Legislative intent to undertake two pilot projects to determine the feasibility of encouraging redevelopment of economically distressed coastal properties to allow full utilization of existing urban infrastructure. The bill directs the Department to administer the pilot projects to facilitate and demonstrate techniques for redeveloping economically distressed coastal resort and tourist areas. The pilot projects are located in the coastal areas of Florida’s Atlantic coast between the St. Johns River entrance and the Ponce de Leon Inlet and the coastal areas of Florida’s Gulf of Mexico between St. Andrews Bay and Perdido Bay. For a particular area to be eligible, all or part of the area must be within 1) the coastal building zone as defined by s.161.54, F.S. and 2) an economically deprived area as designated by a local government with jurisdiction over the area. Local governments are encouraged to use the full range of available economic and tax incentives within the areas of the pilot projects.

Construction activities seaward of a coastal construction control line (CCCL) and landward of existing armoring within the area of the pilot projects are exempted from certain coastal construction permitting criteria pursuant to s 161.053, F.S., provided that the construction is fronted by 1,000 feet of continuous, viable seawall or rigid coastal armoring structure. All applicable local land development regulations would continue to apply to such construction.

The Department is authorized to grant the necessary permits to close any “gap” that does not exceed 100 feet in an existing line of rigid coastal armoring structure. Such structures must not cause flooding of or result in adverse impacts to existing upland structures or properties. In addition, permits are granted where there exists a continuous line of viable rigid coastal armoring structure on either side of a non-viable rigid coastal armoring structure. However, such permitting does not apply to rigid coastal armoring structures constructed after May 1, 1998, unless permitted pursuant to s. 161.085(2), F.S.

Construction projects would continue to be reviewed under s. 161.053, F.S., except that structures would be allowed to exceed 60 percent shore parallel coverage (e.g, a building located on a 100-foot wide lot being able to exceed 60 feet in width) and 50-percent impervious surface (Impervious surface is the total surface coverage on a lot that does not allow water to pass through to the ground below, including any structures as well as other surface coverings such as parking lots. This provision would allow more than 50 percent of a lot to be covered with impervious surfaces.)

Structures would not be bound by restrictions on excavation if the construction does not adversely impact the existing armoring structure or the existing beach and dune system. The bill specifically contemplates that underground structures, including garages, will be

permitted. All beach compatible material that is excavated must be maintained on the site seaward of the CCCL. Authorization for the pilot projects and related provisions expire on December 31, 2002, and are subject to review by the Legislature prior to that date.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

Not applicable.

(2) Who makes the decisions?

Not applicable.

(3) Are private alternatives permitted?

Not applicable.

(4) Are families required to participate in a program?

Not applicable.

(5) Are families penalized for not participating in a program?

Not applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. STATUTE(S) AFFECTED:

Amends ss.163.355 , 163.340, and 163.360, F.S., and creates s. 163.336, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amending s. 163.335, F.S., to provide a legislative finding that deteriorating and economically distressed coastal resort and tourist areas can be redeveloped in a manner that improves the economic and social conditions of the community.

Section 2: Amending s. 163.340, F.S., to amend the definitions of "blighted area," "community redevelopment," and "community redevelopment area."

Section 3: Amending s. 163.360, F.S., to provide that approval of the community development plan is also contingent on a finding that the community development plan and resulting revitalization and redevelopment for a coastal tourist area that is deteriorating and economically distressed will reduce or maintain evacuation time, as appropriate and ensure protection for property against exposure to natural disasters.

Section 4: Creating s.163.336, F.S., to provide for a coastal resort area redevelopment pilot project.

Section 5: Providing that the act will take effect upon becoming a law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Not applicable.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Redevelopment and revitalization within the areas of the pilot projects can potentially result in increased tourism and resort expenditures, providing direct economic benefits to business in the area.

3. Effects on Competition, Private Enterprise and Employment Markets:

No adverse effects on competition are anticipated. In addition to the direct economic benefit described in 2. above, more generalized economic benefits can be anticipated, including a positive impact on employment markets.

D. **FISCAL COMMENTS:**

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

The bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

The bill does not reduce the authority that municipalities or counties have to raise revenues.

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

The bill does not reduce the percentage of state tax shared with counties and municipalities.

V. COMMENTS:

Department staff expressed concerns regarding HB 4107, but these concerns were addressed by amendments agreed to by the Department and adopted by the Committee on Environmental Protection.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Committee on Community Affairs:

On March 30, 1998, the House Committee on Community Affairs adopted eight amendments to HB 4107. The Committee passed HB 4107 as a committee substitute which includes the eight adopted amendments and the four amendments that were traveling with the bill. The eight amendments adopted in the Community Affairs Committee hearing differed from the bill as introduced in the following manner:

- o Amendments 1, 2, 3, 4, and 6 all substitute the term “underutilization” with “distressed.”
- o Amendment 5 provides that approval of the community development plan is also contingent on a finding that the community development plan and resulting revitalization and redevelopment for a deteriorating coastal tourist area will reduce or maintain evacuation time, as appropriate and ensure protection for property against exposure to natural disasters.
- o Amendment 7 requires that the pilot project area must be consistent with principles, processes, and time frames provided in the law.
- o Amendment 8 introduces another geographical area to the proposed pilot project and, thereby, effectively creating two pilot projects. The new area includes the coastal areas of Florida’s Gulf of Mexico between St. Andrews Bay and Perdido Bay.

The Community Affairs Committee moved to allow staff to make technical changes to the committee substitute if necessary. In light of this motion, staff conformed the language of the committee substitute to HB 4107 to reflect the additional pilot project.

Committee on Environmental Protection:

On March 24, 1998, the Committee on Environmental Protection passed the bill with four amendments that are now incorporated in the committee substitute:

- o Amendment 1 limits DEP’s responsibility to simply administering the pilot project. Language is removed that would require the department to “facilitate and demonstrate techniques for redevelopment.”
- o Amendment 2 provides language to conform the bill with its Senate companion, SB 1458.
- o Amendment 3 removes the specific exemption that would allow parallel shore coverage to exceed 60 percent and instead provides that structures in the pilot project area shall not be subject to specific parallel shore coverage requirements. It also adds language suggested by DEP to prohibit stormwater discharges onto, or seaward, of the frontal dune.
- o Amendment 4 provides that permitted structures shall not cause flooding or otherwise adversely affect existing upland structures or properties; places a limit of

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100 feet on the length of a seawall gap that can be closed; and allows for the repair of existing seawalls in the pilot project area.

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

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AS REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

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