

1 A bill to be entitled
2 An act relating to growth management; creating
3 s. 163.3246, F.S.; creating a Local Government
4 Comprehensive Planning Certification Program to
5 be administered by the Department of Community
6 Affairs; defining the purpose of the
7 certification area to designate areas that are
8 appropriate for urban growth within a 10-year
9 timeframe; providing for certification
10 criteria; specifying the contents of the
11 certification agreement; providing evaluation
12 criteria; authorizing the Department of
13 Community Affairs to adopt procedural rules;
14 providing for the revocation of certification
15 agreements; providing for the rights of
16 affected persons to challenge local government
17 compliance with certification agreements;
18 eliminating state and regional review of
19 certain local comprehensive plan amendments
20 within certified areas; providing exceptions;
21 providing for the periodic review of a local
22 government's certification by the Department of
23 Community Affairs; requiring the submission of
24 biennial reports to the Governor and
25 Legislature; providing for review of the
26 certification program by the Office of Program
27 Policy Analysis and Government Accountability;
28 amending s. 163.3191, F.S.; requiring local
29 governments within coastal high-hazard areas to
30 address certain issues in the evaluation and
31 appraisal of their comprehensive plans;

1 amending s. 163.3187, F.S.; providing for plan
2 amendment relating to certain roadways in
3 specified counties under certain conditions;
4 providing an effective date.
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6 Be It Enacted by the Legislature of the State of Florida:
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8 Section 1. Section 163.3246, Florida Statutes, is
9 created to read:

10 163.3246 Local government comprehensive planning
11 certification program.--

12 (1) There is created the Local Government
13 Comprehensive Planning Certification Program to be
14 administered by the Department of Community Affairs. The
15 purpose of the program is to create a certification process
16 for local governments who identify a geographic area for
17 certification within which they commit to directing growth and
18 who, because of a demonstrated record of effectively adopting,
19 implementing, and enforcing its comprehensive plan, the level
20 of technical planning experience exhibited by the local
21 government, and a commitment to implement exemplary planning
22 practices, require less state and regional oversight of the
23 comprehensive plan amendment process. The purpose of the
24 certification area is to designate areas that are contiguous,
25 compact, and appropriate for urban growth and development
26 within a 10-year planning timeframe. Municipalities and
27 counties are encouraged to jointly establish the certification
28 area, and subsequently enter into joint certification
29 agreement with the department.

30 (2) In order to be eligible for certification under
31 the program, the local government must:

1 (a) Demonstrate a record of effectively adopting,
2 implementing, and enforcing its comprehensive plan;

3 (b) Demonstrate technical, financial, and
4 administrative expertise to implement the provisions of this
5 part without state oversight;

6 (c) Obtain comments from the state and regional review
7 agencies regarding the appropriateness of the proposed
8 certification;

9 (d) Hold at least one public hearing soliciting public
10 input concerning the local government's proposal for
11 certification; and

12 (e) Demonstrate that it has adopted programs in its
13 local comprehensive plan and land development regulations
14 which:

15 1. Promote infill development and redevelopment,
16 including prioritized and timely permitting processes in which
17 applications for local development permits within the
18 certification area are acted upon expeditiously for proposed
19 development that is consistent with the local comprehensive
20 plan.

21 2. Promote the development of housing for low-income
22 and very-low-income households or specialized housing to
23 assist elderly and disabled persons to remain at home or in
24 independent living arrangements.

25 3. Achieve effective intergovernmental coordination
26 and address the extrajurisdictional effects of development
27 within the certified area.

28 4. Promote economic diversity and growth while
29 encouraging the retention of rural character, where rural
30 areas exist, and the protection and restoration of the
31 environment.

1 5. Provide and maintain public urban and rural open
2 space and recreational opportunities.

3 6. Manage transportation and land uses to support
4 public transit and promote opportunities for pedestrian and
5 nonmotorized transportation.

6 7. Use design principles to foster individual
7 community identity, create a sense of place, and promote
8 pedestrian-oriented safe neighborhoods and town centers.

9 8. Redevelop blighted areas.

10 9. Adopt a local mitigation strategy and have programs
11 to improve disaster preparedness and the ability to protect
12 lives and property, especially in coastal high-hazard areas.

13 10. Encourage clustered, mixed-use development that
14 incorporates greenspace and residential development within
15 walking distance of commercial development.

16 11. Encourage urban infill at appropriate densities
17 and intensities and separate urban and rural uses and
18 discourage urban sprawl while preserving public open space and
19 planning for buffer-type land uses and rural development
20 consistent with their respective character along and outside
21 the certification area.

22 12. Assure protection of key natural areas and
23 agricultural lands that are identified using state and local
24 inventories of natural areas. Key natural areas include, but
25 are not limited to:

26 a. Wildlife corridors.

27 b. Lands with high native biological diversity,
28 important areas for threatened and endangered species, species
29 of special concern, migratory bird habitat, and intact natural
30 communities.

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1 c. Significant surface waters and springs, aquatic
2 preserves, wetlands, and outstanding Florida waters.

3 d. Water resources suitable for preservation of
4 natural systems and for water resource development.

5 e. Representative and rare native Florida natural
6 systems.

7 13. Ensure the cost-efficient provision of public
8 infrastructure and services.

9 (3) Portions of local governments located within areas
10 of critical state concern cannot be included in a
11 certification area.

12 (4) A local government or group of local governments
13 seeking certification of all or part of a jurisdiction or
14 jurisdictions must submit an application to the department
15 which demonstrates that the area sought to be certified meets
16 the criteria of subsections (2) and (5). The application shall
17 include copies of the applicable local government
18 comprehensive plan, land development regulations, interlocal
19 agreements, and other relevant information supporting the
20 eligibility criteria for designation. Upon receipt of a
21 complete application, the department must provide the local
22 government with an initial response to the application within
23 90 days after receipt of the application.

24 (5) If the local government meets the eligibility
25 criteria of subsection (2), the department shall certify all
26 or part of a local government by written agreement, which
27 shall be considered final agency action subject to challenge
28 under s. 120.569. The agreement must include the following
29 components:

30 (a) The basis for certification.

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1 (b) The boundary of the certification area, which
2 encompasses areas that are contiguous, compact, appropriate
3 for urban growth and development, and in which public
4 infrastructure is existing or planned within a 10-year
5 planning timeframe. The certification area is required to
6 include sufficient land to accommodate projected population
7 growth, housing demand, including choice in housing types and
8 affordability, job growth and employment, appropriate
9 densities and intensities of use to be achieved in new
10 development and redevelopment, existing or planned
11 infrastructure, including transportation and central water and
12 sewer facilities. The certification area must be adopted as
13 part of the local government's comprehensive plan.

14 (c) A demonstration that the capital-improvements plan
15 governing the certified area is updated annually.

16 (d) A visioning plan or a schedule for the development
17 of a visioning plan.

18 (e) A description of baseline conditions related to
19 the evaluation criteria in paragraph (g) in the certified
20 area.

21 (f) A work program setting forth specific planning
22 strategies and projects that will be undertaken to achieve
23 improvement in the baseline conditions as measured by the
24 criteria identified in paragraph (g).

25 (g) Criteria to evaluate the effectiveness of the
26 certification process in achieving the community-development
27 goals for the certification area including:

28 1. Measuring the compactness of growth, expressed as
29 the ratio between population growth and land consumed;

30 2. Increasing residential density and intensities of
31 use;

1 3. Measuring and reducing vehicle miles traveled and
2 increasing the interconnectedness of the street system,
3 pedestrian access, and mass transit;

4 4. Measuring the balance between the location of jobs
5 and housing;

6 5. Improving the housing mix within the certification
7 area, including the provision of mixed-use neighborhoods,
8 affordable housing, and the creation of an affordable housing
9 program if such a program is not already in place;

10 6. Promoting mixed-use developments as an alternative
11 to single-purpose centers;

12 7. Promoting clustered development having dedicated
13 open space;

14 8. Linking commercial, educational, and recreational
15 uses directly to residential growth;

16 9. Reducing per capita water and energy consumption;

17 10. Prioritizing environmental features to be
18 protected and adopting measures or programs to protect
19 identified features;

20 11. Reducing hurricane shelter deficits and evacuation
21 times and implementing the adopted mitigation strategies; and

22 12. Improving coordination between the local
23 government and school board.

24 (h) A commitment to change any land development
25 regulations that restrict compact development and adopt
26 alternative design codes that encourage desirable densities
27 and intensities of use and patterns of compact development
28 identified in the agreement.

29 (i) A plan for increasing public participation in
30 comprehensive planning and land use decision making which
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1 includes outreach to neighborhood and civic associations
2 through community planning initiatives.

3 (j) A demonstration that the intergovernmental
4 coordination element of the local government's comprehensive
5 plan includes joint processes for coordination between the
6 school board and local government pursuant to s.
7 163.3177(6)(h)2. and other requirements of law.

8 (k) A method of addressing the extrajurisdictional
9 effects of development within the certified area which is
10 integrated by amendment into the intergovernmental
11 coordination element of the local government comprehensive
12 plan.

13 (l) A requirement for the annual reporting to the
14 department of plan amendments adopted during the year, and the
15 progress of the local government in meeting the terms and
16 conditions of the certification agreement. Prior to the
17 deadline for the annual report, the local government must hold
18 a public hearing soliciting public input on the progress of
19 the local government in satisfying the terms of the
20 certification agreement.

21 (m) An expiration date that is no later than 10 years
22 after execution of the agreement.

23 (6) The department may enter up to eight new
24 certification agreements each fiscal year. The department
25 shall adopt procedural rules governing the application and
26 review of local government requests for certification. Such
27 procedural rules may establish a phased schedule for review of
28 local government requests for certification.

29 (7) The department shall revoke the local government's
30 certification if it determines that the local government is
31 not substantially complying with the terms of the agreement.

1 (8) An affected person, as defined by s.
2 163.3184(1)(a), may petition for administrative hearing
3 alleging that a local government is not substantially
4 complying with the terms of the agreement, using the
5 procedures and timeframes for notice and conditions precedent
6 described in s. 163.3213. Such a petition must be filed within
7 30 days after the annual public hearing required by paragraph
8 (5)(1).

9 (9)(a) Upon certification all comprehensive plan
10 amendments associated with the area certified must be adopted
11 and reviewed in the manner described in ss. 163.3184(1), (2),
12 (7), (14), (15), and (16) and 163.3187, such that state and
13 regional agency review is eliminated. The department may not
14 issue any objections, recommendations, and comments report on
15 proposed plan amendments or a notice of intent on adopted plan
16 amendments; however, affected persons, as defined by s.
17 163.3184(1)(a), may file a petition for administrative review
18 pursuant to the requirements of s. 163.3187(3)(a) to challenge
19 the compliance of an adopted plan amendment.

20 (b) Plan amendments that change the boundaries of the
21 certification area; propose a rural land stewardship area
22 pursuant to s. 163.3177(11)(d); propose an optional sector
23 plan pursuant to s. 163.3245; propose a school facilities
24 element; update a comprehensive plan based on an evaluation
25 and appraisal report; impact lands outside the certification
26 boundary; implement new statutory requirements that require
27 specific comprehensive plan amendments; or increase hurricane
28 evacuation times or the need for shelter capacity on lands
29 within the coastal high hazard area shall be reviewed pursuant
30 to ss. 163.3184 and 163.3187.

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1 (10) A local government's certification shall be
2 reviewed by the local government and the department as part of
3 the evaluation and appraisal process pursuant to s. 163.3191.
4 Within 1 year after the deadline for the local government to
5 update its comprehensive plan based on the evaluation and
6 appraisal report, the department shall renew or revoke the
7 certification. The local government's failure to adopt a
8 timely evaluation and appraisal report, failure to adopt an
9 evaluation and appraisal report found to be sufficient, or
10 failure to timely adopt amendments based on an evaluation and
11 appraisal report found to be in compliance by the department
12 shall be cause for revoking the certification agreement. The
13 department's decision to renew or revoke shall be considered
14 agency action subject to challenge under s. 120.569.

15 (11) The department shall, by July 1 of each
16 odd-numbered year, submit to the Governor, the President of
17 the Senate, and the Speaker of the House of Representatives a
18 report listing certified local governments, evaluating the
19 effectiveness of the certification, and including any
20 recommendations for legislative actions.

21 (12) The Office of Program Policy Analysis and
22 Government Accountability shall prepare a report evaluating
23 the certification program, which shall be submitted to the
24 Governor, the President of the Senate, and the Speaker of the
25 House of Representatives by December 1, 2007.

26 Section 2. Paragraph (1) is added to subsection (2) of
27 section 163.3191, Florida Statutes, to read:

28 163.3191 Evaluation and appraisal of comprehensive
29 plan.--

30 (2) The report shall present an evaluation and
31 assessment of the comprehensive plan and shall contain

1 appropriate statements to update the comprehensive plan,
2 including, but not limited to, words, maps, illustrations, or
3 other media, related to:

4 (1) If any of the jurisdiction of the local government
5 is located within the coastal high-hazard area, an evaluation
6 of whether any past reduction in land use density impairs the
7 property rights of current residents when redevelopment
8 occurs, including, but not limited to, redevelopment following
9 a natural disaster. The local government must identify
10 strategies to address redevelopment feasibility and the
11 property rights of affected residents. These strategies may
12 include the authorization of redevelopment up to the actual
13 built density in existence on the property prior to the
14 natural disaster or redevelopment.

15 Section 3. Paragraph (c) of subsection (1) of section
16 163.3187, Florida Statutes, is amended, and paragraph (k) is
17 added to that subsection, to read:

18 163.3187 Amendment of adopted comprehensive plan.--

19 (1) Amendments to comprehensive plans adopted pursuant
20 to this part may be made not more than two times during any
21 calendar year, except:

22 (c) Any local government comprehensive plan amendments
23 directly related to proposed small scale development
24 activities may be approved without regard to statutory limits
25 on the frequency of consideration of amendments to the local
26 comprehensive plan. A small scale development amendment may be
27 adopted only under the following conditions:

28 1. The proposed amendment involves a use of 10 acres
29 or fewer and:
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1 a. The cumulative annual effect of the acreage for all
2 small scale development amendments adopted by the local
3 government shall not exceed:

4 (I) A maximum of 120 acres in a local government that
5 contains areas specifically designated in the local
6 comprehensive plan for urban infill, urban redevelopment, or
7 downtown revitalization as defined in s. 163.3164, urban
8 infill and redevelopment areas designated under s. 163.2517,
9 transportation concurrency exception areas approved pursuant
10 to s. 163.3180(5), or regional activity centers and urban
11 central business districts approved pursuant to s.

12 380.06(2)(e); however, amendments under this paragraph may be
13 applied to no more than 60 acres annually of property outside
14 the designated areas listed in this sub-sub-subparagraph.

15 Amendments adopted pursuant to paragraph (k) shall not be
16 counted toward the acreage limitations for small scale
17 amendments under this paragraph.

18 (II) A maximum of 80 acres in a local government that
19 does not contain any of the designated areas set forth in
20 sub-sub-subparagraph (I).

21 (III) A maximum of 120 acres in a county established
22 pursuant to s. 9, Art. VIII of the State Constitution.

23 b. The proposed amendment does not involve the same
24 property granted a change within the prior 12 months.

25 c. The proposed amendment does not involve the same
26 owner's property within 200 feet of property granted a change
27 within the prior 12 months.

28 d. The proposed amendment does not involve a text
29 change to the goals, policies, and objectives of the local
30 government's comprehensive plan, but only proposes a land use
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1 change to the future land use map for a site-specific small
2 scale development activity.

3 e. The property that is the subject of the proposed
4 amendment is not located within an area of critical state
5 concern, unless the project subject to the proposed amendment
6 involves the construction of affordable housing units meeting
7 the criteria of s. 420.0004(3), and is located within an area
8 of critical state concern designated by s. 380.0552 or by the
9 Administration Commission pursuant to s. 380.05(1). Such
10 amendment is not subject to the density limitations of
11 sub-subparagraph f., and shall be reviewed by the state land
12 planning agency for consistency with the principles for
13 guiding development applicable to the area of critical state
14 concern where the amendment is located and shall not become
15 effective until a final order is issued under s. 380.05(6).

16 f. If the proposed amendment involves a residential
17 land use, the residential land use has a density of 10 units
18 or less per acre, except that this limitation does not apply
19 to small scale amendments described in sub-sub-subparagraph
20 a.(I) that are designated in the local comprehensive plan for
21 urban infill, urban redevelopment, or downtown revitalization
22 as defined in s. 163.3164, urban infill and redevelopment
23 areas designated under s. 163.2517, transportation concurrency
24 exception areas approved pursuant to s. 163.3180(5), or
25 regional activity centers and urban central business districts
26 approved pursuant to s. 380.06(2)(e).

27 2.a. A local government that proposes to consider a
28 plan amendment pursuant to this paragraph is not required to
29 comply with the procedures and public notice requirements of
30 s. 163.3184(15)(c) for such plan amendments if the local
31 government complies with the provisions in s. 125.66(4)(a) for

1 a county or in s. 166.041(3)(c) for a municipality. If a
2 request for a plan amendment under this paragraph is initiated
3 by other than the local government, public notice is required.

4 b. The local government shall send copies of the
5 notice and amendment to the state land planning agency, the
6 regional planning council, and any other person or entity
7 requesting a copy. This information shall also include a
8 statement identifying any property subject to the amendment
9 that is located within a coastal high hazard area as
10 identified in the local comprehensive plan.

11 3. Small scale development amendments adopted pursuant
12 to this paragraph require only one public hearing before the
13 governing board, which shall be an adoption hearing as
14 described in s. 163.3184(7), and are not subject to the
15 requirements of s. 163.3184(3)-(6) unless the local government
16 elects to have them subject to those requirements.

17 (k) A local comprehensive plan amendment directly
18 related to providing transportation improvements to enhance
19 life safety on Controlled Access Major Arterial Highways
20 identified in the Florida Intrastate Highway System, in
21 counties as defined in s. 125.011, where such roadways have a
22 high incidence of traffic accidents resulting in serious
23 injury or death. Any such amendment shall not include any
24 amendment modifying the designation on a comprehensive
25 development plan land use map nor any amendment modifying the
26 allowable densities or intensities of any land.

27 Section 4. This act shall take effect upon becoming a
28 law.

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