

Amendment No. 02f (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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5			ORIGINAL STAMP BELOW
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11 Representative(s) Russell offered the following:

13 **Amendment (with title amendment)**

14 On page 77, lines 10-29,  
15 remove: from the bill all of said lines,  
16  
17 and insert:

18 Section 4. Paragraph (d) of subsection (2), paragraph  
19 (b) of subsection (4), and paragraph (a) of subsection (8) of  
20 section 380.06, Florida Statutes, are amended to read:

- 21 380.06 Developments of regional impact.--
- 22 (2) STATEWIDE GUIDELINES AND STANDARDS.--
- 23 (d) The guidelines and standards shall be applied as
- 24 follows:
  - 25 1. Fixed thresholds.--
  - 26 a. A development that is ~~at or~~ below 100 ~~80~~ percent of
  - 27 all numerical thresholds in the guidelines and standards shall
  - 28 not be required to undergo development-of-regional-impact
  - 29 review.
  - 30 b. A development that is at or above 120 percent of
  - 31 any numerical threshold shall be required to undergo

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1 development-of-regional-impact review.

2 c. Projects certified under s. 403.973 which create at  
3 least 100 jobs and meet the criteria of the Office of Tourism,  
4 Trade, and Economic Development as to their impact on an  
5 area's economy, employment, and prevailing wage and skill  
6 levels that are at or below 100 percent of the numerical  
7 thresholds for industrial plants, industrial parks,  
8 distribution, warehousing or wholesaling facilities, office  
9 development or multiuse projects other than residential, as  
10 described in s. 380.0651(3)(c), (d), and (i), are not required  
11 to undergo development-of-regional-impact review.

12 2. Rebuttable presumption ~~presumptions~~.--

13 a. ~~It shall be presumed that a development that is~~  
14 ~~between 80 and 100 percent of a numerical threshold shall not~~  
15 ~~be required to undergo development-of-regional-impact review.~~

16 ~~b.~~ It shall be presumed that a development that is at  
17 100 percent or between 100 and 120 percent of a numerical  
18 threshold shall be required to undergo  
19 development-of-regional-impact review.

20 (4) BINDING LETTER.--

21 (b) Unless a developer waives the requirements of this  
22 paragraph by agreeing to undergo  
23 development-of-regional-impact review pursuant to this  
24 section, the state land planning agency or local government  
25 with jurisdiction over the land on which a development is  
26 proposed may require a developer to obtain a binding letter  
27 if+

28 ~~+~~ the development is at a presumptive numerical  
29 threshold or up to 20 percent above a numerical threshold in  
30 the guidelines and standards. ~~+~~ or

31 ~~2. The development is between a presumptive numerical~~

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~~1 threshold and 20 percent below the numerical threshold and the  
2 local government or the state land planning agency is in doubt  
3 as to whether the character or magnitude of the development at  
4 the proposed location creates a likelihood that the  
5 development will have a substantial effect on the health,  
6 safety, or welfare of citizens of more than one county.~~

7 (8) PRELIMINARY DEVELOPMENT AGREEMENTS.--

8 (a) A developer may enter into a written preliminary  
9 development agreement with the state land planning agency to  
10 allow a developer to proceed with a limited amount of the  
11 total proposed development, subject to all other governmental  
12 approvals and solely at the developer's own risk, prior to  
13 issuance of a final development order. All owners of the land  
14 in the total proposed development shall join the developer as  
15 parties to the agreement. Each agreement shall include and be  
16 subject to the following conditions:

17 1. The developer shall comply with the preapplication  
18 conference requirements pursuant to subsection (7) within 45  
19 days after the execution of the agreement.

20 2. The developer shall file an application for  
21 development approval for the total proposed development within  
22 3 months after execution of the agreement, unless the state  
23 land planning agency agrees to a different time for good cause  
24 shown. Failure to timely file an application and to otherwise  
25 diligently proceed in good faith to obtain a final development  
26 order shall constitute a breach of the preliminary development  
27 agreement.

28 3. The agreement shall include maps and legal  
29 descriptions of both the preliminary development area and the  
30 total proposed development area and shall specifically  
31 describe the preliminary development in terms of magnitude and

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1 location. The area approved for preliminary development must  
2 be included in the application for development approval and  
3 shall be subject to the terms and conditions of the final  
4 development order.

5 4. The preliminary development shall be limited to  
6 lands that the state land planning agency agrees are suitable  
7 for development and shall only be allowed in areas where  
8 adequate public infrastructure exists to accommodate the  
9 preliminary development, when such development will utilize  
10 public infrastructure. The developer must also demonstrate  
11 that the preliminary development will not result in material  
12 adverse impacts to existing resources or existing or planned  
13 facilities.

14 5. The preliminary development agreement may allow  
15 development which is:

16 a. Less than ~~or equal to~~ 100 ~~80~~ percent of any  
17 applicable threshold if the developer demonstrates that such  
18 development is consistent with subparagraph 4.; or

19 b. Less than 120 percent of any applicable threshold  
20 if the developer demonstrates that such development is part of  
21 a proposed downtown development of regional impact specified  
22 in subsection (22) or part of any areawide development of  
23 regional impact specified in subsection (25) and that the  
24 development is consistent with subparagraph 4.

25 6. The developer and owners of the land may not claim  
26 vested rights, or assert equitable estoppel, arising from the  
27 agreement or any expenditures or actions taken in reliance on  
28 the agreement to continue with the total proposed development  
29 beyond the preliminary development. The agreement shall not  
30 entitle the developer to a final development order approving  
31 the total proposed development or to particular conditions in

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1 a final development order.

2 7. The agreement shall not prohibit the regional  
3 planning agency from reviewing or commenting on any regional  
4 issue that the regional agency determines should be included  
5 in the regional agency's report on the application for  
6 development approval.

7 8. The agreement shall include a disclosure by the  
8 developer and all the owners of the land in the total proposed  
9 development of all land or development within 5 miles of the  
10 total proposed development in which they have an interest and  
11 shall describe such interest.

12 9. In the event of a breach of the agreement or  
13 failure to comply with any condition of the agreement, or if  
14 the agreement was based on materially inaccurate information,  
15 the state land planning agency may terminate the agreement or  
16 file suit to enforce the agreement as provided in this section  
17 and s. 380.11, including a suit to enjoin all development.

18 10. A notice of the preliminary development agreement  
19 shall be recorded by the developer in accordance with s.  
20 28.222 with the clerk of the circuit court for each county in  
21 which land covered by the terms of the agreement is located.  
22 The notice shall include a legal description of the land  
23 covered by the agreement and shall state the parties to the  
24 agreement, the date of adoption of the agreement and any  
25 subsequent amendments, the location where the agreement may be  
26 examined, and that the agreement constitutes a land  
27 development regulation applicable to portions of the land  
28 covered by the agreement. The provisions of the agreement  
29 shall inure to the benefit of and be binding upon successors  
30 and assigns of the parties in the agreement.

31 11. Except for those agreements which authorize

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1 preliminary development for substantial deviations pursuant to  
2 subsection (19), a developer who no longer wishes to pursue a  
3 development of regional impact may propose to abandon any  
4 preliminary development agreement executed after January 1,  
5 1985, including those pursuant to s. 380.032(3), provided at  
6 the time of abandonment:

7         a. A final development order under this section has  
8 been rendered that approves all of the development actually  
9 constructed; or

10         b. The amount of development is less than 100 ~~80~~  
11 percent of all numerical thresholds of the guidelines and  
12 standards, and the state land planning agency determines in  
13 writing that the development to date is in compliance with all  
14 applicable local regulations and the terms and conditions of  
15 the preliminary development agreement and otherwise adequately  
16 mitigates for the impacts of the development to date.

17  
18 In either event, when a developer proposes to abandon said  
19 agreement, the developer shall give written notice and state  
20 that he or she is no longer proposing a development of  
21 regional impact and provide adequate documentation that he or  
22 she has met the criteria for abandonment of the agreement to  
23 the state land planning agency. Within 30 days of receipt of  
24 adequate documentation of such notice, the state land planning  
25 agency shall make its determination as to whether or not the  
26 developer meets the criteria for abandonment. Once the state  
27 land planning agency determines that the developer meets the  
28 criteria for abandonment, the state land planning agency shall  
29 issue a notice of abandonment which shall be recorded by the  
30 developer in accordance with s. 28.222 with the clerk of the  
31 circuit court for each county in which land covered by the

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1 terms of the agreement is located.

2           Section 5. (1) Nothing contained in this act abridges  
3 or modifies any vested or other right or any duty or  
4 obligation pursuant to any development order or agreement that  
5 is applicable to a development of regional impact on the  
6 effective date of this act. A development that has received a  
7 development-of-regional-impact development order pursuant to  
8 s. 380.06, Florida Statutes 2001, but is no longer required to  
9 undergo development-of-regional-impact review by operation of  
10 this act, shall be governed by the following procedures:

11           (a) The development shall continue to be governed by  
12 the development-of-regional-impact development order and may  
13 be completed in reliance upon and pursuant to the development  
14 order. The development-of-regional-impact development order  
15 may be enforced by the local government as provided by ss.  
16 380.06(17) and 380.11, Florida Statutes 2001.

17           (b) If requested by the developer or landowner, the  
18 development-of-regional-impact development order may be  
19 amended or rescinded by the local government consistent with  
20 the local comprehensive plan and land development regulations,  
21 and pursuant to the local government procedures governing  
22 local development orders.

23           (2) A development with an application for development  
24 approval pending on the effective date of this act, or a  
25 notification of proposed change pending on the effective date  
26 of this act, may elect to continue such review pursuant to s.  
27 380.06, Florida Statutes 2001. At the conclusion of the  
28 pending review, including any appeals pursuant to s. 380.07,  
29 Florida Statutes 2001, the resulting development order shall  
30 be governed by the provisions of subsection (1).

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 7, lines 4 through 7,  
4 remove: all of said lines,

5

6 and insert:

7 and Water Management Act; amending s. 380.06,  
8 F.S., relating to development of regional  
9 impact; removing a rebuttable presumption with  
10 respect to application of the statewide  
11 guidelines and standards and revising the fixed  
12 thresholds; providing application with respect  
13 to developments that have received a  
14 development-of-regional-impact development  
15 order or that have an application for  
16 development approval or notification of  
17 proposed change pending;

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