

By Senator Jones

13-959-03

1 A bill to be entitled
2 An act relating to coastal redevelopment hazard
3 mitigation; providing a short title; amending
4 s. 163.3164, F.S.; defining the term "local
5 hazard mitigation strategy"; amending s.
6 163.3177, F.S.; providing an additional
7 requirement in the comprehensive plan
8 concerning hazard mitigation; amending s.
9 163.3178, F.S.; revising language with respect
10 to coastal management; authorizing a
11 demonstration project in certain counties to
12 allow for the redevelopment of coastal areas
13 within the designated coastal high hazard area;
14 providing conditions; providing for application
15 by a local government; providing for a written
16 agreement between the state land planning
17 agency and the local government; providing for
18 a progress report; amending ss. 186.515,
19 288.975, and 369.303, F.S.; correcting
20 cross-references to conform; providing an
21 effective date.

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

25 Section 1. Popular name.--This act may be cited as
26 "The Coastal Redevelopment Hazard Mitigation Demonstration
27 Project Act."

28 Section 2. Section 163.3164, Florida Statutes, is
29 amended to read:

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1 163.3164 Local Government Comprehensive Planning and
2 Land Development Regulation Act; definitions. As used in this
3 act:

4 (1) "Administration Commission" means the Governor and
5 the Cabinet, and for purposes of this chapter the commission
6 shall act on a simple majority vote, except that for purposes
7 of imposing the sanctions provided in s. 163.3184(11),
8 affirmative action shall require the approval of the Governor
9 and at least three other members of the commission.

10 (2) "Area" or "area of jurisdiction" means the total
11 area qualifying under the provisions of this act, whether this
12 be all of the lands lying within the limits of an incorporated
13 municipality, lands in and adjacent to incorporated
14 municipalities, all unincorporated lands within a county, or
15 areas comprising combinations of the lands in incorporated
16 municipalities and unincorporated areas of counties.

17 (3) "Coastal area" means the 35 coastal counties and
18 all coastal municipalities within their boundaries designated
19 coastal by the state land planning agency.

20 (4) "Comprehensive plan" means a plan that meets the
21 requirements of ss. 163.3177 and 163.3178.

22 (5) "Developer" means any person, including a
23 governmental agency, undertaking any development as defined in
24 this act.

25 (6) "Development" has the meaning given it in s.
26 380.04.

27 (7) "Development order" means any order granting,
28 denying, or granting with conditions an application for a
29 development permit.

30 (8) "Development permit" includes any building permit,
31 zoning permit, subdivision approval, rezoning, certification,

1 special exception, variance, or any other official action of
2 local government having the effect of permitting the
3 development of land.

4 (9) "Governing body" means the board of county
5 commissioners of a county, the commission or council of an
6 incorporated municipality, or any other chief governing body
7 of a unit of local government, however designated, or the
8 combination of such bodies where joint utilization of the
9 provisions of this act is accomplished as provided herein.

10 (10) "Governmental agency" means:

11 (a) The United States or any department, commission,
12 agency, or other instrumentality thereof.

13 (b) This state or any department, commission, agency,
14 or other instrumentality thereof.

15 (c) Any local government, as defined in this section,
16 or any department, commission, agency, or other
17 instrumentality thereof.

18 (d) Any school board or other special district,
19 authority, or governmental entity.

20 (11) "Land" means the earth, water, and air, above,
21 below, or on the surface, and includes any improvements or
22 structures customarily regarded as land.

23 (12) "Land use" means the development that has
24 occurred on the land, the development that is proposed by a
25 developer on the land, or the use that is permitted or
26 permissible on the land under an adopted comprehensive plan or
27 element or portion thereof, land development regulations, or a
28 land development code, as the context may indicate.

29 (13) "Local government" means any county or
30 municipality.

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1 (14) "Local hazard mitigation strategy" means a local
2 plan required under section 322 of the Robert T. Stafford
3 Disaster Relief and Emergency Assistance Act, enacted by
4 section 104 of the Disaster Mitigation Act of 2000 (Pub. L.
5 No. 106-390) to promote hazard mitigation and to manage
6 disaster redevelopment.

7 (15)~~(14)~~ "Local planning agency" means the agency
8 designated to prepare the comprehensive plan or plan
9 amendments required by this act.

10 (16)~~(15)~~ A "newspaper of general circulation" means a
11 newspaper published at least on a weekly basis and printed in
12 the language most commonly spoken in the area within which it
13 circulates, but does not include a newspaper intended
14 primarily for members of a particular professional or
15 occupational group, a newspaper whose primary function is to
16 carry legal notices, or a newspaper that is given away
17 primarily to distribute advertising.

18 (17)~~(16)~~ "Parcel of land" means any quantity of land
19 capable of being described with such definiteness that its
20 locations and boundaries may be established, which is
21 designated by its owner or developer as land to be used, or
22 developed as, a unit or which has been used or developed as a
23 unit.

24 (18)~~(17)~~ "Person" means an individual, corporation,
25 governmental agency, business trust, estate, trust,
26 partnership, association, two or more persons having a joint
27 or common interest, or any other legal entity.

28 (19)~~(18)~~ "Public notice" means notice as required by
29 s. 125.66(2) for a county or by s. 166.041(3)(a) for a
30 municipality. The public notice procedures required in this
31 part are established as minimum public notice procedures.

1 (20)~~(19)~~ "Regional planning agency" means the agency
2 designated by the state land planning agency to exercise
3 responsibilities under law in a particular region of the
4 state.

5 (21)~~(20)~~ "State land planning agency" means the
6 Department of Community Affairs.

7 (22)~~(21)~~ "Structure" has the meaning given it by s.
8 380.031(19).

9 (23)~~(22)~~ "Land development regulation commission"
10 means a commission designated by a local government to develop
11 and recommend, to the local governing body, land development
12 regulations which implement the adopted comprehensive plan and
13 to review land development regulations, or amendments thereto,
14 for consistency with the adopted plan and report to the
15 governing body regarding its findings. The responsibilities of
16 the land development regulation commission may be performed by
17 the local planning agency.

18 (24)~~(23)~~ "Land development regulations" means
19 ordinances enacted by governing bodies for the regulation of
20 any aspect of development and includes any local government
21 zoning, rezoning, subdivision, building construction, or sign
22 regulations or any other regulations controlling the
23 development of land, except that this definition shall not
24 apply in s. 163.3213.

25 (25)~~(24)~~ "Public facilities" means major capital
26 improvements, including, but not limited to, transportation,
27 sanitary sewer, solid waste, drainage, potable water,
28 educational, parks and recreational, and health systems and
29 facilities, and spoil disposal sites for maintenance dredging
30 located in the intracoastal waterways, except for spoil
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1 disposal sites owned or used by ports listed in s.
2 403.021(9)(b).

3 (26)~~(25)~~ "Downtown revitalization" means the physical
4 and economic renewal of a central business district of a
5 community as designated by local government, and includes both
6 downtown development and redevelopment.

7 (27)~~(26)~~ "Urban redevelopment" means demolition and
8 reconstruction or substantial renovation of existing buildings
9 or infrastructure within urban infill areas or existing urban
10 service areas.

11 (28)~~(27)~~ "Urban infill" means the development of
12 vacant parcels in otherwise built-up areas where public
13 facilities such as sewer systems, roads, schools, and
14 recreation areas are already in place and the average
15 residential density is at least five dwelling units per acre,
16 the average nonresidential intensity is at least a floor area
17 ratio of 1.0 and vacant, developable land does not constitute
18 more than 10 percent of the area.

19 (29)~~(28)~~ "Projects that promote public transportation"
20 means projects that directly affect the provisions of public
21 transit, including transit terminals, transit lines and
22 routes, separate lanes for the exclusive use of public transit
23 services, transit stops (shelters and stations), office
24 buildings or projects that include fixed-rail or transit
25 terminals as part of the building, and projects which are
26 transit oriented and designed to complement reasonably
27 proximate planned or existing public facilities.

28 (30)~~(29)~~ "Existing urban service area" means built-up
29 areas where public facilities and services such as sewage
30 treatment systems, roads, schools, and recreation areas are
31 already in place.

1 (31)~~(30)~~ "Transportation corridor management" means
2 the coordination of the planning of designated future
3 transportation corridors with land use planning within and
4 adjacent to the corridor to promote orderly growth, to meet
5 the concurrency requirements of this chapter, and to maintain
6 the integrity of the corridor for transportation purposes.

7 (32)~~(31)~~ "Optional sector plan" means an optional
8 process authorized by s. 163.3245 in which one or more local
9 governments by agreement with the state land planning agency
10 are allowed to address development-of-regional-impact issues
11 within certain designated geographic areas identified in the
12 local comprehensive plan as a means of fostering innovative
13 planning and development strategies in s. 163.3177(11)(a) and
14 (b), furthering the purposes of this part and part I of
15 chapter 380, reducing overlapping data and analysis
16 requirements, protecting regionally significant resources and
17 facilities, and addressing extrajurisdictional impacts.

18 Section 3. Paragraphs (a) and (g) of subsection (6) of
19 section 163.3177, Florida Statutes, are amended to read:

20 163.3177 Required and optional elements of
21 comprehensive plan; studies and surveys.--

22 (6) In addition to the requirements of subsections
23 (1)-(5), the comprehensive plan shall include the following
24 elements:

25 (a) A future land use plan element designating
26 proposed future general distribution, location, and extent of
27 the uses of land for residential uses, commercial uses,
28 industry, agriculture, recreation, conservation, education,
29 public buildings and grounds, other public facilities, and
30 other categories of the public and private uses of land. Each
31 future land use category must be defined in terms of uses

1 included, and must include standards to be followed in the
2 control and distribution of population densities and building
3 and structure intensities. The proposed distribution,
4 location, and extent of the various categories of land use
5 shall be shown on a land use map or map series which shall be
6 supplemented by goals, policies, and measurable objectives.
7 The future land use plan shall be based upon surveys, studies,
8 and data regarding the area, including the amount of land
9 required to accommodate anticipated growth; the projected
10 population of the area; the character of undeveloped land; the
11 availability of public services; the vulnerability to natural
12 hazards and hazard mitigation;the need for redevelopment,
13 including the renewal of blighted areas and the elimination of
14 nonconforming uses which are inconsistent with the character
15 of the community; and, in rural communities, the need for job
16 creation, capital investment, and economic development that
17 will strengthen and diversify the community's economy. The
18 future land use plan may designate areas for future planned
19 development use involving combinations of types of uses for
20 which special regulations may be necessary to ensure
21 development in accord with the principles and standards of the
22 comprehensive plan and this act. In addition, for rural
23 communities, the amount of land designated for future planned
24 industrial use shall be based upon surveys and studies that
25 reflect the need for job creation, capital investment, and the
26 necessity to strengthen and diversify the local economies, and
27 shall not be limited solely by the projected population of the
28 rural community. The future land use plan of a county may also
29 designate areas for possible future municipal incorporation.
30 The land use maps or map series shall generally identify and
31 depict historic district boundaries and shall designate

1 historically significant properties meriting protection. The
2 future land use element must clearly identify the land use
3 categories in which public schools are an allowable use. When
4 delineating the land use categories in which public schools
5 are an allowable use, a local government shall include in the
6 categories sufficient land proximate to residential
7 development to meet the projected needs for schools in
8 coordination with public school boards and may establish
9 differing criteria for schools of different type or size. Each
10 local government shall include lands contiguous to existing
11 school sites, to the maximum extent possible, within the land
12 use categories in which public schools are an allowable use.
13 All comprehensive plans must comply with the school siting
14 requirements of this paragraph no later than October 1, 1999.
15 The failure by a local government to comply with these school
16 siting requirements by October 1, 1999, will result in the
17 prohibition of the local government's ability to amend the
18 local comprehensive plan, except for plan amendments described
19 in s. 163.3187(1)(b), until the school siting requirements are
20 met. Amendments proposed by a local government for purposes of
21 identifying the land use categories in which public schools
22 are an allowable use or for adopting or amending the
23 school-siting maps pursuant to s. 163.31776(3) are exempt from
24 the limitation on the frequency of plan amendments contained
25 in s. 163.3187. The future land use element shall include
26 criteria that encourage the location of schools proximate to
27 urban residential areas to the extent possible and shall
28 require that the local government seek to collocate public
29 facilities, such as parks, libraries, and community centers,
30 with schools to the extent possible and to encourage the use
31 of elementary schools as focal points for neighborhoods. For

1 schools serving predominantly rural counties, defined as a
2 county with a population of 100,000 or fewer, an agricultural
3 land use category shall be eligible for the location of public
4 school facilities if the local comprehensive plan contains
5 school siting criteria and the location is consistent with
6 such criteria.

7 (g) For those units of local government identified in
8 s. 380.24, a coastal management element, appropriately related
9 to the particular requirements of paragraphs (d) and (e) and
10 meeting the requirements of s. 163.3178(2) and (3). The
11 coastal management element shall set forth the policies that
12 shall guide the local government's decisions and program
13 implementation with respect to the following objectives:

14 1. Maintenance, restoration, and enhancement of the
15 overall quality of the coastal zone environment, including,
16 but not limited to, its amenities and aesthetic values.

17 2. Continued existence of viable populations of all
18 species of wildlife and marine life.

19 3. The orderly and balanced utilization and
20 preservation, consistent with sound conservation principles,
21 of all living and nonliving coastal zone resources.

22 4. Avoidance of irreversible and irretrievable loss of
23 coastal zone resources.

24 5. Ecological planning principles and assumptions to
25 be used in the determination of suitability and extent of
26 permitted development.

27 6. Proposed management and regulatory techniques.

28 7. Limitation of public expenditures that subsidize
29 development in high-hazard coastal areas.

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1 8. Protection of human life against the effects of
2 natural disasters and implementation of local hazard
3 mitigation strategies.

4 9. The orderly development, maintenance, and use of
5 ports identified in s. 403.021(9) to facilitate deepwater
6 commercial navigation and other related activities.

7 10. Preservation, including sensitive adaptive use of
8 historic and archaeological resources.

9 Section 4. Paragraphs (d) and (f) of subsection (2) of
10 section 163.3178, Florida Statutes, are amended, and
11 subsection (9) is added to that section, to read:

12 163.3178 Coastal management.--

13 (2) Each coastal management element required by s.
14 163.3177(6)(g) shall be based on studies, surveys, and data;
15 be consistent with coastal resource plans prepared and adopted
16 pursuant to general or special law; and contain:

17 (d) A component which outlines principles for hazard
18 mitigation and protection of human life and property against
19 the effects of natural disaster, including population
20 evacuation and local hazard mitigation strategies, which take
21 into consideration the capability to safely evacuate the
22 density of coastal population proposed in the future land use
23 plan element in the event of an impending natural disaster.

24 (f) A redevelopment component which outlines the
25 principles which shall be used to eliminate inappropriate and
26 unsafe development in the coastal areas when opportunities
27 arise. In recognition of the need to balance redevelopment,
28 the protection of human life and property, and public
29 investment in infrastructure, as a demonstration project up to
30 five local governments or a combination of local governments
31 may amend their comprehensive plans to allow for the

1 redevelopment of coastal areas within the designated coastal
2 high hazard area. The application must include the
3 participation of the county emergency management agency, as
4 provided in s. 252.38, in which the local government or local
5 governments are located.

6 1. To be eligible for the coastal redevelopment
7 demonstration project, the following conditions must be met:
8 the area must be part of a comprehensive redevelopment
9 strategy that is incorporated into the comprehensive plan; the
10 area must be consistent with the definition of "urban infill"
11 or "urban redevelopment"; the area must not be within a
12 designated area of critical state concern; the comprehensive
13 plan must delineate the coastal high hazard area consistent
14 with this part; and the county emergency management agency
15 must affirm in writing its intent to participate in the
16 demonstration project.

17 2. In order to allow for redevelopment within the
18 coastal high hazard area beyond that provided in the existing
19 approved comprehensive plan, the local government or
20 combination of local governments, authorized by agreement
21 pursuant to paragraph (9)(b) to pursue the demonstration
22 project, shall adopt into the comprehensive plan a
23 redevelopment strategy consistent with the requirements of
24 paragraph (6)(a), and local hazard mitigation strategies, that
25 include the following components:

26 a. Measures to reduce, replace, or eliminate unsafe
27 structures and properties subject to repetitive damage from
28 coastal storms and floods;

29 b. Measures to reduce exposure of infrastructure to
30 hazards, including relocation or structural modification of
31 threatened coastal infrastructure;

1 c. Operational and capacity improvements to ensure
2 that the redevelopment strategy maintains, or reduces,
3 throughout the planning timeframe the county hurricane
4 evacuation clearance times as established in the most recent
5 hurricane evacuation study or transportation analysis;

6 d. Where the county hurricane evacuation clearance
7 times exceed 16 hours for a Category 3 storm event, measures
8 to ensure that the redevelopment strategy reduces the county
9 shelter deficit and hurricane clearance times to adequate
10 levels below 16 hours within the planning timeframe;

11 e. Measures that provide for county evacuation shelter
12 space to ensure that development authorized within the
13 redevelopment area provides mitigation proportional to its
14 impact to offset the increased demand on evacuation clearance
15 times and public shelter space;

16 f. Measures to ensure that public expenditures that
17 subsidize development in the most vulnerable areas of the
18 coastal high hazard area are limited, except for that needed
19 to provide for public access to the beach and shoreline,
20 restore beaches and dunes and other natural systems, correct
21 existing hurricane evacuation deficiencies, or to make
22 facilities more disaster resistant;

23 g. Measures that commit to planning and regulatory
24 standards that exceed minimum National Flood Insurance
25 Standards, including participation in the Community Rating
26 System of the National Flood Insurance Program;

27 h. Measures to ensure that the redevelopment strategy
28 does not allow increases in development, including residential
29 and transient residential development such as hotels, motels,
30 timeshares, and vacation rentals, within the most vulnerable
31 areas of the coastal high hazard area, including the Flood

1 Insurance Rate Map velocity zones, and areas subject to
2 coastal erosion, including lands seaward of the coastal
3 construction control line;

4 i. Measures to ensure protection of coastal resources,
5 including beach and dune systems, and provide for public
6 access to the beach and shoreline consistent with estimated
7 public needs;

8 j. A vision that establishes the preferred character
9 of the community and how that will be achieved;

10 k. Data and analysis that show what costs, including
11 the potential costs of damage to structures, property, and
12 infrastructure would be less than that expected without the
13 redevelopment strategy;

14 l. Data and analysis forecasting the impacts on
15 clearance times, based on the population anticipated by the
16 redevelopment strategy; and

17 m. The execution of an interlocal agreement, as
18 supporting data and analysis, between the local government or
19 a combination of local governments participating in the
20 project with their respective county emergency management
21 agencies and any affected municipalities to implement
22 mitigation strategies to reduce hurricane evacuation clearance
23 times and public shelter deficit.

24 (9)(a) A local government seeking to implement the
25 coastal redevelopment demonstration project pursuant to
26 paragraph (2)(f) must submit an application to the state land
27 planning agency demonstrating that the project meets the
28 conditions of subparagraph (2)(f)1. The application shall
29 include copies of the local government comprehensive plan and
30 other relevant information supporting the proposed
31 demonstration project. The state land planning agency may

1 adopt procedural rules governing the submission and review of
2 applications, may establish a phased schedule for review of
3 applications, and shall provide the Federal Emergency Planning
4 Agency and the Division of Emergency Management with an
5 opportunity to comment on the application.

6 (b) If the local government meets the conditions of
7 subparagraph (2)(f)1., the state land planning agency and the
8 local government shall execute a written agreement that is
9 considered final agency action subject to challenge under s.
10 120.569. The written agreement shall delineate the area
11 subject to the increase in development potential, including
12 residential and transient residential development, state the
13 amount of such increase; identify the most vulnerable areas of
14 the coastal high hazard area which are not subject to
15 increases in development, and describe how the conditions of
16 subparagraph (2)(f)2. are to be met. The state land planning
17 agency shall coordinate the review of hazard mitigation
18 strategies with the Federal Emergency Management Agency and
19 the Division of Emergency Management and include in the
20 written agreement conditions necessary to be addressed in the
21 comprehensive plan to meet the requirements of hurricane
22 evacuation, shelter, and hazard mitigation. The agreement
23 shall specify procedures for public participation and
24 intergovernmental coordination with the county emergency
25 management agency and any affected municipalities regarding
26 hurricane evacuation and shelter requirements. The local
27 governments shall provide an opportunity for public comment at
28 a public hearing before execution of the agreement. Upon
29 execution of the written agreement, the local government may
30 propose plan amendments that are authorized by the agreement.

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1 However, plan amendments may not be adopted until the
2 completion of any challenges to an agreement under s. 120.569.

3 (c) The state land planning agency shall provide a
4 progress report on the project to the Governor, the President
5 of the Senate, and the Speaker of the House of Representatives
6 by February 1, 2005.

7 Section 5. Section 186.515, Florida Statutes, is
8 amended to read:

9 186.515 Creation of regional planning councils under
10 chapter 163.--Nothing in ss. 186.501-186.507, 186.513, and
11 186.515 is intended to repeal or limit the provisions of
12 chapter 163; however, the local general-purpose governments
13 serving as voting members of the governing body of a regional
14 planning council created pursuant to ss. 186.501-186.507,
15 186.513, and 186.515 are not authorized to create a regional
16 planning council pursuant to chapter 163 unless an agency,
17 other than a regional planning council created pursuant to ss.
18 186.501-186.507, 186.513, and 186.515, is designated to
19 exercise the powers and duties in any one or more of ss.
20 163.3164(20)(19)and 380.031(15); in which case, such a
21 regional planning council is also without authority to
22 exercise the powers and duties in s. 163.3164(20)(19)or s.
23 380.031(15).

24 Section 6. Paragraph (a) of subsection (2) of section
25 288.975, Florida Statutes, is amended to read:

26 288.975 Military base reuse plans.--

27 (2) As used in this section, the term:

28 (a) "Affected local government" means a local
29 government adjoining the host local government and any other
30 unit of local government that is not a host local government
31 but that is identified in a proposed military base reuse plan

1 as providing, operating, or maintaining one or more public
2 facilities as defined in s. 163.3164(25)(24) on lands within
3 or serving a military base designated for closure by the
4 Federal Government.

5 Section 7. Subsection (5) of section 369.303, Florida
6 Statutes, is amended to read:

7 369.303 Definitions.--As used in this part:

8 (5) "Land development regulation" means a regulation
9 covered by the definition in s. 163.3164(24)(23) and any of
10 the types of regulations described in s. 163.3202.

11 Section 8. This act shall take effect upon becoming a
12 law.

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15 SENATE SUMMARY

16 Revises provisions relating to coastal redevelopment
17 hazard mitigation. Authorizes a demonstration project in
18 certain counties to allow for the redevelopment of
19 coastal areas within the designated coastal high hazard
20 area. Provides for applications by local governments.
21 Conforms provisions. (See bill for details.)

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