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1 A bill to be entitled

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

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Popular name.--This act shall be known by the
22 popular name "The Coastal Redevelopment Hazard Mitigation
23 Demonstration Project Act."

24 Section 2. Section 163.3164, Florida Statutes, is amended
25 to read:

26 163.3164 Local Government Comprehensive Planning and Land
27 Development Regulation Act; definitions.--As used in this act:

28 (1) "Administration Commission" means the Governor and the
29 Cabinet, and for purposes of this chapter the commission shall
30 act on a simple majority vote, except that for purposes of



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31 imposing the sanctions provided in s. 163.3184(11), affirmative
 32 action shall require the approval of the Governor and at least
 33 three other members of the commission.

34 (2) "Area" or "area of jurisdiction" means the total area
 35 qualifying under the provisions of this act, whether this be all
 36 of the lands lying within the limits of an incorporated
 37 municipality, lands in and adjacent to incorporated
 38 municipalities, all unincorporated lands within a county, or
 39 areas comprising combinations of the lands in incorporated
 40 municipalities and unincorporated areas of counties.

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

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

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

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

49 (7) "Development order" means any order granting, denying,
 50 or granting with conditions an application for a development
 51 permit.

52 (8) "Development permit" includes any building permit,
 53 zoning permit, subdivision approval, rezoning, certification,
 54 special exception, variance, or any other official action of
 55 local government having the effect of permitting the development
 56 of land.

57 (9) "Governing body" means the board of county
 58 commissioners of a county, the commission or council of an
 59 incorporated municipality, or any other chief governing body of
 60 a unit of local government, however designated, or the



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61 combination of such bodies where joint utilization of the
 62 provisions of this act is accomplished as provided herein.

63 (10) "Governmental agency" means:

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

66 (b) This state or any department, commission, agency, or
 67 other instrumentality thereof.

68 (c) Any local government, as defined in this section, or
 69 any department, commission, agency, or other instrumentality
 70 thereof.

71 (d) Any school board or other special district, authority,
 72 or governmental entity.

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

76 (12) "Land use" means the development that has occurred on
 77 the land, the development that is proposed by a developer on the
 78 land, or the use that is permitted or permissible on the land
 79 under an adopted comprehensive plan or element or portion
 80 thereof, land development regulations, or a land development
 81 code, as the context may indicate.

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

83 (14) "Local hazard mitigation strategy" means a local plan
 84 required under the Federal Stafford Act to promote hazard
 85 mitigation and to manage postdisaster redevelopment and
 86 recovery.

87 ~~(15)~~~~(14)~~ "Local planning agency" means the agency
 88 designated to prepare the comprehensive plan or plan amendments
 89 required by this act.



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90 (16)~~(15)~~ A "newspaper of general circulation" means a
 91 newspaper published at least on a weekly basis and printed in
 92 the language most commonly spoken in the area within which it
 93 circulates, but does not include a newspaper intended primarily
 94 for members of a particular professional or occupational group,
 95 a newspaper whose primary function is to carry legal notices, or
 96 a newspaper that is given away primarily to distribute
 97 advertising.

98 (17)~~(16)~~ "Parcel of land" means any quantity of land
 99 capable of being described with such definiteness that its
 100 locations and boundaries may be established, which is designated
 101 by its owner or developer as land to be used, or developed as, a
 102 unit or which has been used or developed as a unit.

103 (18)~~(17)~~ "Person" means an individual, corporation,
 104 governmental agency, business trust, estate, trust, partnership,
 105 association, two or more persons having a joint or common
 106 interest, or any other legal entity.

107 (19)~~(18)~~ "Public notice" means notice as required by s.
 108 125.66(2) for a county or by s. 166.041(3)(a) for a
 109 municipality. The public notice procedures required in this part
 110 are established as minimum public notice procedures.

111 (20)~~(19)~~ "Regional planning agency" means the agency
 112 designated by the state land planning agency to exercise
 113 responsibilities under law in a particular region of the state.

114 (21)~~(20)~~ "State land planning agency" means the Department
 115 of Community Affairs.

116 (22)~~(21)~~ "Structure" has the meaning given it by s.
 117 380.031(19).

118 (23)~~(22)~~ "Land development regulation commission" means a
 119 commission designated by a local government to develop and



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120 recommend, to the local governing body, land development
 121 regulations which implement the adopted comprehensive plan and
 122 to review land development regulations, or amendments thereto,
 123 for consistency with the adopted plan and report to the
 124 governing body regarding its findings. The responsibilities of
 125 the land development regulation commission may be performed by
 126 the local planning agency.

127 (24)~~(23)~~ "Land development regulations" means ordinances
 128 enacted by governing bodies for the regulation of any aspect of
 129 development and includes any local government zoning, rezoning,
 130 subdivision, building construction, or sign regulations or any
 131 other regulations controlling the development of land, except
 132 that this definition shall not apply in s. 163.3213.

133 (25)~~(24)~~ "Public facilities" means major capital
 134 improvements, including, but not limited to, transportation,
 135 sanitary sewer, solid waste, drainage, potable water,
 136 educational, parks and recreational, and health systems and
 137 facilities, and spoil disposal sites for maintenance dredging
 138 located in the intracoastal waterways, except for spoil disposal
 139 sites owned or used by ports listed in s. 403.021(9)(b).

140 (26)~~(25)~~ "Downtown revitalization" means the physical and
 141 economic renewal of a central business district of a community
 142 as designated by local government, and includes both downtown
 143 development and redevelopment.

144 (27)~~(26)~~ "Urban redevelopment" means demolition and
 145 reconstruction or substantial renovation of existing buildings
 146 or infrastructure within urban infill areas or existing urban
 147 service areas.

148 (28)~~(27)~~ "Urban infill" means the development of vacant
 149 parcels in otherwise built-up areas where public facilities such



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150 as sewer systems, roads, schools, and recreation areas are
151 already in place and the average residential density is at least
152 five dwelling units per acre, the average nonresidential
153 intensity is at least a floor area ratio of 1.0 and vacant,
154 developable land does not constitute more than 10 percent of the
155 area.

156 (29)~~(28)~~ "Projects that promote public transportation"
157 means projects that directly affect the provisions of public
158 transit, including transit terminals, transit lines and routes,
159 separate lanes for the exclusive use of public transit services,
160 transit stops (shelters and stations), office buildings or
161 projects that include fixed-rail or transit terminals as part of
162 the building, and projects which are transit oriented and
163 designed to complement reasonably proximate planned or existing
164 public facilities.

165 (30)~~(29)~~ "Existing urban service area" means built-up
166 areas where public facilities and services such as sewage
167 treatment systems, roads, schools, and recreation areas are
168 already in place.

169 (31)~~(30)~~ "Transportation corridor management" means the
170 coordination of the planning of designated future transportation
171 corridors with land use planning within and adjacent to the
172 corridor to promote orderly growth, to meet the concurrency
173 requirements of this chapter, and to maintain the integrity of
174 the corridor for transportation purposes.

175 (32)~~(31)~~ "Optional sector plan" means an optional process
176 authorized by s. 163.3245 in which one or more local governments
177 by agreement with the state land planning agency are allowed to
178 address development-of-regional-impact issues within certain
179 designated geographic areas identified in the local



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180 comprehensive plan as a means of fostering innovative planning
 181 and development strategies in s. 163.3177(11) (a) and (b),
 182 furthering the purposes of this part and part I of chapter 380,
 183 reducing overlapping data and analysis requirements, protecting
 184 regionally significant resources and facilities, and addressing
 185 extrajurisdictional impacts.

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

188 163.3177 Required and optional elements of comprehensive
 189 plan; studies and surveys.--

190 (6) In addition to the requirements of subsections (1)-
 191 (5), the comprehensive plan shall include the following
 192 elements:

193 (a) A future land use plan element designating proposed
 194 future general distribution, location, and extent of the uses of
 195 land for residential uses, commercial uses, industry,
 196 agriculture, recreation, conservation, education, public
 197 buildings and grounds, other public facilities, and other
 198 categories of the public and private uses of land. Each future
 199 land use category must be defined in terms of uses included, and
 200 must include standards to be followed in the control and
 201 distribution of population densities and building and structure
 202 intensities. The proposed distribution, location, and extent of
 203 the various categories of land use shall be shown on a land use
 204 map or map series which shall be supplemented by goals,
 205 policies, and measurable objectives. The future land use plan
 206 shall be based upon surveys, studies, and data regarding the
 207 area, including the amount of land required to accommodate
 208 anticipated growth; the projected population of the area; the
 209 character of undeveloped land; the availability of public



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210 services; the vulnerability to natural hazards and hazard
211 mitigation; the need for redevelopment, including the renewal of
212 blighted areas and the elimination of nonconforming uses which
213 are inconsistent with the character of the community; and, in
214 rural communities, the need for job creation, capital
215 investment, and economic development that will strengthen and
216 diversify the community's economy. The future land use plan may
217 designate areas for future planned development use involving
218 combinations of types of uses for which special regulations may
219 be necessary to ensure development in accord with the principles
220 and standards of the comprehensive plan and this act. In
221 addition, for rural communities, the amount of land designated
222 for future planned industrial use shall be based upon surveys
223 and studies that reflect the need for job creation, capital
224 investment, and the necessity to strengthen and diversify the
225 local economies, and shall not be limited solely by the
226 projected population of the rural community. The future land use
227 plan of a county may also designate areas for possible future
228 municipal incorporation. The land use maps or map series shall
229 generally identify and depict historic district boundaries and
230 shall designate historically significant properties meriting
231 protection. The future land use element must clearly identify
232 the land use categories in which public schools are an allowable
233 use. When delineating the land use categories in which public
234 schools are an allowable use, a local government shall include
235 in the categories sufficient land proximate to residential
236 development to meet the projected needs for schools in
237 coordination with public school boards and may establish
238 differing criteria for schools of different type or size. Each
239 local government shall include lands contiguous to existing



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240 school sites, to the maximum extent possible, within the land
 241 use categories in which public schools are an allowable use. All
 242 comprehensive plans must comply with the school siting
 243 requirements of this paragraph no later than October 1, 1999.
 244 The failure by a local government to comply with these school
 245 siting requirements by October 1, 1999, will result in the
 246 prohibition of the local government's ability to amend the local
 247 comprehensive plan, except for plan amendments described in s.
 248 163.3187(1)(b), until the school siting requirements are met.
 249 Amendments proposed by a local government for purposes of
 250 identifying the land use categories in which public schools are
 251 an allowable use or for adopting or amending the school-siting
 252 maps pursuant to s. 163.31776(3) are exempt from the limitation
 253 on the frequency of plan amendments contained in s. 163.3187.
 254 The future land use element shall include criteria that
 255 encourage the location of schools proximate to urban residential
 256 areas to the extent possible and shall require that the local
 257 government seek to collocate public facilities, such as parks,
 258 libraries, and community centers, with schools to the extent
 259 possible and to encourage the use of elementary schools as focal
 260 points for neighborhoods. For schools serving predominantly
 261 rural counties, defined as a county with a population of 100,000
 262 or fewer, an agricultural land use category shall be eligible
 263 for the location of public school facilities if the local
 264 comprehensive plan contains school siting criteria and the
 265 location is consistent with such criteria.

266 (g) For those units of local government identified in s.
 267 380.24, a coastal management element, appropriately related to
 268 the particular requirements of paragraphs (d) and (e) and
 269 meeting the requirements of s. 163.3178(2) and (3). The coastal



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270 management element shall set forth the policies that shall guide
 271 the local government's decisions and program implementation with
 272 respect to the following objectives:

273 1. Maintenance, restoration, and enhancement of the
 274 overall quality of the coastal zone environment, including, but
 275 not limited to, its amenities and aesthetic values.

276 2. Continued existence of viable populations of all
 277 species of wildlife and marine life.

278 3. The orderly and balanced utilization and preservation,
 279 consistent with sound conservation principles, of all living and
 280 nonliving coastal zone resources.

281 4. Avoidance of irreversible and irretrievable loss of
 282 coastal zone resources.

283 5. Ecological planning principles and assumptions to be
 284 used in the determination of suitability and extent of permitted
 285 development.

286 6. Proposed management and regulatory techniques.

287 7. Limitation of public expenditures that subsidize
 288 development in high-hazard coastal areas.

289 8. Protection of human life against the effects of natural
 290 disasters and implementation of hazard mitigation strategies.

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

294 10. Preservation, including sensitive adaptive use of
 295 historic and archaeological resources.

296 Section 4. Paragraphs (d) and (f) of subsection (2) of
 297 section 163.3178, Florida Statutes, are amended, and subsection
 298 (9) is added to said section, to read:

299 163.3178 Coastal management.--



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300 (2) Each coastal management element required by s.
 301 163.3177(6) (g) shall be based on studies, surveys, and data; be
 302 consistent with coastal resource plans prepared and adopted
 303 pursuant to general or special law; and contain:

304 (d) A component which outlines principles for hazard
 305 mitigation and protection of human life and property against the
 306 effects of natural disaster, including population evacuation and
 307 local hazard mitigation strategies, which take into
 308 consideration the capability to safely evacuate the density of
 309 coastal population proposed in the future land use plan element
 310 in the event of an impending natural disaster.

311 (f) A redevelopment component which outlines the
 312 principles which shall be used to eliminate inappropriate and
 313 unsafe development in the coastal areas when opportunities
 314 arise. In recognition of the need to balance redevelopment, the
 315 protection of human life and property, and public investment in
 316 infrastructure, as a demonstration project up to five local
 317 governments may amend their comprehensive plans to allow for the
 318 redevelopment of coastal areas within the designated coastal
 319 high hazard area. To be eligible for the coastal redevelopment
 320 demonstration project, the following conditions must be met: the
 321 area is part of a comprehensive redevelopment strategy that is
 322 incorporated into the comprehensive plan; the area is consistent
 323 with the definition of "urban infill" or "urban redevelopment";
 324 the area is not within a designated area of critical state
 325 concern; the comprehensive plan delineates the most vulnerable
 326 areas within the coastal high hazard area to include areas of
 327 repetitive damage, lands located within the FEMA velocity zone
 328 and areas subject to coastal erosion, including lands seaward of
 329 the coastal construction control line; local mitigation



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330 strategies are included within the comprehensive plan that
331 reduce, replace, or eliminate unsafe structures and properties
332 subject to repetitive damage from coastal storms and floods;
333 measures to reduce exposure to hazards, including relocation,
334 structural modification of threatened coastal infrastructure,
335 provides for operational or capacity improvements to maintain
336 over the planning timeframe the county hurricane clearance times
337 as established in the most recent hurricane evacuation study or
338 transportation analysis or reduce over the planning timeframe
339 hurricane clearance times to adequate levels below 12 hours and
340 strategies that reduce shelter deficits within the planning
341 timeframe; development authorized within the area provides
342 mitigation proportional to its impact to offset the increased
343 demand on evacuation and public shelter space; and public
344 expenditures which subsidize development in the most vulnerable
345 areas of the coastal high hazard area are limited. The
346 redevelopment plan shall not allow increases in development,
347 including residential and transient residential development such
348 as hotels, motels, timeshares, and vacation rentals, within the
349 most vulnerable areas of the coastal high hazard area, including
350 the FEMA velocity zone; areas subject to coastal erosion,
351 including lands seaward of the coastal construction control
352 line; and areas of repetitive damage from coastal storms and
353 flooding. The redevelopment plans shall ensure protection of
354 coastal resources, including beach and dune systems, and provide
355 for public access to the beach and shoreline consistent with
356 estimated public needs.

357 (9) (a) A local government seeking to implement the coastal
358 redevelopment demonstration project pursuant to paragraph (2) (f)
359 must first submit an application to the state land planning



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360 agency demonstrating that the project meets the conditions of
361 paragraph (2) (f). The application shall include copies of the
362 local government comprehensive plan, interlocal agreements, and
363 other relevant information supporting the proposed demonstration
364 project. The state land planning agency may adopt procedural
365 rules governing the submission and review of applications, and
366 may establish a phased schedule for review of applications. The
367 state land planning agency shall provide FEMA and the Division
368 of Emergency Management an opportunity to comment on the
369 application.

370 (b) If the local government meets the conditions of
371 paragraph (2) (f), the state land planning agency and the local
372 government shall execute a written agreement that shall be
373 considered final agency action subject to challenge under s.
374 120.569. The written agreement shall identify the area subject
375 to the increase in development potential, including residential
376 and transient residential development, state the amount of such
377 increase; the most vulnerable areas not subject to increases in
378 development, including residential and transient residential
379 development; and describe how the conditions of paragraph (2) (f)
380 are met. The state land planning agency shall coordinate the
381 review of hazard mitigation strategies with FEMA and the
382 Division of Emergency Management and include in the written
383 agreement conditions necessary to meet Federal Stafford Act
384 requirements. Upon execution of the written agreement, the local
385 government may propose plan amendments that are authorized by
386 the agreement; provided that no such plan amendment may be
387 adopted until the completion of any challenges under s. 120.569.

388 (c) The state land planning agency shall provide a
389 progress report on this demonstration project to the Governor,



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390 the President of the Senate, and the Speaker of the House of
 391 Representatives by December 31, 2004.

392 Section 5. Section 186.515, Florida Statutes, is amended
 393 to read:

394 186.515 Creation of regional planning councils under
 395 chapter 163.--Nothing in ss. 186.501-186.507, 186.513, and
 396 186.515 is intended to repeal or limit the provisions of chapter
 397 163; however, the local general-purpose governments serving as
 398 voting members of the governing body of a regional planning
 399 council created pursuant to ss. 186.501-186.507, 186.513, and
 400 186.515 are not authorized to create a regional planning council
 401 pursuant to chapter 163 unless an agency, other than a regional
 402 planning council created pursuant to ss. 186.501-186.507,
 403 186.513, and 186.515, is designated to exercise the powers and
 404 duties in any one or more of ss. 163.3164 (20) ~~(19)~~ and
 405 380.031(15); in which case, such a regional planning council is
 406 also without authority to exercise the powers and duties in s.
 407 163.3164 (20) ~~(19)~~ or s. 380.031(15).

408 Section 6. Paragraph (a) of subsection (2) of section
 409 288.975, Florida Statutes, is amended to read:

410 288.975 Military base reuse plans.--

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

412 (a) "Affected local government" means a local government
 413 adjoining the host local government and any other unit of local
 414 government that is not a host local government but that is
 415 identified in a proposed military base reuse plan as providing,
 416 operating, or maintaining one or more public facilities as
 417 defined in s. 163.3164 (25) ~~(24)~~ on lands within or serving a
 418 military base designated for closure by the Federal Government.



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

421 369.303 Definitions.--As used in this part:

422 (5) "Land development regulation" means a regulation
423 covered by the definition in s. 163.3164 (24) ~~(23)~~ and any of the
424 types of regulations described in s. 163.3202.

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