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A bill to be entitled

An act relating to coastal redevelopment hazard mitigation; providing a popular name; amending s. 163.3164, F.S.; defining the term "local hazard mitigation strategy"; amending s. 163.3177, F.S.; providing an additional requirement for a local government's comprehensive plan concerning hazard mitigation; amending s. 163.3178, F.S.; revising provisions with respect to coastal management; authorizing a demonstration project in certain counties to allow for the redevelopment of coastal areas within the designated coastal high hazard area; providing conditions; providing for application by a local government; providing for a written agreement between the state land planning agency and the local government; providing for a progress report; amending ss. 186.515, 288.975, and 369.303, F.S.; correcting cross-references to conform; providing an effective date.

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

Section 1. Popular name.--This act may be known by the popular name and cited as the "Coastal Redevelopment Hazard Mitigation Demonstration Project Act."

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

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

(1) "Administration Commission" means the Governor and the Cabinet, and for purposes of this chapter the commission shall

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30 act on a simple majority vote, except that for purposes of
 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

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59 incorporated municipality, or any other chief governing body of
 60 a unit of local government, however designated, or the
 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 Section 322, Mitigation Planning, of the Robert
 85 T. Stafford Disaster Relief and Emergency Assistance Act,
 86 enacted by Section 104 of the Disaster Mitigation Act of 2000

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87 (Pub. L. No. 106-390) to promote hazard mitigation and to manage
 88 disaster redevelopment.

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

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

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

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

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

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

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116 (21)~~(20)~~ "State land planning agency" means the Department
 117 of Community Affairs.

118 (22)~~(21)~~ "Structure" has the meaning given it by s.
 119 380.031(19).

120 (23)~~(22)~~ "Land development regulation commission" means a
 121 commission designated by a local government to develop and
 122 recommend, to the local governing body, land development
 123 regulations which implement the adopted comprehensive plan and
 124 to review land development regulations, or amendments thereto,
 125 for consistency with the adopted plan and report to the
 126 governing body regarding its findings. The responsibilities of
 127 the land development regulation commission may be performed by
 128 the local planning agency.

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

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

142 (26)~~(25)~~ "Downtown revitalization" means the physical and
 143 economic renewal of a central business district of a community

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144 as designated by local government, and includes both downtown
 145 development and redevelopment.

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

150 (28)~~(27)~~ "Urban infill" means the development of vacant
 151 parcels in otherwise built-up areas where public facilities such
 152 as sewer systems, roads, schools, and recreation areas are
 153 already in place and the average residential density is at least
 154 five dwelling units per acre, the average nonresidential
 155 intensity is at least a floor area ratio of 1.0 and vacant,
 156 developable land does not constitute more than 10 percent of the
 157 area.

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

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

171 (31)~~(30)~~ "Transportation corridor management" means the
 172 coordination of the planning of designated future transportation

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173 corridors with land use planning within and adjacent to the
 174 corridor to promote orderly growth, to meet the concurrency
 175 requirements of this chapter, and to maintain the integrity of
 176 the corridor for transportation purposes.

177 (32)~~(31)~~ "Optional sector plan" means an optional process
 178 authorized by s. 163.3245 in which one or more local governments
 179 by agreement with the state land planning agency are allowed to
 180 address development-of-regional-impact issues within certain
 181 designated geographic areas identified in the local
 182 comprehensive plan as a means of fostering innovative planning
 183 and development strategies in s. 163.3177(11)(a) and (b),
 184 furthering the purposes of this part and part I of chapter 380,
 185 reducing overlapping data and analysis requirements, protecting
 186 regionally significant resources and facilities, and addressing
 187 extrajurisdictional impacts.

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

190 163.3177 Required and optional elements of comprehensive
 191 plan; studies and surveys.--

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

195 (a) A future land use plan element designating proposed
 196 future general distribution, location, and extent of the uses of
 197 land for residential uses, commercial uses, industry,
 198 agriculture, recreation, conservation, education, public
 199 buildings and grounds, other public facilities, and other
 200 categories of the public and private uses of land. Each future
 201 land use category must be defined in terms of uses included, and

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202 must include standards to be followed in the control and
 203 distribution of population densities and building and structure
 204 intensities. The proposed distribution, location, and extent of
 205 the various categories of land use shall be shown on a land use
 206 map or map series which shall be supplemented by goals,
 207 policies, and measurable objectives. The future land use plan
 208 shall be based upon surveys, studies, and data regarding the
 209 area, including the amount of land required to accommodate
 210 anticipated growth; the projected population of the area; the
 211 character of undeveloped land; the availability of public
 212 services; the vulnerability to natural hazards and hazard
 213 mitigation; the need for redevelopment, including the renewal of
 214 blighted areas and the elimination of nonconforming uses which
 215 are inconsistent with the character of the community; and, in
 216 rural communities, the need for job creation, capital
 217 investment, and economic development that will strengthen and
 218 diversify the community's economy. The future land use plan may
 219 designate areas for future planned development use involving
 220 combinations of types of uses for which special regulations may
 221 be necessary to ensure development in accord with the principles
 222 and standards of the comprehensive plan and this act. In
 223 addition, for rural communities, the amount of land designated
 224 for future planned industrial use shall be based upon surveys
 225 and studies that reflect the need for job creation, capital
 226 investment, and the necessity to strengthen and diversify the
 227 local economies, and shall not be limited solely by the
 228 projected population of the rural community. The future land use
 229 plan of a county may also designate areas for possible future
 230 municipal incorporation. The land use maps or map series shall

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231 generally identify and depict historic district boundaries and
232 shall designate historically significant properties meriting
233 protection. The future land use element must clearly identify
234 the land use categories in which public schools are an allowable
235 use. When delineating the land use categories in which public
236 schools are an allowable use, a local government shall include
237 in the categories sufficient land proximate to residential
238 development to meet the projected needs for schools in
239 coordination with public school boards and may establish
240 differing criteria for schools of different type or size. Each
241 local government shall include lands contiguous to existing
242 school sites, to the maximum extent possible, within the land
243 use categories in which public schools are an allowable use. All
244 comprehensive plans must comply with the school siting
245 requirements of this paragraph no later than October 1, 1999.
246 The failure by a local government to comply with these school
247 siting requirements by October 1, 1999, will result in the
248 prohibition of the local government's ability to amend the local
249 comprehensive plan, except for plan amendments described in s.
250 163.3187(1)(b), until the school siting requirements are met.
251 Amendments proposed by a local government for purposes of
252 identifying the land use categories in which public schools are
253 an allowable use or for adopting or amending the school-siting
254 maps pursuant to s. 163.31776(3) are exempt from the limitation
255 on the frequency of plan amendments contained in s. 163.3187.
256 The future land use element shall include criteria that
257 encourage the location of schools proximate to urban residential
258 areas to the extent possible and shall require that the local
259 government seek to collocate public facilities, such as parks,

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260 libraries, and community centers, with schools to the extent
 261 possible and to encourage the use of elementary schools as focal
 262 points for neighborhoods. For schools serving predominantly
 263 rural counties, defined as a county with a population of 100,000
 264 or fewer, an agricultural land use category shall be eligible
 265 for the location of public school facilities if the local
 266 comprehensive plan contains school siting criteria and the
 267 location is consistent with such criteria.

268 (g) For those units of local government identified in s.
 269 380.24, a coastal management element, appropriately related to
 270 the particular requirements of paragraphs (d) and (e) and
 271 meeting the requirements of s. 163.3178(2) and(3). The coastal
 272 management element shall set forth the policies that shall guide
 273 the local government's decisions and program implementation with
 274 respect to the following objectives:

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

278 2. Continued existence of viable populations of all
 279 species of wildlife and marine life.

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

283 4. Avoidance of irreversible and irretrievable loss of
 284 coastal zone resources.

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

288 6. Proposed management and regulatory techniques.

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289 7. Limitation of public expenditures that subsidize
290 development in high-hazard coastal areas.

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

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

296 10. Preservation, including sensitive adaptive use of
297 historic and archaeological resources.

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

301 163.3178 Coastal management.--

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

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

313 (f) A redevelopment component which outlines the
314 principles which shall be used to eliminate inappropriate and
315 unsafe development in the coastal areas when opportunities
316 arise. In recognition of the need to balance redevelopment, the
317 protection of human life and property, and public investment in

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318 infrastructure, as a demonstration project up to five local
319 governments or a combination of local governments may amend
320 their comprehensive plans to allow for the redevelopment of
321 coastal areas within the designated coastal high hazard area.
322 The application must include the participation of the county
323 emergency management agency, as provided in s. 252.38, in which
324 the local government or local governments are located.

325 1. To be eligible for the coastal redevelopment
326 demonstration project, the following conditions must be met: the
327 area is part of a comprehensive redevelopment strategy that will
328 be incorporated into the comprehensive plan; the area is
329 consistent with the definition of "urban infill" or "urban
330 redevelopment"; the area is not within a designated area of
331 critical state concern; the comprehensive plan delineates the
332 coastal high hazard area consistent with this part; and the
333 county emergency management agency affirms in writing its intent
334 to participate in the demonstration project.

335 2. In order to allow for redevelopment within the coastal
336 high hazard area beyond that provided in the existing approved
337 comprehensive plan, the local government or combination of local
338 governments, authorized by agreement pursuant to paragraph
339 (9)(b) to pursue the demonstration project, shall adopt into the
340 comprehensive plan a redevelopment strategy, consistent with the
341 requirements of s. 163.3177(6)(a) and local hazard mitigation
342 strategies, which includes, at a minimum, the following
343 components:

344 a. Measures to reduce, replace, or eliminate unsafe
345 structures and properties subject to repetitive damage from
346 coastal storms and floods;

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347 b. Measures to reduce exposure of infrastructure to
 348 hazards, including relocation and structural modification of
 349 threatened coastal infrastructure;

350 c. Operational and capacity improvements to ensure that
 351 the redevelopment strategy maintains or reduces throughout the
 352 planning timeframe the county hurricane evacuation clearance
 353 times as established in the most recent hurricane evacuation
 354 study or transportation analysis;

355 d. If the county hurricane evacuation clearance times
 356 exceed 16 hours for a Category 3 storm event, measures to ensure
 357 that the redevelopment strategy reduces the county shelter
 358 deficit and hurricane clearance times to adequate levels below
 359 16 hours within the planning timeframe;

360 e. Measures that provide for county evacuation shelter
 361 space to ensure that development authorized within the
 362 redevelopment area provides mitigation proportional to its
 363 impact to offset the increased demand on evacuation clearance
 364 times and public shelter space;

365 f. Measures to ensure that public expenditures that
 366 subsidize development in the most vulnerable areas of the
 367 coastal high hazard area are limited, except for that needed to
 368 provide for public access to the beach and shoreline, restore
 369 beaches and dunes and other natural systems, correct existing
 370 hurricane evacuation deficiencies, or make facilities more
 371 disaster resistant;

372 g. Measures that commit to planning and regulatory
 373 standards that exceed minimum National Flood Insurance
 374 Standards, including participation in the Community Rating
 375 System of the National Flood Insurance Program;

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376 h. Measures to ensure that the redevelopment strategy does
377 not allow increases in development, including residential and
378 transient residential development, such as hotels, motels,
379 timeshares, and vacation rentals, within the most vulnerable
380 areas of the coastal high hazard area, including the Flood
381 Insurance Rate Map velocity zones, and areas subject to coastal
382 erosion, including lands seaward of the coastal construction
383 control line;

384 i. Measures to ensure protection of coastal resources,
385 including beach and dune systems, and provision for public
386 access to the beach and shoreline consistent with estimated
387 public needs;

388 j. Data and analysis, including the potential costs of
389 damage to structures, property, and infrastructure which would
390 be less than that expected without the redevelopment strategy;

391 k. Data and analysis forecasting the impacts on shelter
392 capacity and hurricane evacuation clearance times, based on the
393 population anticipated by the redevelopment strategy; and

394 l. The execution of an interlocal agreement, as supporting
395 data and analysis, between the local government or a combination
396 of local governments participating in the demonstration project,
397 together with their respective county emergency management
398 agency and any affected municipalities as needed, to implement
399 mitigation strategies to reduce hurricane evacuation clearance
400 times and public shelter deficit.

401
402 The redevelopment strategy shall establish the preferred
403 character of the community and how that will be achieved.

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404 (9)(a) A local government seeking to implement the coastal
405 redevelopment demonstration project pursuant to paragraph (2)(f)
406 must submit an application to the state land planning agency
407 demonstrating that the project meets the conditions of
408 subparagraph (2)(f)1. The application must include copies of the
409 local government comprehensive plan and other relevant
410 information supporting the proposed demonstration project. The
411 state land planning agency may adopt procedural rules governing
412 the submission and review of applications and may establish a
413 phased schedule for review of applications. The state land
414 planning agency shall provide the Federal Emergency Management
415 Agency and the Division of Emergency Management with an
416 opportunity to comment on the application.

417 (b) If the local government meets the conditions of
418 subparagraph (2)(f)1., the state land planning agency and the
419 local government shall execute a written agreement that is a
420 final agency action subject to challenge under s. 120.569. The
421 written agreement must identify the area subject to the increase
422 in development potential, including residential and transient
423 residential development; state the amount of such increase;
424 identify the most vulnerable areas not subject to increases in
425 development; and describe how the conditions of subparagraph
426 (2)(f)2. are to be met. The state land planning agency shall
427 coordinate the review of hazard mitigation strategies with the
428 Federal Emergency Management Agency and the Division of
429 Emergency Management and include in the written agreement
430 conditions necessary to be addressed in the comprehensive plan
431 to meet the requirements of hurricane evacuation, shelter, and
432 hazard mitigation. The agreement must specify procedures for

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433 public participation and intergovernmental coordination with the
 434 county emergency management agency and any affected
 435 municipalities regarding hurricane evacuation and shelter
 436 requirements. The local governments shall provide an opportunity
 437 for public comment at a public hearing before execution of the
 438 agreement. Upon execution of the written agreement, the local
 439 government may propose plan amendments that are authorized by
 440 the agreement; however, such plan amendment may not be adopted
 441 until the completion of any challenges to an agreement under s.
 442 120.569.

443 (c) The state land planning agency shall provide a
 444 progress report on the demonstration project to the Governor,
 445 the President of the Senate, and the Speaker of the House of
 446 Representatives by February 1, 2006.

447 Section 5. Section 186.515, Florida Statutes, is amended
 448 to read:

449 186.515 Creation of regional planning councils under
 450 chapter 163.--Nothing in ss. 186.501-186.507, 186.513, and this
 451 section 186.515 is intended to repeal or limit the provisions of
 452 chapter 163; however, the local general-purpose governments
 453 serving as voting members of the governing body of a regional
 454 planning council created pursuant to ss. 186.501-186.507,
 455 186.513, and 186.515 are not authorized to create a regional
 456 planning council pursuant to chapter 163 unless an agency, other
 457 than a regional planning council created pursuant to ss.
 458 186.501-186.507, 186.513, and 186.515, is designated to exercise
 459 the powers and duties in any one or more of ss. 163.3164(20)(19)
 460 and 380.031(15); in which case, such a regional planning council

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461 is also without authority to exercise the powers and duties in
 462 s. 163.3164(20)(~~19~~) or s. 380.031(15).

463 Section 6. Paragraph (a) of subsection (2) of section
 464 288.975, Florida Statutes, is amended to read:

465 288.975 Military base reuse plans.--

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

467 (a) "Affected local government" means a local government
 468 adjoining the host local government and any other unit of local
 469 government that is not a host local government but that is
 470 identified in a proposed military base reuse plan as providing,
 471 operating, or maintaining one or more public facilities as
 472 defined in s. 163.3164(25)(~~24~~) on lands within or serving a
 473 military base designated for closure by the Federal Government.

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

476 369.303 Definitions.--As used in this part:

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

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