

CHAMBER ACTION

1 The Committee on Local Government & Veterans' Affairs recommends
2 the following:

3
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

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

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

25

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

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

31 163.3164 Local Government Comprehensive Planning and Land
 32 Development Regulation Act; definitions.--As used in this act:

33 (1) "Administration Commission" means the Governor and the
 34 Cabinet, and for purposes of this chapter the commission shall
 35 act on a simple majority vote, except that for purposes of
 36 imposing the sanctions provided in s. 163.3184(11), affirmative
 37 action shall require the approval of the Governor and at least
 38 three other members of the commission.

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

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

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

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

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

54 (7) "Development order" means any order granting, denying,
55 or granting with conditions an application for a development
56 permit.

57 (8) "Development permit" includes any building permit,
58 zoning permit, subdivision approval, rezoning, certification,
59 special exception, variance, or any other official action of
60 local government having the effect of permitting the development
61 of land.

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

68 (10) "Governmental agency" means:

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

71 (b) This state or any department, commission, agency, or
72 other instrumentality thereof.

73 (c) Any local government, as defined in this section, or
74 any department, commission, agency, or other instrumentality
75 thereof.

76 (d) Any school board or other special district, authority,
77 or governmental entity.

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

81 (12) "Land use" means the development that has occurred on
82 the land, the development that is proposed by a developer on the
83 land, or the use that is permitted or permissible on the land
84 under an adopted comprehensive plan or element or portion
85 thereof, land development regulations, or a land development
86 code, as the context may indicate.

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

88 (14) "Local mitigation strategy" means a local plan
89 required under Section 322, Mitigation Planning, of the Robert
90 T. Stafford Disaster Relief and Emergency Assistance Act,
91 enacted by Section 104 of the Disaster Mitigation Act of 2000
92 (Pub. L. No. 106-390) to promote hazard mitigation and to manage
93 disaster redevelopment.

94 ~~(15)~~(14) "Local planning agency" means the agency
95 designated to prepare the comprehensive plan or plan amendments
96 required by this act.

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

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105 (17)~~(16)~~ "Parcel of land" means any quantity of land
 106 capable of being described with such definiteness that its
 107 locations and boundaries may be established, which is designated
 108 by its owner or developer as land to be used, or developed as, a
 109 unit or which has been used or developed as a unit.

110 (18)~~(17)~~ "Person" means an individual, corporation,
 111 governmental agency, business trust, estate, trust, partnership,
 112 association, two or more persons having a joint or common
 113 interest, or any other legal entity.

114 (19)~~(18)~~ "Public notice" means notice as required by s.
 115 125.66(2) for a county or by s. 166.041(3)(a) for a
 116 municipality. The public notice procedures required in this part
 117 are established as minimum public notice procedures.

118 (20)~~(19)~~ "Regional planning agency" means the agency
 119 designated by the state land planning agency to exercise
 120 responsibilities under law in a particular region of the state.

121 (21)~~(20)~~ "State land planning agency" means the Department
 122 of Community Affairs.

123 (22)~~(21)~~ "Structure" has the meaning given it by s.
 124 380.031(19).

125 (23)~~(22)~~ "Land development regulation commission" means a
 126 commission designated by a local government to develop and
 127 recommend, to the local governing body, land development
 128 regulations which implement the adopted comprehensive plan and
 129 to review land development regulations, or amendments thereto,
 130 for consistency with the adopted plan and report to the
 131 governing body regarding its findings. The responsibilities of

132 | the land development regulation commission may be performed by
133 | the local planning agency.

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

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

147 | (26)~~(25)~~ "Downtown revitalization" means the physical and
148 | economic renewal of a central business district of a community
149 | as designated by local government, and includes both downtown
150 | development and redevelopment.

151 | (27)~~(26)~~ "Urban redevelopment" means demolition and
152 | reconstruction or substantial renovation of existing buildings
153 | or infrastructure within urban infill areas or existing urban
154 | service areas.

155 | (28)~~(27)~~ "Urban infill" means the development of vacant
156 | parcels in otherwise built-up areas where public facilities such
157 | as sewer systems, roads, schools, and recreation areas are
158 | already in place and the average residential density is at least
159 | five dwelling units per acre, the average nonresidential

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160 intensity is at least a floor area ratio of 1.0 and vacant,
161 developable land does not constitute more than 10 percent of the
162 area.

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

172 (30)~~(29)~~ "Existing urban service area" means built-up
173 areas where public facilities and services such as sewage
174 treatment systems, roads, schools, and recreation areas are
175 already in place.

176 (31)~~(30)~~ "Transportation corridor management" means the
177 coordination of the planning of designated future transportation
178 corridors with land use planning within and adjacent to the
179 corridor to promote orderly growth, to meet the concurrency
180 requirements of this chapter, and to maintain the integrity of
181 the corridor for transportation purposes.

182 (32)~~(31)~~ "Optional sector plan" means an optional process
183 authorized by s. 163.3245 in which one or more local governments
184 by agreement with the state land planning agency are allowed to
185 address development-of-regional-impact issues within certain
186 designated geographic areas identified in the local
187 comprehensive plan as a means of fostering innovative planning

188 and development strategies in s. 163.3177(11)(a) and (b),
 189 furthering the purposes of this part and part I of chapter 380,
 190 reducing overlapping data and analysis requirements, protecting
 191 regionally significant resources and facilities, and addressing
 192 extrajurisdictional impacts.

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

195 163.3177 Required and optional elements of comprehensive
 196 plan; studies and surveys.--

197 (6) In addition to the requirements of subsections (1)-
 198 (5), the comprehensive plan shall include the following
 199 elements:

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

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

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

271 comprehensive plan contains school siting criteria and the
272 location is consistent with such criteria.

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

280 1. Maintenance, restoration, and enhancement of the
281 overall quality of the coastal zone environment, including, but
282 not limited to, its amenities and aesthetic values.

283 2. Continued existence of viable populations of all
284 species of wildlife and marine life.

285 3. The orderly and balanced utilization and preservation,
286 consistent with sound conservation principles, of all living and
287 nonliving coastal zone resources.

288 4. Avoidance of irreversible and irretrievable loss of
289 coastal zone resources.

290 5. Ecological planning principles and assumptions to be
291 used in the determination of suitability and extent of permitted
292 development.

293 6. Proposed management and regulatory techniques.

294 7. Limitation of public expenditures that subsidize
295 development in high-hazard coastal areas.

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

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

301 10. Preservation, including sensitive adaptive use of
302 historic and archaeological resources.

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

306 163.3178 Coastal management.--

307 (2) Each coastal management element required by s.
308 163.3177(6)(g) shall be based on studies, surveys, and data; be
309 consistent with coastal resource plans prepared and adopted
310 pursuant to general or special law; and contain:

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

318 (f) A redevelopment component which outlines the
319 principles which shall be used to eliminate inappropriate and
320 unsafe development in the coastal areas when opportunities
321 arise. In recognition of the need to balance redevelopment, the
322 protection of human life and property, and public investment in
323 infrastructure, as a demonstration project, up to five local
324 governments or a combination of local governments may amend
325 their comprehensive plans to allow for the redevelopment of

326 coastal areas within the designated coastal high hazard area.
 327 The application must include the participation of the county
 328 emergency management agency, as provided in s. 252.38, in which
 329 the local government or local governments are located.

330 1. To be eligible for the coastal redevelopment
 331 demonstration project, the following conditions must be met: the
 332 comprehensive plan delineates the Flood Insurance Rate Map
 333 zones, the Coastal Construction Control Line, and the Coastal
 334 Barrier Resources System Area (COBRA) units for the area subject
 335 to the coastal redevelopment strategy; the area is part of a
 336 comprehensive redevelopment strategy that will be incorporated
 337 into the comprehensive plan; the area has been designated in the
 338 comprehensive plan as an "urban infill and redevelopment area"
 339 pursuant to s. 163.2517; the area is not within a designated
 340 area of critical state concern; the comprehensive plan
 341 delineates the coastal high hazard area consistent with this
 342 part; and the county emergency management agency affirms in
 343 writing its intent to participate in the demonstration project.

344 2. In order to allow for redevelopment within the coastal
 345 high hazard area beyond that provided in the existing approved
 346 comprehensive plan, the local government or combination of local
 347 governments, authorized by agreement pursuant to paragraph
 348 (9)(b) to pursue the demonstration project, shall adopt into the
 349 comprehensive plan a redevelopment strategy, consistent with the
 350 requirements of s. 163.3177(6)(a) and local mitigation
 351 strategies, which includes, at a minimum, the following
 352 components:

- 353 a. Measures to reduce, replace, or eliminate unsafe
 354 structures and properties subject to repetitive damage from
 355 coastal storms and floods;
- 356 b. Measures to reduce exposure of infrastructure to
 357 hazards, including relocation and structural modification of
 358 threatened coastal infrastructure;
- 359 c. Operational and capacity improvements to ensure that
 360 the redevelopment strategy maintains or reduces throughout the
 361 planning timeframe the county hurricane evacuation clearance
 362 times as established in the most recent hurricane evacuation
 363 study or transportation analysis;
- 364 d. If the county hurricane evacuation clearance times
 365 exceed 16 hours for a Category 3 storm event, measures to ensure
 366 that the redevelopment strategy reduces the county shelter
 367 deficit and hurricane clearance times to adequate levels below
 368 16 hours within the planning timeframe;
- 369 e. Measures that provide for county evacuation shelter
 370 space to ensure that development authorized within the
 371 redevelopment area provides mitigation proportional to its
 372 impact to offset the increased demand on evacuation clearance
 373 times and public shelter space;
- 374 f. Measures to ensure that public expenditures that
 375 subsidize development in the most vulnerable areas of the
 376 coastal high hazard area are limited to those expenditures
 377 needed to provide for public access to the beach and shoreline,
 378 restore beaches and dunes and other natural systems, correct
 379 existing hurricane evacuation deficiencies, or make facilities
 380 more disaster resistant;

381 g. Measures that commit to planning and regulatory
 382 standards that exceed minimum National Flood Insurance
 383 Standards, including participation in the Community Rating
 384 System of the National Flood Insurance Program;

385 h. Measures to ensure that the redevelopment strategy does
 386 not allow increases in development, including residential and
 387 transient residential development, such as hotels, motels,
 388 timeshares, and vacation rentals, within the most vulnerable
 389 areas of the coastal high hazard area, including the Flood
 390 Insurance Rate Map velocity zones, Coastal Barrier Resources
 391 System Area (COBRA) units, and areas subject to coastal erosion,
 392 including lands seaward of the coastal construction control
 393 line;

394 i. Measures to ensure protection of coastal resources,
 395 including beach and dune systems, and provision for public
 396 access to the beach and shoreline consistent with estimated
 397 public needs;

398 j. Data and analysis, including existing damage potential
 399 and the potential costs of damage to structures, property, and
 400 infrastructure under the redevelopment strategy, which would
 401 need to be less than that expected without the redevelopment
 402 strategy;

403 k. Data and analysis forecasting the impacts on shelter
 404 capacity and hurricane evacuation clearance times, based on the
 405 population anticipated by the redevelopment strategy; and

406 l. The execution of an interlocal agreement, as supporting
 407 data and analysis, between the local government or a combination
 408 of local governments participating in the demonstration project,

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409 together with their respective county emergency management
410 agency and any affected municipalities, as needed, to implement
411 mitigation strategies to reduce hurricane evacuation clearance
412 times and public shelter deficit.

413

414 The redevelopment strategy shall establish the preferred
415 character of the community and how that will be achieved.

416 (9)(a) A local government seeking to implement the coastal
417 redevelopment demonstration project pursuant to paragraph (2)(f)
418 must submit an application to the state land planning agency
419 demonstrating that the project meets the conditions of
420 subparagraph (2)(f)1. The application must include copies of the
421 local government comprehensive plan and other relevant
422 information supporting the proposed demonstration project. The
423 state land planning agency may adopt procedural rules governing
424 the submission and review of applications and may establish a
425 phased schedule for review of applications. The state land
426 planning agency shall provide the Federal Emergency Management
427 Agency and the Division of Emergency Management with an
428 opportunity to comment on the application.

429 (b) If the local government meets the conditions of
430 subparagraph (2)(f)1., the state land planning agency and the
431 local government shall execute a written agreement that is a
432 final agency action subject to challenge under s. 120.569. The
433 written agreement must identify the area subject to the increase
434 in development potential, including residential and transient
435 residential development; state the amount of such increase;
436 identify the most vulnerable areas not subject to increases in

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437 development; and describe how the conditions of subparagraph
438 (2)(f)2. are to be met. The state land planning agency shall
439 coordinate the review of hazard mitigation strategies with the
440 Federal Emergency Management Agency and the Division of
441 Emergency Management and include in the written agreement
442 conditions necessary to be addressed in the comprehensive plan
443 to meet the requirements of hurricane evacuation, shelter, and
444 hazard mitigation. The agreement must specify procedures for
445 public participation and intergovernmental coordination with the
446 county emergency management agency and any affected
447 municipalities regarding hurricane evacuation and shelter
448 requirements. The local governments shall provide an opportunity
449 for public comment at a public hearing before execution of the
450 agreement. Upon execution of the written agreement, the local
451 government may propose plan amendments that are authorized by
452 the agreement; however, such plan amendments may not be adopted
453 until the completion of any challenges to an agreement under s.
454 120.569.

455 (c) The state land planning agency shall provide a
456 progress report on the demonstration project to the Governor,
457 the President of the Senate, and the Speaker of the House of
458 Representatives by February 1, 2006. In its report, the state
459 land planning agency shall assess whether the program has
460 successfully implemented mitigation strategies and whether the
461 program should continue or be expanded to include additional
462 communities.

463 Section 5. Section 186.515, Florida Statutes, is amended
464 to read:

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465 186.515 Creation of regional planning councils under
 466 chapter 163.--Nothing in ss. 186.501-186.507, 186.513, and this
 467 section 186.515 is intended to repeal or limit the provisions of
 468 chapter 163; however, the local general-purpose governments
 469 serving as voting members of the governing body of a regional
 470 planning council created pursuant to ss. 186.501-186.507,
 471 186.513, and this section 186.515 are not authorized to create a
 472 regional planning council pursuant to chapter 163 unless an
 473 agency, other than a regional planning council created pursuant
 474 to ss. 186.501-186.507, 186.513, and this section 186.515, is
 475 designated to exercise the powers and duties in any one or more
 476 of ss. 163.3164(20)(19) and 380.031(15); in which case, such a
 477 regional planning council is also without authority to exercise
 478 the powers and duties in s. 163.3164(20)(19) or s. 380.031(15).

479 Section 6. Paragraph (a) of subsection (2) of section
 480 288.975, Florida Statutes, is amended to read:

481 288.975 Military base reuse plans.--

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

483 (a) "Affected local government" means a local government
 484 adjoining the host local government and any other unit of local
 485 government that is not a host local government but that is
 486 identified in a proposed military base reuse plan as providing,
 487 operating, or maintaining one or more public facilities as
 488 defined in s. 163.3164(25)(24) on lands within or serving a
 489 military base designated for closure by the Federal Government.

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

492 369.303 Definitions.--As used in this part:

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493 | (5) "Land development regulation" means a regulation
494 | covered by the definition in s. 163.3164(24)~~(23)~~ and any of the
495 | types of regulations described in s. 163.3202.

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