

Bill No. SB 686

Amendment No. \_\_\_\_ Barcode 160356

CHAMBER ACTION

Senate

House

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Senator Jones moved the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

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 act on a simple majority vote, except that for purposes of imposing the sanctions provided in s. 163.3184(11), affirmative action shall require the approval of the Governor and at least three other members of the commission.

(2) "Area" or "area of jurisdiction" means the total

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1 area qualifying under the provisions of this act, whether this  
2 be all of the lands lying within the limits of an incorporated  
3 municipality, lands in and adjacent to incorporated  
4 municipalities, all unincorporated lands within a county, or  
5 areas comprising combinations of the lands in incorporated  
6 municipalities and unincorporated areas of counties.

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

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

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

15 (6) "Development" has the meaning given it in s.  
16 380.04.

17 (7) "Development order" means any order granting,  
18 denying, or granting with conditions an application for a  
19 development permit.

20 (8) "Development permit" includes any building permit,  
21 zoning permit, subdivision approval, rezoning, certification,  
22 special exception, variance, or any other official action of  
23 local government having the effect of permitting the  
24 development of land.

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

31 (10) "Governmental agency" means:

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

3 (b) This state or any department, commission, agency,  
4 or other instrumentality thereof.

5 (c) Any local government, as defined in this section,  
6 or any department, commission, agency, or other  
7 instrumentality thereof.

8 (d) Any school board or other special district,  
9 authority, or governmental entity.

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

13 (12) "Land use" means the development that has  
14 occurred on the land, the development that is proposed by a  
15 developer on the land, or the use that is permitted or  
16 permissible on the land under an adopted comprehensive plan or  
17 element or portion thereof, land development regulations, or a  
18 land development code, as the context may indicate.

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

21 (14) "Local mitigation strategy" means a local plan  
22 required under Section 322, Mitigation Planning, of the Robert  
23 T. Stafford Disaster Relief and Emergency Assistance Act,  
24 enacted by Section 104 of the Disaster Mitigation Act of 2000  
25 (Pub. L. No. 106-390) to promote hazard mitigation and to  
26 manage disaster redevelopment.

27 ~~(15)(14)~~ "Local planning agency" means the agency  
28 designated to prepare the comprehensive plan or plan  
29 amendments required by this act.

30 ~~(16)(15)~~ A "newspaper of general circulation" means a  
31 newspaper published at least on a weekly basis and printed in

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1 the language most commonly spoken in the area within which it  
2 circulates, but does not include a newspaper intended  
3 primarily for members of a particular professional or  
4 occupational group, a newspaper whose primary function is to  
5 carry legal notices, or a newspaper that is given away  
6 primarily to distribute advertising.

7 ~~(17)(16)~~ "Parcel of land" means any quantity of land  
8 capable of being described with such definiteness that its  
9 locations and boundaries may be established, which is  
10 designated by its owner or developer as land to be used, or  
11 developed as, a unit or which has been used or developed as a  
12 unit.

13 ~~(18)(17)~~ "Person" means an individual, corporation,  
14 governmental agency, business trust, estate, trust,  
15 partnership, association, two or more persons having a joint  
16 or common interest, or any other legal entity.

17 ~~(19)(18)~~ "Public notice" means notice as required by  
18 s. 125.66(2) for a county or by s. 166.041(3)(a) for a  
19 municipality. The public notice procedures required in this  
20 part are established as minimum public notice procedures.

21 ~~(20)(19)~~ "Regional planning agency" means the agency  
22 designated by the state land planning agency to exercise  
23 responsibilities under law in a particular region of the  
24 state.

25 ~~(21)(20)~~ "State land planning agency" means the  
26 Department of Community Affairs.

27 ~~(22)(21)~~ "Structure" has the meaning given it by s.  
28 380.031(19).

29 ~~(23)(22)~~ "Land development regulation commission"  
30 means a commission designated by a local government to develop  
31 and recommend, to the local governing body, land development

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1 regulations which implement the adopted comprehensive plan and  
2 to review land development regulations, or amendments thereto,  
3 for consistency with the adopted plan and report to the  
4 governing body regarding its findings. The responsibilities of  
5 the land development regulation commission may be performed by  
6 the local planning agency.

7 ~~(24)(23)~~ "Land development regulations" means  
8 ordinances enacted by governing bodies for the regulation of  
9 any aspect of development and includes any local government  
10 zoning, rezoning, subdivision, building construction, or sign  
11 regulations or any other regulations controlling the  
12 development of land, except that this definition shall not  
13 apply in s. 163.3213.

14 ~~(25)(24)~~ "Public facilities" means major capital  
15 improvements, including, but not limited to, transportation,  
16 sanitary sewer, solid waste, drainage, potable water,  
17 educational, parks and recreational, and health systems and  
18 facilities, and spoil disposal sites for maintenance dredging  
19 located in the intracoastal waterways, except for spoil  
20 disposal sites owned or used by ports listed in s.  
21 403.021(9)(b).

22 ~~(26)(25)~~ "Downtown revitalization" means the physical  
23 and economic renewal of a central business district of a  
24 community as designated by local government, and includes both  
25 downtown development and redevelopment.

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

30 ~~(28)(27)~~ "Urban infill" means the development of  
31 vacant parcels in otherwise built-up areas where public

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1 facilities such as sewer systems, roads, schools, and  
2 recreation areas are already in place and the average  
3 residential density is at least five dwelling units per acre,  
4 the average nonresidential intensity is at least a floor area  
5 ratio of 1.0 and vacant, developable land does not constitute  
6 more than 10 percent of the area.

7 ~~(29)(28)~~ "Projects that promote public transportation"  
8 means projects that directly affect the provisions of public  
9 transit, including transit terminals, transit lines and  
10 routes, separate lanes for the exclusive use of public transit  
11 services, transit stops (shelters and stations), office  
12 buildings or projects that include fixed-rail or transit  
13 terminals as part of the building, and projects which are  
14 transit oriented and designed to complement reasonably  
15 proximate planned or existing public facilities.

16 ~~(30)(29)~~ "Existing urban service area" means built-up  
17 areas where public facilities and services such as sewage  
18 treatment systems, roads, schools, and recreation areas are  
19 already in place.

20 ~~(31)(30)~~ "Transportation corridor management" means  
21 the coordination of the planning of designated future  
22 transportation corridors with land use planning within and  
23 adjacent to the corridor to promote orderly growth, to meet  
24 the concurrency requirements of this chapter, and to maintain  
25 the integrity of the corridor for transportation purposes.

26 ~~(32)(31)~~ "Optional sector plan" means an optional  
27 process authorized by s. 163.3245 in which one or more local  
28 governments by agreement with the state land planning agency  
29 are allowed to address development-of-regional-impact issues  
30 within certain designated geographic areas identified in the  
31 local comprehensive plan as a means of fostering innovative

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1 planning and development strategies in s. 163.3177(11)(a) and  
2 (b), furthering the purposes of this part and part I of  
3 chapter 380, reducing overlapping data and analysis  
4 requirements, protecting regionally significant resources and  
5 facilities, and addressing extrajurisdictional impacts.

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

8 163.3177 Required and optional elements of  
9 comprehensive plan; studies and surveys.--

10 (6) In addition to the requirements of subsections  
11 (1)-(5), the comprehensive plan shall include the following  
12 elements:

13 (a) A future land use plan element designating  
14 proposed future general distribution, location, and extent of  
15 the uses of land for residential uses, commercial uses,  
16 industry, agriculture, recreation, conservation, education,  
17 public buildings and grounds, other public facilities, and  
18 other categories of the public and private uses of land. Each  
19 future land use category must be defined in terms of uses  
20 included, and must include standards to be followed in the  
21 control and distribution of population densities and building  
22 and structure intensities. The proposed distribution,  
23 location, and extent of the various categories of land use  
24 shall be shown on a land use map or map series which shall be  
25 supplemented by goals, policies, and measurable objectives.  
26 The future land use plan shall be based upon surveys, studies,  
27 and data regarding the area, including the amount of land  
28 required to accommodate anticipated growth; the projected  
29 population of the area; the character of undeveloped land; the  
30 availability of public services; the vulnerability to natural  
31 hazards and potential need for hazard mitigation; the need for

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1 redevelopment, including the renewal of blighted areas and the  
2 elimination of nonconforming uses which are inconsistent with  
3 the character of the community; and, in rural communities, the  
4 need for job creation, capital investment, and economic  
5 development that will strengthen and diversify the community's  
6 economy. The future land use plan may designate areas for  
7 future planned development use involving combinations of types  
8 of uses for which special regulations may be necessary to  
9 ensure development in accord with the principles and standards  
10 of the comprehensive plan and this act. In addition, for rural  
11 communities, the amount of land designated for future planned  
12 industrial use shall be based upon surveys and studies that  
13 reflect the need for job creation, capital investment, and the  
14 necessity to strengthen and diversify the local economies, and  
15 shall not be limited solely by the projected population of the  
16 rural community. The future land use plan of a county may also  
17 designate areas for possible future municipal incorporation.  
18 The land use maps or map series shall generally identify and  
19 depict historic district boundaries and shall designate  
20 historically significant properties meriting protection. The  
21 future land use element must clearly identify the land use  
22 categories in which public schools are an allowable use. When  
23 delineating the land use categories in which public schools  
24 are an allowable use, a local government shall include in the  
25 categories sufficient land proximate to residential  
26 development to meet the projected needs for schools in  
27 coordination with public school boards and may establish  
28 differing criteria for schools of different type or  
29 size. Each local government shall include lands contiguous to  
30 existing school sites, to the maximum extent possible, within  
31 the land use categories in which public schools are an



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1 allowable use. All comprehensive plans must comply with the  
2 school siting requirements of this paragraph no later than  
3 October 1, 1999. The failure by a local government to comply  
4 with these school siting requirements by October 1, 1999, will  
5 result in the prohibition of the local government's ability to  
6 amend the local comprehensive plan, except for plan amendments  
7 described in s. 163.3187(1)(b), until the school siting  
8 requirements are met. Amendments proposed by a local  
9 government for purposes of identifying the land use categories  
10 in which public schools are an allowable use or for adopting  
11 or amending the school-siting maps pursuant to s. 163.31776(3)  
12 are exempt from the limitation on the frequency of plan  
13 amendments contained in s. 163.3187. The future land use  
14 element shall include criteria that encourage the location of  
15 schools proximate to urban residential areas to the extent  
16 possible and shall require that the local government seek to  
17 collocate public facilities, such as parks, libraries, and  
18 community centers, with schools to the extent possible and to  
19 encourage the use of elementary schools as focal points for  
20 neighborhoods. For schools serving predominantly rural  
21 counties, defined as a county with a population of 100,000 or  
22 fewer, an agricultural land use category shall be eligible for  
23 the location of public school facilities if the local  
24 comprehensive plan contains school siting criteria and the  
25 location is consistent with such criteria.

26 (g) For those units of local government identified in  
27 s. 380.24, a coastal management element, appropriately related  
28 to the particular requirements of paragraphs (d) and (e) and  
29 meeting the requirements of s. 163.3178(2) and(3). The  
30 coastal management element shall set forth the policies that  
31 shall guide the local government's decisions and program

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1 implementation with respect to the following objectives:

2           1. Maintenance, restoration, and enhancement of the  
3 overall quality of the coastal zone environment, including,  
4 but not limited to, its amenities and aesthetic values.

5           2. Continued existence of viable populations of all  
6 species of wildlife and marine life.

7           3. The orderly and balanced utilization and  
8 preservation, consistent with sound conservation principles,  
9 of all living and nonliving coastal zone resources.

10           4. Avoidance of irreversible and irretrievable loss of  
11 coastal zone resources.

12           5. Ecological planning principles and assumptions to  
13 be used in the determination of suitability and extent of  
14 permitted development.

15           6. Proposed management and regulatory techniques.

16           7. Limitation of public expenditures that subsidize  
17 development in high-hazard coastal areas.

18           8. Protection of human life against the effects of  
19 natural disasters and implementation of hazard mitigation  
20 strategies.

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

24           10. Preservation, including sensitive adaptive use of  
25 historic and archaeological resources.

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

29           163.3178 Coastal management.--

30           (2) Each coastal management element required by s.  
31 163.3177(6)(g) shall be based on studies, surveys, and data;

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1 be consistent with coastal resource plans prepared and adopted  
2 pursuant to general or special law; and contain:

3 (d) A component which outlines principles for hazard  
4 mitigation and protection of human life and property against  
5 the effects of natural disaster, including population  
6 evacuation and local mitigation strategies, which take into  
7 consideration the capability to safely evacuate the density of  
8 coastal population proposed in the future land use plan  
9 element in the event of an impending natural disaster.

10 (f) A redevelopment component which outlines the  
11 principles which shall be used to eliminate inappropriate and  
12 unsafe development in the coastal areas when opportunities  
13 arise. In recognition of the need to balance redevelopment,  
14 the protection of human life and property, and public  
15 investment in infrastructure, as a demonstration project, up  
16 to five local governments or a combination of local  
17 governments may amend their comprehensive plans to allow for  
18 the redevelopment of coastal areas within the designated  
19 coastal high hazard area. The application must include the  
20 participation of the county emergency management agency, as  
21 provided in s. 252.38, in which the local government or local  
22 governments are located.

23 1. To be eligible for the coastal redevelopment  
24 demonstration project, the following conditions must be met:  
25 the comprehensive plan delineates the Flood Insurance Rate Map  
26 zones, the Coastal Construction Control Line, and the Coastal  
27 Barrier Resources System Area (COBRA) units for the area  
28 subject to the coastal redevelopment strategy; the area is  
29 part of a comprehensive redevelopment strategy that will be  
30 incorporated into the comprehensive plan; the area has been  
31 designated in the comprehensive plan as an "urban infill and

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1 redevelopment area" pursuant to s. 163.2517; the area is not  
2 within a designated area of critical state concern; the  
3 comprehensive plan delineates the coastal high hazard area  
4 consistent with this part; and the county emergency management  
5 agency affirms in writing its intent to participate in the  
6 demonstration project.

7       2. In order to allow for redevelopment within the  
8 coastal high hazard area beyond that provided in the existing  
9 approved comprehensive plan, the local government or  
10 combination of local governments, authorized by agreement  
11 pursuant to paragraph (9)(b) to pursue the demonstration  
12 project, shall adopt into the comprehensive plan a  
13 redevelopment strategy, consistent with the requirements of s.  
14 163.3177(6)(a) and local mitigation strategies, which  
15 includes, at a minimum, the following components:

16           a. Measures to reduce, replace, or eliminate unsafe  
17 structures and properties subject to repetitive damage from  
18 coastal storms and floods;

19           b. Measures to reduce exposure of infrastructure to  
20 hazards, including relocation and structural modification of  
21 threatened coastal infrastructure;

22           c. Operational and capacity improvements to ensure  
23 that the redevelopment strategy maintains or reduces  
24 throughout the planning timeframe the county hurricane  
25 evacuation clearance times as established in the most recent  
26 hurricane evacuation study or transportation analysis;

27           d. If the county hurricane evacuation clearance times  
28 exceed 16 hours for a Category 3 storm event, measures to  
29 ensure that the redevelopment strategy reduces the county  
30 shelter deficit and hurricane clearance times to adequate  
31 levels below 16 hours within the planning timeframe;

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1           e. Measures that provide for county evacuation shelter  
2 space to ensure that development authorized within the  
3 redevelopment area provides mitigation proportional to its  
4 impact to offset the increased demand on evacuation clearance  
5 times and public shelter space;

6           f. Measures to ensure that public expenditures that  
7 subsidize development in the most vulnerable areas of the  
8 coastal high hazard area are limited to those expenditures  
9 needed to provide for public access to the beach and  
10 shoreline, restore beaches and dunes and other natural  
11 systems, correct existing hurricane evacuation deficiencies,  
12 or make facilities more disaster resistant;

13           g. Measures that commit to planning and regulatory  
14 standards that exceed minimum National Flood Insurance  
15 Standards, including participation in the Community Rating  
16 System of the National Flood Insurance Program;

17           h. Measures to ensure that the redevelopment strategy  
18 does not allow increases in development, including residential  
19 and transient residential development, such as hotels, motels,  
20 timeshares, and vacation rentals, within the most vulnerable  
21 areas of the coastal high hazard area, including the Flood  
22 Insurance Rate Map velocity zones, Coastal Barrier Resources  
23 System Area (COBRA) units, and areas subject to coastal  
24 erosion, including lands seaward of the coastal construction  
25 control line;

26           i. Measures to ensure protection of coastal resources,  
27 including beach and dune systems, and provision for public  
28 access to the beach and shoreline consistent with estimated  
29 public needs;

30           j. Data and analysis, including existing damage  
31 potential and the potential costs of damage to structures,

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1 property, and infrastructure under the redevelopment strategy,  
2 which would need to be less than that expected without the  
3 redevelopment strategy;

4 k. Data and analysis forecasting the impacts on  
5 shelter capacity and hurricane evacuation clearance times,  
6 based on the population anticipated by the redevelopment  
7 strategy; and

8 1. The execution of an interlocal agreement, as  
9 supporting data and analysis, between the local government or  
10 a combination of local governments participating in the  
11 demonstration project, together with their respective county  
12 emergency management agency and any affected municipalities,  
13 as needed, to implement mitigation strategies to reduce  
14 hurricane evacuation clearance times and public shelter  
15 deficit.

16  
17 The redevelopment strategy shall establish the preferred  
18 character of the community and how that will be achieved.

19 (9)(a) A local government seeking to implement the  
20 coastal redevelopment demonstration project pursuant to  
21 paragraph (2)(f) must submit an application to the state land  
22 planning agency demonstrating that the project meets the  
23 conditions of subparagraph (2)(f)1. The application must  
24 include copies of the local government comprehensive plan and  
25 other relevant information supporting the proposed  
26 demonstration project. The state land planning agency may  
27 adopt procedural rules governing the submission and review of  
28 applications and may establish a phased schedule for review of  
29 applications. The state land planning agency shall provide the  
30 Federal Emergency Management Agency and the Division of  
31 Emergency Management with an opportunity to comment on the

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1 application.

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

28       (c) The state land planning agency shall provide a  
29 progress report on the demonstration project to the Governor,  
30 the President of the Senate, and the Speaker of the House of  
31 Representatives by February 1, 2006. In its report, the state

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1 land planning agency shall assess whether the program has  
 2 successfully implemented mitigation strategies and whether the  
 3 program should continue or be expanded to include additional  
 4 communities.

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

7 186.515 Creation of regional planning councils under  
 8 chapter 163.--Nothing in ss. 186.501-186.507, 186.513, and  
 9 this section ~~186.515~~ is intended to repeal or limit the  
 10 provisions of chapter 163; however, the local general-purpose  
 11 governments serving as voting members of the governing body of  
 12 a regional planning council created pursuant to ss.  
 13 186.501-186.507, 186.513, and this section ~~186.515~~ are not  
 14 authorized to create a regional planning council pursuant to  
 15 chapter 163 unless an agency, other than a regional planning  
 16 council created pursuant to ss. 186.501-186.507, 186.513, and  
 17 this section ~~186.515~~, is designated to exercise the powers and  
 18 duties in any one or more of ss. 163.3164(20)(19) and  
 19 380.031(15); in which case, such a regional planning council  
 20 is also without authority to exercise the powers and duties in  
 21 s. 163.3164(20)(19) or s. 380.031(15).

22 Section 6. Paragraph (a) of subsection (2) of section  
 23 288.975, Florida Statutes, is amended to read:

24 288.975 Military base reuse plans.--

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

26 (a) "Affected local government" means a local  
 27 government adjoining the host local government and any other  
 28 unit of local government that is not a host local government  
 29 but that is identified in a proposed military base reuse plan  
 30 as providing, operating, or maintaining one or more public  
 31 facilities as defined in s. 163.3164(25)(24) on lands within



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1 or serving a military base designated for closure by the  
2 Federal Government.

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

5 369.303 Definitions.--As used in this part:

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

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

11

12

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

14 And the title is amended as follows:

15 Delete everything before the enacting clause

16

17 and insert:

18

A bill to be entitled

19

An act relating to coastal redevelopment hazard

20

mitigation; providing a popular name; amending

21

s. 163.3164, F.S.; defining the term "local

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mitigation strategy"; amending s. 163.3177,

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F.S.; providing an additional requirement for a

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local government's comprehensive plan

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concerning hazard mitigation; amending s.

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163.3178, F.S.; revising provisions with

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respect to coastal management; authorizing a

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demonstration project in certain counties to

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allow for the redevelopment of coastal areas

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within the designated coastal high hazard area;

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providing conditions; providing for application

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1 by a local government; providing for a written  
2 agreement between the state land planning  
3 agency and the local government; providing for  
4 a progress report; amending ss. 186.515,  
5 288.975, and 369.303, F.S.; correcting cross  
6 references to conform; providing an effective  
7 date.

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