

By Senator Jones

13-663-04

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

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

25  
 26           Section 1. Short title.--This act may be cited as the  
 27 "Coastal Redevelopment Hazard Mitigation Demonstration Project  
 28 Act."

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

31

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

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

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

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

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

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

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

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

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

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

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

10 (10) "Governmental agency" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

27 6. Proposed management and regulatory techniques.

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

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

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

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

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

12           163.3178 Coastal management.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 k. Data and analysis forecasting the impacts on  
12 shelter capacity and hurricane evacuation clearance times,  
13 based on the population anticipated by the redevelopment  
14 strategy; and

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

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

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

1 demonstration project. The state land planning agency may  
2 adopt procedural rules governing the submission and review of  
3 applications and may establish a phased schedule for review of  
4 applications. The state land planning agency shall provide the  
5 Federal Emergency Planning Agency and the Division of  
6 Emergency Management with an opportunity to comment on the  
7 application.

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

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

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

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

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

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

26 288.975 Military base reuse plans.--

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

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



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

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

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

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

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

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15 SENATE SUMMARY

16 Provides an additional requirement in a comprehensive  
17 plan concerning hazard mitigation. Authorizes a  
18 demonstration project in certain counties to allow for  
19 the redevelopment of coastal areas within the designated  
20 coastal high hazard area. Provides for application by a  
21 local government. Provides for a written agreement  
22 between the state land planning agency and the local  
23 government. Requires a progress report. (See bill for  
24 details.)  
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