

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

22  
 23 Be It Enacted by the Legislature of the State of Florida:

24  
 25           Section 1. Popular name.--This act may be known by the  
 26 popular name and cited as the "Coastal Redevelopment Hazard  
 27 Mitigation Demonstration Project Act."

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

30  
 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.

31

1           (14) "Local mitigation strategy" means a local plan  
2 required under Section 322, Mitigation Planning, of the Robert  
3 T. Stafford Disaster Relief and Emergency Assistance Act,  
4 enacted by Section 104 of the Disaster Mitigation Act of 2000  
5 (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  
31

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 potential need for hazard mitigation;the need for  
13 redevelopment, including the renewal of blighted areas and the  
14 elimination of nonconforming uses which are inconsistent with  
15 the character of the community; and, in rural communities, the  
16 need for job creation, capital investment, and economic  
17 development that will strengthen and diversify the community's  
18 economy. The future land use plan may designate areas for  
19 future planned development use involving combinations of types  
20 of uses for which special regulations may be necessary to  
21 ensure development in accord with the principles and standards  
22 of the 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.

30  
31

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 mitigation strategies, which take into  
21 consideration the capability to safely evacuate the density of  
22 coastal population proposed in the future land use plan  
23 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  
30 to five local governments or a combination of local  
31 governments may amend their comprehensive plans to allow for

1 the redevelopment of coastal areas within the designated  
2 coastal 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 comprehensive plan delineates the Flood Insurance Rate Map  
9 zones, the Coastal Construction Control Line, and the Coastal  
10 Barrier Resources System Area (COBRA) units for the area  
11 subject to the coastal redevelopment strategy; the area is  
12 part of a comprehensive redevelopment strategy that will be  
13 incorporated into the comprehensive plan; the area has been  
14 designated in the comprehensive plan as an "urban infill and  
15 redevelopment area" pursuant to s. 163.2517; the area is not  
16 within a designated area of critical state concern; the  
17 comprehensive plan delineates the coastal high hazard area  
18 consistent with this part; and the county emergency management  
19 agency affirms in writing its intent to participate in the  
20 demonstration project.

21 2. In order to allow for redevelopment within the  
22 coastal high hazard area beyond that provided in the existing  
23 approved comprehensive plan, the local government or  
24 combination of local governments, authorized by agreement  
25 pursuant to paragraph (9)(b) to pursue the demonstration  
26 project, shall adopt into the comprehensive plan a  
27 redevelopment strategy, consistent with the requirements of s.  
28 163.3177(6)(a) and local mitigation strategies, which  
29 includes, at a minimum, the following components:  
30  
31

1           a. Measures to reduce, replace, or eliminate unsafe  
2 structures and properties subject to repetitive damage from  
3 coastal storms and floods;

4           b. Measures to reduce exposure of infrastructure to  
5 hazards, including relocation and structural modification of  
6 threatened coastal infrastructure;

7           c. Operational and capacity improvements to ensure  
8 that the redevelopment strategy maintains or reduces  
9 throughout the planning timeframe the county hurricane  
10 evacuation clearance times as established in the most recent  
11 hurricane evacuation study or transportation analysis;

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

17           e. Measures that provide for county evacuation shelter  
18 space to ensure that development authorized within the  
19 redevelopment area provides mitigation proportional to its  
20 impact to offset the increased demand on evacuation clearance  
21 times and public shelter space;

22           f. Measures to ensure that public expenditures that  
23 subsidize development in the most vulnerable areas of the  
24 coastal high hazard area are limited to those expenditures  
25 needed to provide for public access to the beach and  
26 shoreline, restore beaches and dunes and other natural  
27 systems, correct existing hurricane evacuation deficiencies,  
28 or to make facilities more disaster resistant;

29           g. Measures that commit to planning and regulatory  
30 standards that exceed minimum National Flood Insurance  
31

1 Standards, including participation in the Community Rating  
2 System of the National Flood Insurance Program;

3 h. Measures to ensure that the redevelopment strategy  
4 does not allow increases in development, including residential  
5 and transient residential development, such as hotels, motels,  
6 timeshares, and vacation rentals, within the most vulnerable  
7 areas of the coastal high hazard area, including the Flood  
8 Insurance Rate Map velocity zones, Coastal Barrier Resources  
9 System Area (COBRA) units, and areas subject to coastal  
10 erosion, including lands seaward of the coastal construction  
11 control line;

12 i. Measures to ensure protection of coastal resources,  
13 including beach and dune systems, and provision for public  
14 access to the beach and shoreline consistent with estimated  
15 public needs;

16 j. Data and analysis, including existing damage  
17 potential and the potential costs of damage to structures,  
18 property, and infrastructure under the redevelopment strategy,  
19 which would need to be less than that expected without the  
20 redevelopment strategy;

21 k. Data and analysis forecasting the impacts on  
22 shelter capacity and hurricane evacuation clearance times,  
23 based on the population anticipated by the redevelopment  
24 strategy; and

25 l. The execution of an interlocal agreement, as  
26 supporting data and analysis, between the local government or  
27 a combination of local governments participating in the  
28 demonstration project, together with their respective county  
29 emergency management agency and any affected municipalities,  
30 as needed, to implement mitigation strategies to reduce  
31

1 hurricane evacuation clearance times and public shelter  
2 deficit.

3  
4 The redevelopment strategy shall establish the preferred  
5 character of the community and how that will be achieved.

6 (9)(a) A local government seeking to implement the  
7 coastal redevelopment demonstration project pursuant to  
8 paragraph (2)(f) must submit an application to the state land  
9 planning agency demonstrating that the project meets the  
10 conditions of subparagraph (2)(f)1. The application must  
11 include copies of the local government comprehensive plan and  
12 other relevant information supporting the proposed  
13 demonstration project. The state land planning agency may  
14 adopt procedural rules governing the submission and review of  
15 applications and may establish a phased schedule for review of  
16 applications. The state land planning agency shall provide the  
17 Federal Emergency Management Agency and the Division of  
18 Emergency Management with an opportunity to comment on the  
19 application.

20 (b) If the local government meets the conditions of  
21 subparagraph (2)(f)1., the state land planning agency and the  
22 local government shall execute a written agreement that is a  
23 final agency action subject to challenge under s. 120.569. The  
24 written agreement must identify the area subject to the  
25 increase in development potential, including residential and  
26 transient residential development; state the amount of such  
27 increase; identify the most vulnerable areas not subject to  
28 increases in development; and describe how the conditions of  
29 subparagraph (2)(f)2. are to be met. The state land planning  
30 agency shall coordinate the review of hazard mitigation  
31 strategies with the Federal Emergency Management Agency and

1 the Division of Emergency Management and include in the  
2 written agreement conditions necessary to be addressed in the  
3 comprehensive plan to meet the requirements of hurricane  
4 evacuation, shelter, and hazard mitigation. The agreement must  
5 specify procedures for public participation and  
6 intergovernmental coordination with the county emergency  
7 management agency and any affected municipalities regarding  
8 hurricane evacuation and shelter requirements. The local  
9 governments shall provide an opportunity for public comment at  
10 a public hearing before execution of the agreement. Upon  
11 execution of the written agreement, the local government may  
12 propose plan amendments that are authorized by the agreement;  
13 however, such plan amendments may not be adopted until the  
14 completion of any challenges to an agreement under s. 120.569.

15 (c) The state land planning agency shall provide a  
16 progress report on the demonstration project to the Governor,  
17 the President of the Senate, and the Speaker of the House of  
18 Representatives by February 1, 2006. In its report, the state  
19 land planning agency shall assess whether the program has  
20 successfully implemented mitigation strategies and whether the  
21 program should continue or be expanded to include additional  
22 communities.

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

25 186.515 Creation of regional planning councils under  
26 chapter 163.--Nothing in ss. 186.501-186.507, 186.513, and  
27 this section 186.515 is intended to repeal or limit the  
28 provisions of chapter 163; however, the local general-purpose  
29 governments serving as voting members of the governing body of  
30 a regional planning council created pursuant to ss.  
31 186.501-186.507, 186.513, and this section 186.515 are not



1 authorized to create a regional planning council pursuant to  
2 chapter 163 unless an agency, other than a regional planning  
3 council created pursuant to ss. 186.501-186.507, 186.513, and  
4 this section ~~186.515~~, is designated to exercise the powers and  
5 duties in any one or more of ss. 163.3164(20) ~~163.3164(19)~~ and  
6 380.031(15); in which case, such a regional planning council  
7 is also without authority to exercise the powers and duties in  
8 s. 163.3164(20) ~~s. 163.3164(19)~~ or s. 380.031(15).

9 Section 6. Paragraph (a) of subsection (2) of section  
10 288.975, Florida Statutes, is amended to read:

11 288.975 Military base reuse plans.--

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

13 (a) "Affected local government" means a local  
14 government adjoining the host local government and any other  
15 unit of local government that is not a host local government  
16 but that is identified in a proposed military base reuse plan  
17 as providing, operating, or maintaining one or more public  
18 facilities as defined in s. 163.3164(25) ~~s. 163.3164(24)~~ on  
19 lands within or serving a military base designated for closure  
20 by the Federal Government.

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

23 369.303 Definitions.--As used in this part:

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

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

29  
30  
31