

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.

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

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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:

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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 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 ~~(19)~~ (20) "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 ~~(20)~~ (21) "State land planning agency" means the
6 Department of Community Affairs.

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

9 ~~(22)~~ (23) "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 ~~(23)~~ (24) "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 ~~(24)~~ (25) "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 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.

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

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

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

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

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

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

27 (9)(a) A local government seeking to implement the
28 coastal redevelopment demonstration project pursuant to
29 paragraph (2)(f) must submit an application to the state land
30 planning agency demonstrating that the project meets the
31 conditions of subparagraph (2)(f)1. The application must

1 include copies of the local government comprehensive plan and
2 other relevant information supporting the proposed
3 demonstration project. The state land planning agency may
4 adopt procedural rules governing the submission and review of
5 applications and may establish a phased schedule for review of
6 applications. The state land planning agency shall provide the
7 Federal Emergency Management Agency and the Division of
8 Emergency Management with an opportunity to comment on the
9 application.

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

1 execution of the written agreement, the local government may
2 propose plan amendments that are authorized by the agreement;
3 however, such plan amendments may not be adopted until the
4 completion of any challenges to an agreement under s. 120.569.

5 (c) The state land planning agency shall provide a
6 progress report on the demonstration project to the Governor,
7 the President of the Senate, and the Speaker of the House of
8 Representatives by February 1, 2006. In its report, the state
9 land planning agency shall assess whether the program has
10 successfully implemented mitigation strategies and whether the
11 program should continue or be expanded to include additional
12 communities.

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

15 186.515 Creation of regional planning councils under
16 chapter 163.--Nothing in ss. 186.501-186.507, 186.513, and
17 this section 186.515 is intended to repeal or limit the
18 provisions of chapter 163; however, the local general-purpose
19 governments serving as voting members of the governing body of
20 a regional planning council created pursuant to ss.
21 186.501-186.507, 186.513, and this section 186.515 are not
22 authorized to create a regional planning council pursuant to
23 chapter 163 unless an agency, other than a regional planning
24 council created pursuant to ss. 186.501-186.507, 186.513, and
25 this section 186.515, is designated to exercise the powers and
26 duties in any one or more of ss. 163.3164(20) ~~163.3164(19)~~ and
27 380.031(15); in which case, such a regional planning council
28 is also without authority to exercise the powers and duties in
29 s. 163.3164(20) ~~s. 163.3164(19)~~ or s. 380.031(15).

30 Section 6. Paragraph (a) of subsection (2) of section
31 288.975, Florida Statutes, is amended to read:

1 288.975 Military base reuse plans.--

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

3 (a) "Affected local government" means a local
4 government adjoining the host local government and any other
5 unit of local government that is not a host local government
6 but that is identified in a proposed military base reuse plan
7 as providing, operating, or maintaining one or more public
8 facilities as defined in s. 163.3164(25)~~s. 163.3164(24)~~ on
9 lands within or serving a military base designated for closure
10 by the Federal Government.

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

13 369.303 Definitions.--As used in this part:

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

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

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