

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Community Affairs Committee

BILL: CS/SB 1160

SPONSOR: Community Affairs Committee

SUBJECT: Comprehensive Planning and Land Development

DATE: April 5, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Herrin	Yeatman	CA	Fav/CS
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute (CS) defines the term “antiquated subdivisions” and requires a local government’s future land use plan to identify any such subdivision in which it seeks to consolidate platted or subdivided lots. The CS stipulates that in such instances the local government’s actions may not diminish vested densities without the consent of the owner. Also, the CS requires any plan amendment needed to address antiquated subdivisions to be included in the first evaluation and appraisal report due to be submitted after July 1, 2008.

The CS provides that a local government may not seek to consolidate or vacate all or part of a subdivision if 30 percent or more of the lands in the subdivision are in single ownership and that owner does not consent to the consolidation or vacation. It also provides a “curing period” for a subdivision to be approved or recorded no later than July 1, 2006.

This CS amends sections 163.3164 and 163.3177 of the Florida Statutes. This CS creates unnumbered sections of the Florida Statutes.

II. Present Situation:

As Florida’s population continues to grow, so does the need for developable land. Some developers and local governments are struggling with large areas that are appropriate for development, but not able to be developed, because the original plat renders the property inadequate for a project that complies with existing regulations and incorporates modern planning concepts. These areas with plats that were created prior to land development regulations and Florida’s Growth Management Act are sometimes called antiquated subdivisions.

The practice of speculating on land values began early in Florida's history. Speculators bought large tracts of land and sold thousands of small parcels to investors worldwide. It has been estimated that more than 2.1 million vacant lots were sold in some 2,600 antiquated subdivisions in Florida.¹ Although antiquated subdivisions occur throughout the state, they are concentrated primarily in southwest Florida.

The lack of development of parcels within some antiquated subdivisions may be problematic for a local government. For example, the local government may experience a lack of revenue from tax delinquent properties. Also, where large tracts are not able to be developed because of the existing plat, leap frog development will occur that results in poorly planned communities.

Optimally, parcels within antiquated subdivisions could be consolidated for development by individual property owners, developers, or purchased for a public purpose such as parks, schools, etc. However, the development of an antiquated subdivision, as originally platted, may create any number of difficulties for the local government. Such development may result in a negative fiscal impact for the local government that must provide services to such a community. Those services include fire, police, EMS, recreation, and schools. Also, this built-out antiquated subdivision could have negative consequences as the result of development in an environmentally sensitive area (i.e., the development may occur in a high water recharge area).

For property owners, there is an issue over the applicability of current environmental and planning regulations to parcels located in antiquated subdivisions. Property owners may not be able to realize the development potential of their lots because of problems with the original platting and existing regulations.

Legislation Addressing Antiquated Subdivisions

There have been several legislative attempts to address antiquated subdivisions. At one time, the optional planning authority of a local government included the ability to vacate subdivision plats under certain circumstances. Section 163.280, F.S., enacted in 1969,² provided for the reversion of subdivided land to acreage. On its own motion, the governing body of a local government could order the vacation and reversion to acreage of all or part of a subdivision located within its jurisdiction if the plat of the subdivision was recorded more than 5 years before the date of such action and not more than 10 percent of the area had been sold by the original subdivider or his or her successor. Such vacation included streets and any other parcels of land dedicated for a public purpose. Reasonable access was preserved for property owners within the subdivided area. Also, the vacation required a public hearing. This provision was repealed in 1985.³

Since 1985, several proposals have been submitted to the Legislature to address antiquated subdivisions, but nothing has passed into law. In 1986, the Department of Community Affairs issued a report on platted lands, including proposed legislation to address the problem statewide. This legislation would have included the regulation of platted lands within the powers and duties of a county government. It defined the term "land assembly or adjustment" as the consolidation

¹ Platted Lands (February 2003), Legislative Committee on Intergovernmental Relations.

² § 25, ch. 69-139, L.O.F.

³ § 19, ch. 85-55, L.O.F.

of platted lands and the vacation of the plat to allow for more appropriate development or land use.

In addition, the bill included the ability to assemble platted lands within the additional powers granted to local governments. It included an intent statement that the public health, safety, and general welfare require the orderly and progressive development of land. The legislation specified that the regulation of platting and land assembly would aid in the coordination of land development with an orderly pattern; discourage premature, poorly-planned development; encourage the development of economically stable communities; and ensure the provision of adequate services and infrastructure to lands that are developed.

This proposed legislation amended ch. 177, F.S., to allow a local government, on its own motion, to order the assembly or adjustment of platted lands within its jurisdiction to satisfy the objectives of the applicable local comprehensive plan. This assembly or adjustment included the ability to replat or vacate the existing plat on all or a portion of a subdivision, including the vacation of streets and or parcels dedicated for a public purpose, provided certain conditions are met. Basically, in order for this provision to apply, the subdivision must have been recorded in the subdivision plat not less than 10 years prior to the local government's order to replat and have less than 10 percent of its area built into the subdivision's zoned or land use purpose.

It also required that provisions be made for the compensation of any fee simple owner who refuses to participate in the application for the vacation of the plat. It required a local government to make a finding that the proposed assemblage of parcels or vacation of the plat was consistent with the local comprehensive plan. Also, any entity pursuing replatting or vacation of the plat would have been required to own fee simple title to 60 percent of the whole or part of the tract covered by the plat sought to be vacated. The legislation would have included the assembly or adjustment of platted or subdivided lands in the definition of "land development regulations."

This legislation included contracts for deed or installment land contracts in the list of documents to be recorded by the clerk of circuit court upon payment of a service fee. It required the clerk to record all approved plats of subdivided lands in the public records of each county where the property is located. Finally, under this legislation, any subdivider or purchaser of subdivided lands or a portion of such lands, that are subject to an agreement for deed, was required to record the agreement after the refund provisions expired and the legislation also provided for other conveyances to be recorded.

In the 2003 Regular Session, Senate Bill 2736 attempted to address problems with antiquated subdivisions using several approaches. This bill expanded the powers of the county to include preparation and enforcement of the local comprehensive plan to regulate the development of platted lands. It also defined "land assembly or adjustment" as the consolidation of contiguous and noncontiguous undeveloped platted or subdivided lots and the vacation of all or a portion of the original plat to allow for more appropriate development. The bill reinstated the authority of a local government to vacate a plat on its own motion if the plat was recorded or otherwise approved at least 10 years prior to such action and not more than 10 percent of the subdivision had been built into its zoned or land use purpose. Finally, it required the recordation of certain deeds and conveyances and that information regarding those documents be provided to county and municipal planning departments.

In the 2004 Regular Session, the engrossed Senate Bill 2548 authorized local governments to reassemble antiquated subdivisions for the purpose of encouraging appropriate planning and more efficient development patterns. Specifically, it required a local government's future land use plan to include provisions that address antiquated subdivisions, including the identification of any area where the local government seeks to consolidate platted or subdivided lots. It required local land development regulations to address the assembly, reassembly, or adjustment of land. The bill also amended the definition of "community redevelopment area" to include a pattern of platted or subdivided lots in an area that make it unsuitable for economically viable development or use. It also included antiquated subdivisions as an indicator of distress as it relates to the role of a community redevelopment agency.

Initially, this bill contained several provisions that were deleted from the bill before it passed the Senate. Those provisions that were deleted included language that expanded the eminent domain authority of local governments to consolidate subdivided lots and replat for more appropriate development that fulfills the jurisdiction's public policies or for public use. The bill required that every approved subdivision plat be recorded in the public records of each county where the property is located.

Also, initially, this bill reinstated the authority of counties to reassemble or adjust all or part of a subdivision within its jurisdiction to meet the objectives of its revised local comprehensive plan under certain circumstances. Specifically, the plat had to be recorded or otherwise approved 25 years prior to such action and not more than 20 percent of the subdivision was developed into its zoned or land use purposes. It contained language allowing persons or entities other than the local government, who own at least 60 percent of an area in fee simple, to request replatting. The local government could then order the vacation of the plat based on certain findings. Senate Bill 2548 died in House messages.

III. Effect of Proposed Changes:

Section 1 amends s. 163.3164, F.S., to define "antiquated subdivisions" as those platted subdivisions in which the plat was recorded before 1980 or was otherwise approved pursuant to law before 1980; with less than 20 percent of the total area built in accordance with its zoned or land-use purposes; and, in which the continued buildout would create an imbalance of land uses and lead to inefficient development patterns.

Section 2 amends s. 163.3177, F.S., to require a local government's future land use plan to identify any antiquated subdivision in which it seeks to consolidate platted or subdivided lots to allow appropriate development, redevelopment, or reassembly or any other use. The CS stipulates that in such instances the local government's actions may not diminish vested densities without the consent of the owner. A local government is not required to include any plan amendment needed to address antiquated subdivisions in its comprehensive plan until the first evaluation and appraisal report due to be submitted after July 1, 2008.

Section 3 provides that a local government may not seek to consolidate or vacate all or part of a subdivision if 30 percent or more of the lands in the subdivision are in single ownership and that owner does not consent to the consolidation or vacation.

Section 4 provides that notwithstanding s. 163.3164(32), F.S., the definition of an antiquated subdivision does not apply to a subdivision that has been approved or recorded no later than July 1, 2006.

Section 5 provides the act shall take effect July 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Many of the lots in antiquated subdivisions are not developable under existing land development and environmental regulations. The consolidation of lots in an antiquated subdivision may allow owners to experience an increase in their property values with the development of the subdivision.

C. Government Sector Impact:

There will be minimal costs associated with amending a local government's comprehensive plan to address any antiquated subdivisions where it seeks to consolidate the lots.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
