

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Rice offered the following:

2

3 **Amendment (with directory and title amendments)**

4 Between lines 4391 and 4392, insert:

5

6 Section 39. Section 163.3164, Florida Statutes, is amended  
7 to read:

8 163.3164 Local Government Comprehensive Planning and Land  
9 Development Regulation Act; definitions.--As used in this act:

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

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16 (2) "Area" or "area of jurisdiction" means the total area  
17 qualifying under the provisions of this act, whether this be all  
18 of the lands lying within the limits of an incorporated  
19 municipality, lands in and adjacent to incorporated  
20 municipalities, all unincorporated lands within a county, or  
21 areas comprising combinations of the lands in incorporated  
22 municipalities and unincorporated areas of counties.

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

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

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

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

31 (7) "Development order" means any order granting, denying,  
32 or granting with conditions an application for a development  
33 permit.

34 (8) "Development permit" includes any building permit,  
35 zoning permit, subdivision approval, rezoning, certification,  
36 special exception, variance, or any other official action of  
37 local government having the effect of permitting the development  
38 of land.

39 (9) "Governing body" means the board of county  
40 commissioners of a county, the commission or council of an  
41 incorporated municipality, or any other chief governing body of  
42 a unit of local government, however designated, or the

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43 combination of such bodies where joint utilization of the  
44 provisions of this act is accomplished as provided herein.

45 (10) "Governmental agency" means:

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

48 (b) This state or any department, commission, agency, or  
49 other instrumentality thereof.

50 (c) Any local government, as defined in this section, or  
51 any department, commission, agency, or other instrumentality  
52 thereof.

53 (d) Any school board or other special district, authority,  
54 or governmental entity.

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

58 (12) "Land use" means the development that has occurred on  
59 the land, the development that is proposed by a developer on the  
60 land, or the use that is permitted or permissible on the land  
61 under an adopted comprehensive plan or element or portion  
62 thereof, land development regulations, or a land development  
63 code, as the context may indicate.

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

65 (14) "Local mitigation strategy" means a local plan  
66 required under Section 322, Mitigation Planning, of the Robert  
67 T. Stafford Disaster Relief and Emergency Assistance Act,  
68 enacted by Section 104 of the Disaster Mitigation Act of 2000

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69 (Pub. L. No. 106-390) to promote hazard mitigation and to manage  
70 disaster redevelopment.

71 (15)~~(14)~~ "Local planning agency" means the agency  
72 designated to prepare the comprehensive plan or plan amendments  
73 required by this act.

74 (16)~~(15)~~ A "newspaper of general circulation" means a  
75 newspaper published at least on a weekly basis and printed in  
76 the language most commonly spoken in the area within which it  
77 circulates, but does not include a newspaper intended primarily  
78 for members of a particular professional or occupational group,  
79 a newspaper whose primary function is to carry legal notices, or  
80 a newspaper that is given away primarily to distribute  
81 advertising.

82 (17)~~(16)~~ "Parcel of land" means any quantity of land  
83 capable of being described with such definiteness that its  
84 locations and boundaries may be established, which is designated  
85 by its owner or developer as land to be used, or developed as, a  
86 unit or which has been used or developed as a unit.

87 (18)~~(17)~~ "Person" means an individual, corporation,  
88 governmental agency, business trust, estate, trust, partnership,  
89 association, two or more persons having a joint or common  
90 interest, or any other legal entity.

91 (19)~~(18)~~ "Public notice" means notice as required by s.  
92 125.66(2) for a county or by s. 166.041(3)(a) for a  
93 municipality. The public notice procedures required in this part  
94 are established as minimum public notice procedures.

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95        (20)~~(19)~~ "Regional planning agency" means the agency  
96 designated by the state land planning agency to exercise  
97 responsibilities under law in a particular region of the state.

98        (21)~~(20)~~ "State land planning agency" means the Department  
99 of Community Affairs.

100        (22)~~(21)~~ "Structure" has the meaning given it by s.  
101 380.031(19).

102        (23)~~(22)~~ "Land development regulation commission" means a  
103 commission designated by a local government to develop and  
104 recommend, to the local governing body, land development  
105 regulations which implement the adopted comprehensive plan and  
106 to review land development regulations, or amendments thereto,  
107 for consistency with the adopted plan and report to the  
108 governing body regarding its findings. The responsibilities of  
109 the land development regulation commission may be performed by  
110 the local planning agency.

111        (24)~~(23)~~ "Land development regulations" means ordinances  
112 enacted by governing bodies for the regulation of any aspect of  
113 development and includes any local government zoning, rezoning,  
114 subdivision, building construction, or sign regulations or any  
115 other regulations controlling the development of land, except  
116 that this definition shall not apply in s. 163.3213.

117        (25)~~(24)~~ "Public facilities" means major capital  
118 improvements, including, but not limited to, transportation,  
119 sanitary sewer, solid waste, drainage, potable water,  
120 educational, parks and recreational, and health systems and  
121 facilities, and spoil disposal sites for maintenance dredging

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122 located in the intracoastal waterways, except for spoil disposal  
123 sites owned or used by ports listed in s. 403.021(9)(b).

124 ~~(26)~~~~(25)~~ "Downtown revitalization" means the physical and  
125 economic renewal of a central business district of a community  
126 as designated by local government, and includes both downtown  
127 development and redevelopment.

128 ~~(27)~~~~(26)~~ "Urban redevelopment" means demolition and  
129 reconstruction or substantial renovation of existing buildings  
130 or infrastructure within urban infill areas or existing urban  
131 service areas.

132 ~~(28)~~~~(27)~~ "Urban infill" means the development of vacant  
133 parcels in otherwise built-up areas where public facilities such  
134 as sewer systems, roads, schools, and recreation areas are  
135 already in place and the average residential density is at least  
136 five dwelling units per acre, the average nonresidential  
137 intensity is at least a floor area ratio of 1.0 and vacant,  
138 developable land does not constitute more than 10 percent of the  
139 area.

140 ~~(29)~~~~(28)~~ "Projects that promote public transportation"  
141 means projects that directly affect the provisions of public  
142 transit, including transit terminals, transit lines and routes,  
143 separate lanes for the exclusive use of public transit services,  
144 transit stops (shelters and stations), office buildings or  
145 projects that include fixed-rail or transit terminals as part of  
146 the building, and projects which are transit oriented and  
147 designed to complement reasonably proximate planned or existing  
148 public facilities.

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149        ~~(30)~~(29) "Existing urban service area" means built-up  
150 areas where public facilities and services such as sewage  
151 treatment systems, roads, schools, and recreation areas are  
152 already in place.

153        ~~(31)~~(30) "Transportation corridor management" means the  
154 coordination of the planning of designated future transportation  
155 corridors with land use planning within and adjacent to the  
156 corridor to promote orderly growth, to meet the concurrency  
157 requirements of this chapter, and to maintain the integrity of  
158 the corridor for transportation purposes.

159        ~~(32)~~(31) "Optional sector plan" means an optional process  
160 authorized by s. 163.3245 in which one or more local governments  
161 by agreement with the state land planning agency are allowed to  
162 address development-of-regional-impact issues within certain  
163 designated geographic areas identified in the local  
164 comprehensive plan as a means of fostering innovative planning  
165 and development strategies in s. 163.3177(11)(a) and (b),  
166 furthering the purposes of this part and part I of chapter 380,  
167 reducing overlapping data and analysis requirements, protecting  
168 regionally significant resources and facilities, and addressing  
169 extrajurisdictional impacts.

170        Section 40. Paragraphs (a) and (g) of subsection (6) of  
171 section 163.3177, Florida Statutes, are amended to read:

172        163.3177 Required and optional elements of comprehensive  
173 plan; studies and surveys.--

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174 (6) In addition to the requirements of subsections (1)-  
175 (5), the comprehensive plan shall include the following  
176 elements:

177 (a) A future land use plan element designating proposed  
178 future general distribution, location, and extent of the uses of  
179 land for residential uses, commercial uses, industry,  
180 agriculture, recreation, conservation, education, public  
181 buildings and grounds, other public facilities, and other  
182 categories of the public and private uses of land. Counties are  
183 encouraged to designate rural land stewardship areas, pursuant  
184 to the provisions of paragraph (11)(d), as overlays on the  
185 future land use map. Each future land use category must be  
186 defined in terms of uses included, and must include standards to  
187 be followed in the control and distribution of population  
188 densities and building and structure intensities. The proposed  
189 distribution, location, and extent of the various categories of  
190 land use shall be shown on a land use map or map series which  
191 shall be supplemented by goals, policies, and measurable  
192 objectives. The future land use plan shall be based upon  
193 surveys, studies, and data regarding the area, including the  
194 amount of land required to accommodate anticipated growth; the  
195 projected population of the area; the character of undeveloped  
196 land; the availability of public services; the vulnerability to  
197 natural hazards and the potential need for hazard mitigation;  
198 the need for redevelopment, including the renewal of blighted  
199 areas and the elimination of nonconforming uses which are  
200 inconsistent with the character of the community; the

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201 compatibility of uses on lands adjacent to or closely proximate  
202 to military installations; and, in rural communities, the need  
203 for job creation, capital investment, and economic development  
204 that will strengthen and diversify the community's economy. The  
205 future land use plan may designate areas for future planned  
206 development use involving combinations of types of uses for  
207 which special regulations may be necessary to ensure development  
208 in accord with the principles and standards of the comprehensive  
209 plan and this act. The future land use plan element shall  
210 include criteria to be used to achieve the compatibility of  
211 adjacent or closely proximate lands with military installations.  
212 In addition, for rural communities, the amount of land  
213 designated for future planned industrial use shall be based upon  
214 surveys and studies that reflect the need for job creation,  
215 capital investment, and the necessity to strengthen and  
216 diversify the local economies, and shall not be limited solely  
217 by the projected population of the rural community. The future  
218 land use plan of a county may also designate areas for possible  
219 future municipal incorporation. The land use maps or map series  
220 shall generally identify and depict historic district boundaries  
221 and shall designate historically significant properties meriting  
222 protection. The future land use element must clearly identify  
223 the land use categories in which public schools are an allowable  
224 use. When delineating the land use categories in which public  
225 schools are an allowable use, a local government shall include  
226 in the categories sufficient land proximate to residential  
227 development to meet the projected needs for schools in

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228 coordination with public school boards and may establish  
229 differing criteria for schools of different type or size. Each  
230 local government shall include lands contiguous to existing  
231 school sites, to the maximum extent possible, within the land  
232 use categories in which public schools are an allowable use. All  
233 comprehensive plans must comply with the school siting  
234 requirements of this paragraph no later than October 1, 1999.  
235 The failure by a local government to comply with these school  
236 siting requirements by October 1, 1999, will result in the  
237 prohibition of the local government's ability to amend the local  
238 comprehensive plan, except for plan amendments described in s.  
239 163.3187(1)(b), until the school siting requirements are met.  
240 Amendments proposed by a local government for purposes of  
241 identifying the land use categories in which public schools are  
242 an allowable use or for adopting or amending the school-siting  
243 maps pursuant to s. 163.31776(3) are exempt from the limitation  
244 on the frequency of plan amendments contained in s. 163.3187.  
245 The future land use element shall include criteria that  
246 encourage the location of schools proximate to urban residential  
247 areas to the extent possible and shall require that the local  
248 government seek to collocate public facilities, such as parks,  
249 libraries, and community centers, with schools to the extent  
250 possible and to encourage the use of elementary schools as focal  
251 points for neighborhoods. For schools serving predominantly  
252 rural counties, defined as a county with a population of 100,000  
253 or fewer, an agricultural land use category shall be eligible  
254 for the location of public school facilities if the local

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255 comprehensive plan contains school siting criteria and the  
256 location is consistent with such criteria. Local governments  
257 required to update or amend their comprehensive plan to include  
258 criteria and address compatibility of adjacent or closely  
259 proximate lands with existing military installations in their  
260 future land use plan element shall transmit the update or  
261 amendment to the department by June 30, 2006.

262 (g) For those units of local government identified in s.  
263 380.24, a coastal management element, appropriately related to  
264 the particular requirements of paragraphs (d) and (e) and  
265 meeting the requirements of s. 163.3178(2) and (3). The coastal  
266 management element shall set forth the policies that shall guide  
267 the local government's decisions and program implementation with  
268 respect to the following objectives:

269 1. Maintenance, restoration, and enhancement of the  
270 overall quality of the coastal zone environment, including, but  
271 not limited to, its amenities and aesthetic values.

272 2. Continued existence of viable populations of all  
273 species of wildlife and marine life.

274 3. The orderly and balanced utilization and preservation,  
275 consistent with sound conservation principles, of all living and  
276 nonliving coastal zone resources.

277 4. Avoidance of irreversible and irretrievable loss of  
278 coastal zone resources.

279 5. Ecological planning principles and assumptions to be  
280 used in the determination of suitability and extent of permitted  
281 development.

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282 6. Proposed management and regulatory techniques.

283 7. Limitation of public expenditures that subsidize  
284 development in high-hazard coastal areas.

285 8. Protection of human life against the effects of natural  
286 disasters and implementation of hazard-mitigation strategies.

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

290 10. Preservation, including sensitive adaptive use of  
291 historic and archaeological resources.

292 Section 41. Paragraphs (d) and (f) of subsection (2) of  
293 section 163.3178, Florida Statutes, are amended, and subsection  
294 (9) is added to that section, to read:

295 163.3178 Coastal management.--

296 (2) Each coastal management element required by s.  
297 163.3177(6)(g) shall be based on studies, surveys, and data; be  
298 consistent with coastal resource plans prepared and adopted  
299 pursuant to general or special law; and contain:

300 (d) A component that ~~which~~ outlines principles for hazard  
301 mitigation and protection of human life and property against the  
302 effects of natural disaster, including population evacuation and  
303 local mitigation strategies that, ~~which~~ take into consideration  
304 the capability to safely evacuate the density of coastal  
305 population proposed in the future land use plan element in the  
306 event of an impending natural disaster.

307 (f) A redevelopment component that ~~which~~ outlines the  
308 principles to ~~which shall~~ be used to eliminate inappropriate and

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309 unsafe development in the coastal areas when opportunities  
310 arise. In recognition of the need to balance redevelopment, the  
311 protection of human life and property, and public investment in  
312 infrastructure, as a demonstration project, up to five local  
313 governments or a combination of local governments may amend  
314 their comprehensive plans to allow for the redevelopment of  
315 coastal areas within the designated coastal high-hazard area.  
316 The application must include the participation of the county  
317 emergency management agency, as provided in s. 252.38, of the  
318 county or counties in which the local government or local  
319 governments are located.

320 1. To be eligible for the coastal redevelopment  
321 demonstration project, the following conditions must be met: the  
322 comprehensive plan delineates the Flood Insurance Rate Map  
323 zones, the Coastal Construction Control Line, and the Coastal  
324 Barrier Resources System Area (COBRA) units for the area subject  
325 to the coastal redevelopment strategy; the area is part of a  
326 comprehensive redevelopment strategy that will be incorporated  
327 into the comprehensive plan; the area has been designated in the  
328 comprehensive plan as an urban infill and redevelopment area  
329 under s. 163.2517 or an adopted community redevelopment plan  
330 under s. 163.360 which is incorporated as a component of the  
331 comprehensive plan; the area is not within a designated area of  
332 critical state concern; the comprehensive plan delineates the  
333 coastal high-hazard area consistent with this part; and the  
334 county emergency management agency affirms in writing its intent  
335 to participate in the demonstration project.

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336       2. The local government or combination of local  
337 governments, authorized by agreement pursuant to paragraph  
338 (9)(b) to pursue the demonstration project, shall adopt into the  
339 comprehensive plan a redevelopment strategy, consistent with the  
340 requirements of s. 163.3177(6)(a) and local mitigation  
341 strategies, which includes, at a minimum, the following  
342 components:

343       a. Measures to reduce, replace, or eliminate unsafe  
344 structures and properties subject to repetitive damage from  
345 coastal storms and floods;

346       b. Measures to reduce exposure of infrastructure to  
347 hazards, including relocation and structural modification of  
348 threatened coastal infrastructure;

349       c. Operational and capacity improvements to ensure that  
350 the redevelopment strategy maintains or reduces throughout the  
351 planning timeframe the county hurricane evacuation clearance  
352 times as established in the most recent hurricane evacuation  
353 study or transportation analysis;

354       d. If the county hurricane evacuation clearance times  
355 exceed 16 hours for a Category 3 storm event, measures to ensure  
356 that the redevelopment strategy reduces the county shelter  
357 deficit and hurricane clearance times to adequate levels below  
358 16 hours within the planning timeframe;

359       e. Measures that provide for county evacuation shelter  
360 space to ensure that development authorized within the  
361 redevelopment area provides mitigation proportional to its

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362 impact to offset the increased demand on evacuation clearance  
363 times and public shelter space;

364 f. Measures to ensure that public expenditures that  
365 subsidize development in the most vulnerable areas of the  
366 coastal high hazard area are limited to those expenditures  
367 needed to provide for public access to the beach and shoreline,  
368 restore beaches and dunes and other natural systems, correct  
369 existing hurricane evacuation deficiencies, or to make  
370 facilities more disaster resistant;

371 g. Measures that commit to planning and regulatory  
372 standards that exceed minimum National Flood Insurance  
373 Standards, including participation in the Community Rating  
374 System of the National Flood Insurance Program;

375 h. Measures to ensure protection of coastal resources,  
376 including beach and dune systems, and provision for public  
377 access to the beach and shoreline consistent with estimated  
378 public needs;

379 i. Data and analysis, including existing damage potential  
380 and the proportionate potential costs of damage to structures,  
381 property, and infrastructure under the redevelopment strategy,  
382 which would need to be less than that proportionately expected  
383 without the redevelopment strategy;

384 j. Data and analysis forecasting the effects on shelter  
385 capacity and hurricane evacuation clearance times, based on the  
386 population anticipated by the redevelopment strategy; and

387 k. The execution of an interlocal agreement, as supporting  
388 data and analysis, between the local government or a combination

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389 of local governments participating in the demonstration project,  
390 together with their respective county emergency management  
391 agency and any affected municipalities, as needed, to implement  
392 mitigation strategies to reduce hurricane evacuation clearance  
393 times and deficits in public shelters.

394

395 The redevelopment strategy must establish the preferred  
396 character of the community and how that will be achieved.

397 (9)(a) A local government seeking to implement the coastal  
398 redevelopment demonstration project pursuant to paragraph (2)(f)  
399 must submit an application to the state land planning agency  
400 demonstrating that the project meets the conditions of  
401 subparagraph (2)(f)1. The application must include copies of the  
402 local government comprehensive plan and other relevant  
403 information supporting the proposed demonstration project. The  
404 state land planning agency may adopt procedural rules governing  
405 the submission, review, and selection of applications and may  
406 establish a phased schedule for reviewing applications. The  
407 department shall begin accepting applications no later than July  
408 1, 2006. The state land planning agency shall provide the  
409 Federal Emergency Management Agency and the Division of  
410 Emergency Management with an opportunity to comment on the  
411 application.

412 (b) If a selected local government meets the conditions of  
413 subparagraph (2)(f)1., the state land planning agency and the  
414 local government shall execute a written agreement that is a  
415 final agency action subject to challenge under s. 120.569. The

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416 written agreement must identify the area subject to the increase  
417 in development potential, including residential and transient  
418 residential development; state the amount of such increase;  
419 identify the most vulnerable areas not subject to increases in  
420 development; and describe how the conditions of subparagraph  
421 (2)(f)2. are to be met. The state land planning agency shall  
422 coordinate the review of hazard mitigation strategies with the  
423 Federal Emergency Management Agency and the Division of  
424 Emergency Management and include in the written agreement  
425 conditions necessary to be addressed in the comprehensive plan  
426 to meet the requirements of hurricane evacuation, shelter, and  
427 hazard mitigation. The agreement must specify procedures for  
428 public participation and intergovernmental coordination with the  
429 county emergency management agency and any affected  
430 municipalities regarding hurricane evacuation and shelter  
431 requirements. The local governments shall provide an opportunity  
432 for public comment at a public hearing before execution of the  
433 agreement. Upon execution of the written agreement, the local  
434 government may propose plan amendments that are authorized by  
435 the agreement; however, such plan amendments may not be adopted  
436 until the completion of any challenges to an agreement under s.  
437 120.569.

438 (c) The state land planning agency shall provide a  
439 progress report on the demonstration project to the Governor,  
440 the President of the Senate, and the Speaker of the House of  
441 Representatives by February 1, 2007. In its report, the state  
442 land planning agency shall assess whether the program has

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443 successfully implemented mitigation strategies and whether the  
444 program should continue or be expanded to include additional  
445 communities.

446 Section 42. Section 186.515, Florida Statutes, is amended  
447 to read:

448 186.515 Creation of regional planning councils under  
449 chapter 163.--Nothing in ss. 186.501-186.507, 186.513, and this  
450 section 186.515 is intended to repeal or limit the provisions of  
451 chapter 163; however, the local general-purpose governments  
452 serving as voting members of the governing body of a regional  
453 planning council created pursuant to ss. 186.501-186.507,  
454 186.513, and this section 186.515 are not authorized to create a  
455 regional planning council pursuant to chapter 163 unless an  
456 agency, other than a regional planning council created pursuant  
457 to ss. 186.501-186.507, 186.513, and this section 186.515, is  
458 designated to exercise the powers and duties in any one or more  
459 of ss. 163.3164(20) ~~163.3164(19)~~ and 380.031(15); in which case,  
460 such a regional planning council is also without authority to  
461 exercise the powers and duties in s. 163.3164(20) ~~s.~~  
462 ~~163.3164(19)~~ or s. 380.031(15).

463 Section 43. Paragraph (a) of subsection (2) of section  
464 288.975, Florida Statutes, is amended to read:

465 288.975 Military base reuse plans.--

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

467 (a) "Affected local government" means a local government  
468 adjoining the host local government and any other unit of local  
469 government that is not a host local government but that is

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470 identified in a proposed military base reuse plan as providing,  
471 operating, or maintaining one or more public facilities as  
472 defined in s. 163.3164(25) ~~s. 163.3164(24)~~ on lands within or  
473 serving a military base designated for closure by the Federal  
474 Government.

475 Section 44. Subsection (5) of section 369.303, Florida  
476 Statutes, is amended to read:

477 369.303 Definitions.--As used in this part:

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

481

482

483

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

485 Remove line 267 and insert:

486

487 certain staffing purposes; amending s. 163.3164, F.S. ;  
488 defining the term "local mitigation strategy" for purposes  
489 of the Local Government Comprehensive Planning and Land  
490 Development Regulation Act; amending s. 163.3177, F.S. ;  
491 providing an additional requirement for a local  
492 government's comprehensive plan concerning hazard  
493 mitigation; amending s. 163.3178, F.S. ; revising  
494 provisions with respect to coastal management; authorizing  
495 a demonstration project in certain counties to allow for  
496 the redevelopment of coastal areas within the designated

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497 coastal high hazard area; providing conditions; providing  
498 for application by a local government; providing for a  
499 written agreement between the state land planning agency  
500 and the local government; providing for a progress report  
501 to the Governor and the Legislature; amending ss. 186.515,  
502 288.975, and 369.303, F.S.; correcting cross references to  
503 conform; providing an effective date.

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