

CHAMBER ACTION

1 The Local Government Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to hazard mitigation for coastal
7 redevelopment; amending s. 163.3164, F.S.; defining the
8 term "local mitigation strategy" for purposes of the Local
9 Government Comprehensive Planning and Land Development
10 Regulation Act; amending s. 163.3177, F.S.; providing an
11 additional requirement for a local government's
12 comprehensive plan concerning hazard mitigation; amending
13 s. 163.3178, F.S.; revising provisions with respect to
14 coastal management; authorizing a demonstration project in
15 certain counties to allow for the redevelopment of coastal
16 areas within the designated coastal high hazard area;
17 providing conditions; providing for application by a local
18 government; providing for a written agreement between the
19 state land planning agency and the local government;
20 providing for a progress report to the Governor and the
21 Legislature; amending ss. 186.515, 288.975, and 369.303,
22 F.S.; correcting cross references to conform; providing an
23 effective date.

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

Section 1. Section 163.3164, Florida Statutes, is amended to read:

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

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

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

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

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

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

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

52 (7) "Development order" means any order granting, denying,
53 or granting with conditions an application for a development
54 permit.

55 (8) "Development permit" includes any building permit,
56 zoning permit, subdivision approval, rezoning, certification,
57 special exception, variance, or any other official action of
58 local government having the effect of permitting the development
59 of land.

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

66 (10) "Governmental agency" means:

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

69 (b) This state or any department, commission, agency, or
70 other instrumentality thereof.

71 (c) Any local government, as defined in this section, or
72 any department, commission, agency, or other instrumentality
73 thereof.

74 (d) Any school board or other special district, authority,
75 or governmental entity.

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

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79 (12) "Land use" means the development that has occurred on
80 the land, the development that is proposed by a developer on the
81 land, or the use that is permitted or permissible on the land
82 under an adopted comprehensive plan or element or portion
83 thereof, land development regulations, or a land development
84 code, as the context may indicate.

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

86 (14) "Local mitigation strategy" means a local plan
87 required under Section 322, Mitigation Planning, of the Robert
88 T. Stafford Disaster Relief and Emergency Assistance Act,
89 enacted by Section 104 of the Disaster Mitigation Act of 2000
90 (Pub. L. No. 106-390) to promote hazard mitigation and to manage
91 disaster redevelopment.

92 (15)~~(14)~~ "Local planning agency" means the agency
93 designated to prepare the comprehensive plan or plan amendments
94 required by this act.

95 (16)~~(15)~~ A "newspaper of general circulation" means a
96 newspaper published at least on a weekly basis and printed in
97 the language most commonly spoken in the area within which it
98 circulates, but does not include a newspaper intended primarily
99 for members of a particular professional or occupational group,
100 a newspaper whose primary function is to carry legal notices, or
101 a newspaper that is given away primarily to distribute
102 advertising.

103 (17)~~(16)~~ "Parcel of land" means any quantity of land
104 capable of being described with such definiteness that its
105 locations and boundaries may be established, which is designated

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106 | by its owner or developer as land to be used, or developed as, a
107 | unit or which has been used or developed as a unit.

108 | (18)~~(17)~~ "Person" means an individual, corporation,
109 | governmental agency, business trust, estate, trust, partnership,
110 | association, two or more persons having a joint or common
111 | interest, or any other legal entity.

112 | (19)~~(18)~~ "Public notice" means notice as required by s.
113 | 125.66(2) for a county or by s. 166.041(3)(a) for a
114 | municipality. The public notice procedures required in this part
115 | are established as minimum public notice procedures.

116 | (20)~~(19)~~ "Regional planning agency" means the agency
117 | designated by the state land planning agency to exercise
118 | responsibilities under law in a particular region of the state.

119 | (21)~~(20)~~ "State land planning agency" means the Department
120 | of Community Affairs.

121 | (22)~~(21)~~ "Structure" has the meaning given it by s.
122 | 380.031(19).

123 | (23)~~(22)~~ "Land development regulation commission" means a
124 | commission designated by a local government to develop and
125 | recommend, to the local governing body, land development
126 | regulations which implement the adopted comprehensive plan and
127 | to review land development regulations, or amendments thereto,
128 | for consistency with the adopted plan and report to the
129 | governing body regarding its findings. The responsibilities of
130 | the land development regulation commission may be performed by
131 | the local planning agency.

132 | (24)~~(23)~~ "Land development regulations" means ordinances
133 | enacted by governing bodies for the regulation of any aspect of

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134 development and includes any local government zoning, rezoning,
135 subdivision, building construction, or sign regulations or any
136 other regulations controlling the development of land, except
137 that this definition shall not apply in s. 163.3213.

138 (25)~~(24)~~ "Public facilities" means major capital
139 improvements, including, but not limited to, transportation,
140 sanitary sewer, solid waste, drainage, potable water,
141 educational, parks and recreational, and health systems and
142 facilities, and spoil disposal sites for maintenance dredging
143 located in the intracoastal waterways, except for spoil disposal
144 sites owned or used by ports listed in s. 403.021(9)(b).

145 (26)~~(25)~~ "Downtown revitalization" means the physical and
146 economic renewal of a central business district of a community
147 as designated by local government, and includes both downtown
148 development and redevelopment.

149 (27)~~(26)~~ "Urban redevelopment" means demolition and
150 reconstruction or substantial renovation of existing buildings
151 or infrastructure within urban infill areas or existing urban
152 service areas.

153 (28)~~(27)~~ "Urban infill" means the development of vacant
154 parcels in otherwise built-up areas where public facilities such
155 as sewer systems, roads, schools, and recreation areas are
156 already in place and the average residential density is at least
157 five dwelling units per acre, the average nonresidential
158 intensity is at least a floor area ratio of 1.0 and vacant,
159 developable land does not constitute more than 10 percent of the
160 area.

161 (29)~~(28)~~ "Projects that promote public transportation"
 162 means projects that directly affect the provisions of public
 163 transit, including transit terminals, transit lines and routes,
 164 separate lanes for the exclusive use of public transit services,
 165 transit stops (shelters and stations), office buildings or
 166 projects that include fixed-rail or transit terminals as part of
 167 the building, and projects which are transit oriented and
 168 designed to complement reasonably proximate planned or existing
 169 public facilities.

170 (30)~~(29)~~ "Existing urban service area" means built-up
 171 areas where public facilities and services such as sewage
 172 treatment systems, roads, schools, and recreation areas are
 173 already in place.

174 (31)~~(30)~~ "Transportation corridor management" means the
 175 coordination of the planning of designated future transportation
 176 corridors with land use planning within and adjacent to the
 177 corridor to promote orderly growth, to meet the concurrency
 178 requirements of this chapter, and to maintain the integrity of
 179 the corridor for transportation purposes.

180 (32)~~(31)~~ "Optional sector plan" means an optional process
 181 authorized by s. 163.3245 in which one or more local governments
 182 by agreement with the state land planning agency are allowed to
 183 address development-of-regional-impact issues within certain
 184 designated geographic areas identified in the local
 185 comprehensive plan as a means of fostering innovative planning
 186 and development strategies in s. 163.3177(11)(a) and (b),
 187 furthering the purposes of this part and part I of chapter 380,
 188 reducing overlapping data and analysis requirements, protecting

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189 regionally significant resources and facilities, and addressing
190 extrajurisdictional impacts.

191 Section 2. Paragraphs (a) and (g) of subsection (6) of
192 section 163.3177, Florida Statutes, are amended to read:

193 163.3177 Required and optional elements of comprehensive
194 plan; studies and surveys.--

195 (6) In addition to the requirements of subsections (1)-
196 (5), the comprehensive plan shall include the following
197 elements:

198 (a) A future land use plan element designating proposed
199 future general distribution, location, and extent of the uses of
200 land for residential uses, commercial uses, industry,
201 agriculture, recreation, conservation, education, public
202 buildings and grounds, other public facilities, and other
203 categories of the public and private uses of land. Counties are
204 encouraged to designate rural land stewardship areas, pursuant
205 to the provisions of paragraph (11)(d), as overlays on the
206 future land use map. Each future land use category must be
207 defined in terms of uses included, and must include standards to
208 be followed in the control and distribution of population
209 densities and building and structure intensities. The proposed
210 distribution, location, and extent of the various categories of
211 land use shall be shown on a land use map or map series which
212 shall be supplemented by goals, policies, and measurable
213 objectives. The future land use plan shall be based upon
214 surveys, studies, and data regarding the area, including the
215 amount of land required to accommodate anticipated growth; the
216 projected population of the area; the character of undeveloped

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217 | land; the availability of public services; the vulnerability to
218 | natural hazards and the potential need for hazard mitigation;
219 | the need for redevelopment, including the renewal of blighted
220 | areas and the elimination of nonconforming uses which are
221 | inconsistent with the character of the community; the
222 | compatibility of uses on lands adjacent to or closely proximate
223 | to military installations; and, in rural communities, the need
224 | for job creation, capital investment, and economic development
225 | that will strengthen and diversify the community's economy. The
226 | future land use plan may designate areas for future planned
227 | development use involving combinations of types of uses for
228 | which special regulations may be necessary to ensure development
229 | in accord with the principles and standards of the comprehensive
230 | plan and this act. The future land use plan element shall
231 | include criteria to be used to achieve the compatibility of
232 | adjacent or closely proximate lands with military installations.
233 | In addition, for rural communities, the amount of land
234 | designated for future planned industrial use shall be based upon
235 | surveys and studies that reflect the need for job creation,
236 | capital investment, and the necessity to strengthen and
237 | diversify the local economies, and shall not be limited solely
238 | by the projected population of the rural community. The future
239 | land use plan of a county may also designate areas for possible
240 | future municipal incorporation. The land use maps or map series
241 | shall generally identify and depict historic district boundaries
242 | and shall designate historically significant properties meriting
243 | protection. The future land use element must clearly identify
244 | the land use categories in which public schools are an allowable

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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245 use. When delineating the land use categories in which public
 246 schools are an allowable use, a local government shall include
 247 in the categories sufficient land proximate to residential
 248 development to meet the projected needs for schools in
 249 coordination with public school boards and may establish
 250 differing criteria for schools of different type or size. Each
 251 local government shall include lands contiguous to existing
 252 school sites, to the maximum extent possible, within the land
 253 use categories in which public schools are an allowable use. All
 254 comprehensive plans must comply with the school siting
 255 requirements of this paragraph no later than October 1, 1999.
 256 The failure by a local government to comply with these school
 257 siting requirements by October 1, 1999, will result in the
 258 prohibition of the local government's ability to amend the local
 259 comprehensive plan, except for plan amendments described in s.
 260 163.3187(1)(b), until the school siting requirements are met.
 261 Amendments proposed by a local government for purposes of
 262 identifying the land use categories in which public schools are
 263 an allowable use or for adopting or amending the school-siting
 264 maps pursuant to s. 163.31776(3) are exempt from the limitation
 265 on the frequency of plan amendments contained in s. 163.3187.
 266 The future land use element shall include criteria that
 267 encourage the location of schools proximate to urban residential
 268 areas to the extent possible and shall require that the local
 269 government seek to collocate public facilities, such as parks,
 270 libraries, and community centers, with schools to the extent
 271 possible and to encourage the use of elementary schools as focal
 272 points for neighborhoods. For schools serving predominantly

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273 rural counties, defined as a county with a population of 100,000
 274 or fewer, an agricultural land use category shall be eligible
 275 for the location of public school facilities if the local
 276 comprehensive plan contains school siting criteria and the
 277 location is consistent with such criteria. Local governments
 278 required to update or amend their comprehensive plan to include
 279 criteria and address compatibility of adjacent or closely
 280 proximate lands with existing military installations in their
 281 future land use plan element shall transmit the update or
 282 amendment to the department by June 30, 2006.

283 (g) For those units of local government identified in s.
 284 380.24, a coastal management element, appropriately related to
 285 the particular requirements of paragraphs (d) and (e) and
 286 meeting the requirements of s. 163.3178(2) and (3). The coastal
 287 management element shall set forth the policies that shall guide
 288 the local government's decisions and program implementation with
 289 respect to the following objectives:

290 1. Maintenance, restoration, and enhancement of the
 291 overall quality of the coastal zone environment, including, but
 292 not limited to, its amenities and aesthetic values.

293 2. Continued existence of viable populations of all
 294 species of wildlife and marine life.

295 3. The orderly and balanced utilization and preservation,
 296 consistent with sound conservation principles, of all living and
 297 nonliving coastal zone resources.

298 4. Avoidance of irreversible and irretrievable loss of
 299 coastal zone resources.

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300 5. Ecological planning principles and assumptions to be
301 used in the determination of suitability and extent of permitted
302 development.

303 6. Proposed management and regulatory techniques.

304 7. Limitation of public expenditures that subsidize
305 development in high-hazard coastal areas.

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

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

311 10. Preservation, including sensitive adaptive use of
312 historic and archaeological resources.

313 Section 3. Paragraphs (d) and (f) of subsection (2) of
314 section 163.3178, Florida Statutes, are amended, and subsection
315 (9) is added to that section, to read:

316 163.3178 Coastal management.--

317 (2) Each coastal management element required by s.
318 163.3177(6)(g) shall be based on studies, surveys, and data; be
319 consistent with coastal resource plans prepared and adopted
320 pursuant to general or special law; and contain:

321 (d) A component that ~~which~~ outlines principles for hazard
322 mitigation and protection of human life and property against the
323 effects of natural disaster, including population evacuation and
324 local mitigation strategies that, ~~which~~ take into consideration
325 the capability to safely evacuate the density of coastal
326 population proposed in the future land use plan element in the
327 event of an impending natural disaster.

328 (f) A redevelopment component that ~~which~~ outlines the
 329 principles to ~~which shall~~ be used to eliminate inappropriate and
 330 unsafe development in the coastal areas when opportunities
 331 arise. In recognition of the need to balance redevelopment, the
 332 protection of human life and property, and public investment in
 333 infrastructure, as a demonstration project, up to five local
 334 governments or a combination of local governments may amend
 335 their comprehensive plans to allow for the redevelopment of
 336 coastal areas within the designated coastal high-hazard area.
 337 The application must include the participation of the county
 338 emergency management agency, as provided in s. 252.38, of the
 339 county or counties in which the local government or local
 340 governments are located.

341 1. To be eligible for the coastal redevelopment
 342 demonstration project, the following conditions must be met: the
 343 comprehensive plan delineates the Flood Insurance Rate Map
 344 zones, the Coastal Construction Control Line, and the Coastal
 345 Barrier Resources System Area (COBRA) units for the area subject
 346 to the coastal redevelopment strategy; the area is part of a
 347 comprehensive redevelopment strategy that will be incorporated
 348 into the comprehensive plan; the area has been designated in the
 349 comprehensive plan as an urban infill and redevelopment area
 350 under s. 163.2517 or an adopted community redevelopment plan
 351 under s. 163.360 which is incorporated as a component of the
 352 comprehensive plan; the area is not within a designated area of
 353 critical state concern; the comprehensive plan delineates the
 354 coastal high-hazard area consistent with this part; and the

355 county emergency management agency affirms in writing its intent
 356 to participate in the demonstration project.

357 2. The local government or combination of local
 358 governments, authorized by agreement pursuant to paragraph
 359 (9)(b) to pursue the demonstration project, shall adopt into the
 360 comprehensive plan a redevelopment strategy, consistent with the
 361 requirements of s. 163.3177(6)(a) and local mitigation
 362 strategies, which includes, at a minimum, the following
 363 components:

364 a. Measures to reduce, replace, or eliminate unsafe
 365 structures and properties subject to repetitive damage from
 366 coastal storms and floods;

367 b. Measures to reduce exposure of infrastructure to
 368 hazards, including relocation and structural modification of
 369 threatened coastal infrastructure;

370 c. Operational and capacity improvements to ensure that
 371 the redevelopment strategy maintains or reduces throughout the
 372 planning timeframe the county hurricane evacuation clearance
 373 times as established in the most recent hurricane evacuation
 374 study or transportation analysis;

375 d. If the county hurricane evacuation clearance times
 376 exceed 16 hours for a Category 3 storm event, measures to ensure
 377 that the redevelopment strategy reduces the county shelter
 378 deficit and hurricane clearance times to adequate levels below
 379 16 hours within the planning timeframe;

380 e. Measures that provide for county evacuation shelter
 381 space to ensure that development authorized within the
 382 redevelopment area provides mitigation proportional to its

383 impact to offset the increased demand on evacuation clearance
 384 times and public shelter space;

385 f. Measures to ensure that public expenditures that
 386 subsidize development in the most vulnerable areas of the
 387 coastal high hazard area are limited to those expenditures
 388 needed to provide for public access to the beach and shoreline,
 389 restore beaches and dunes and other natural systems, correct
 390 existing hurricane evacuation deficiencies, or to make
 391 facilities more disaster resistant;

392 g. Measures that commit to planning and regulatory
 393 standards that exceed minimum National Flood Insurance
 394 Standards, including participation in the Community Rating
 395 System of the National Flood Insurance Program;

396 h. Measures to ensure protection of coastal resources,
 397 including beach and dune systems, and provision for public
 398 access to the beach and shoreline consistent with estimated
 399 public needs;

400 i. Data and analysis, including existing damage potential
 401 and the proportionate potential costs of damage to structures,
 402 property, and infrastructure under the redevelopment strategy,
 403 which would need to be less than that proportionately expected
 404 without the redevelopment strategy;

405 j. Data and analysis forecasting the effects on shelter
 406 capacity and hurricane evacuation clearance times, based on the
 407 population anticipated by the redevelopment strategy; and

408 k. The execution of an interlocal agreement, as supporting
 409 data and analysis, between the local government or a combination
 410 of local governments participating in the demonstration project,

411 together with their respective county emergency management
 412 agency and any affected municipalities, as needed, to implement
 413 mitigation strategies to reduce hurricane evacuation clearance
 414 times and deficits in public shelters.

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

418 (9)(a) A local government seeking to implement the coastal
 419 redevelopment demonstration project pursuant to paragraph (2)(f)
 420 must submit an application to the state land planning agency
 421 demonstrating that the project meets the conditions of
 422 subparagraph (2)(f)1. The application must include copies of the
 423 local government comprehensive plan and other relevant
 424 information supporting the proposed demonstration project. The
 425 state land planning agency may adopt procedural rules governing
 426 the submission, review, and selection of applications and may
 427 establish a phased schedule for reviewing applications. The
 428 department shall begin accepting applications no later than July
 429 1, 2006. The state land planning agency shall provide the
 430 Federal Emergency Management Agency and the Division of
 431 Emergency Management with an opportunity to comment on the
 432 application.

433 (b) If a selected local government meets the conditions of
 434 subparagraph (2)(f)1., the state land planning agency and the
 435 local government shall execute a written agreement that is a
 436 final agency action subject to challenge under s. 120.569. The
 437 written agreement must identify the area subject to the increase
 438 in development potential, including residential and transient

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439 residential development; state the amount of such increase;
440 identify the most vulnerable areas not subject to increases in
441 development; and describe how the conditions of subparagraph
442 (2)(f)2. are to be met. The state land planning agency shall
443 coordinate the review of hazard mitigation strategies with the
444 Federal Emergency Management Agency and the Division of
445 Emergency Management and include in the written agreement
446 conditions necessary to be addressed in the comprehensive plan
447 to meet the requirements of hurricane evacuation, shelter, and
448 hazard mitigation. The agreement must specify procedures for
449 public participation and intergovernmental coordination with the
450 county emergency management agency and any affected
451 municipalities regarding hurricane evacuation and shelter
452 requirements. The local governments shall provide an opportunity
453 for public comment at a public hearing before execution of the
454 agreement. Upon execution of the written agreement, the local
455 government may propose plan amendments that are authorized by
456 the agreement; however, such plan amendments may not be adopted
457 until the completion of any challenges to an agreement under s.
458 120.569.

459 (c) The state land planning agency shall provide a
460 progress report on the demonstration project to the Governor,
461 the President of the Senate, and the Speaker of the House of
462 Representatives by February 1, 2007. In its report, the state
463 land planning agency shall assess whether the program has
464 successfully implemented mitigation strategies and whether the
465 program should continue or be expanded to include additional
466 communities.

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467 Section 4. Section 186.515, Florida Statutes, is amended
468 to read:

469 186.515 Creation of regional planning councils under
470 chapter 163.--Nothing in ss. 186.501-186.507, 186.513, and this
471 section 186.515 is intended to repeal or limit the provisions of
472 chapter 163; however, the local general-purpose governments
473 serving as voting members of the governing body of a regional
474 planning council created pursuant to ss. 186.501-186.507,
475 186.513, and this section 186.515 are not authorized to create a
476 regional planning council pursuant to chapter 163 unless an
477 agency, other than a regional planning council created pursuant
478 to ss. 186.501-186.507, 186.513, and this section 186.515, is
479 designated to exercise the powers and duties in any one or more
480 of ss. 163.3164(20) ~~163.3164(19)~~ and 380.031(15); in which case,
481 such a regional planning council is also without authority to
482 exercise the powers and duties in s. 163.3164(20) ~~s.~~
483 ~~163.3164(19)~~ or s. 380.031(15).

484 Section 5. Paragraph (a) of subsection (2) of section
485 288.975, Florida Statutes, is amended to read:

486 288.975 Military base reuse plans.--

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

488 (a) "Affected local government" means a local government
489 adjoining the host local government and any other unit of local
490 government that is not a host local government but that is
491 identified in a proposed military base reuse plan as providing,
492 operating, or maintaining one or more public facilities as
493 defined in s. 163.3164(25) ~~s. 163.3164(24)~~ on lands within or

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494 | serving a military base designated for closure by the Federal
495 | Government.

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

498 | 369.303 Definitions.--As used in this part:

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

502 | Section 7. This act shall take effect upon becoming a law.