

Bill No. CS for SB 716

Barcode 442124

CHAMBER ACTION

Senate

House

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The Committee on Environmental Preservation (Argenziano)
recommended the following amendment:

Senate Amendment (with title amendment)

On page 2, line 16, through
page 20, line 10, delete those lines

and insert:

Section 1. Paragraphs (a) and (c) of subsection (4)
and paragraph (a) of subsection (5) of section 70.001, Florida
Statutes, are amended to read:

70.001 Private property rights protection.--

(4)(a) Not less than 180 days prior to filing an
action under this section against a governmental entity, a
property owner who seeks compensation under this section must
present the claim in writing to the head of the governmental
entity, except that if the property is classified as
agricultural pursuant to s. 193.461, the notice period is 90
days. The property owner must submit, along with the claim, a
bona fide, valid appraisal that supports the claim and
demonstrates the loss in fair market value to the real

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1 property. If the action of government is the culmination of a
2 process that involves more than one governmental entity, or if
3 a complete resolution of all relevant issues, in the view of
4 the property owner or in the view of a governmental entity to
5 whom a claim is presented, requires the active participation
6 of more than one governmental entity, the property owner shall
7 present the claim as provided in this section to each of the
8 governmental entities.

9 (c) During the 90-day-notice period or the
10 180-day-notice period, unless extended by agreement of the
11 parties, the governmental entity shall make a written
12 settlement offer to effectuate:

13 1. An adjustment of land development or permit
14 standards or other provisions controlling the development or
15 use of land.

16 2. Increases or modifications in the density,
17 intensity, or use of areas of development.

18 3. The transfer of developmental rights.

19 4. Land swaps or exchanges.

20 5. Mitigation, including payments in lieu of onsite
21 mitigation.

22 6. Location on the least sensitive portion of the
23 property.

24 7. Conditioning the amount of development or use
25 permitted.

26 8. A requirement that issues be addressed on a more
27 comprehensive basis than a single proposed use or development.

28 9. Issuance of the development order, a variance,
29 special exception, or other extraordinary relief.

30 10. Purchase of the real property, or an interest
31 therein, by an appropriate governmental entity.

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1 11. No changes to the action of the governmental
2 entity.

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4 If the property owner accepts the settlement offer, the
5 governmental entity may implement the settlement offer by
6 appropriate development agreement; by issuing a variance,
7 special exception, or other extraordinary relief; or by other
8 appropriate method, subject to paragraph (d).

9 (5)(a) During the 90-day-notice period or the
10 180-day-notice period, unless a settlement offer is accepted
11 by the property owner, each of the governmental entities
12 provided notice pursuant to paragraph (4)(a) shall issue a
13 written ripeness decision identifying the allowable uses to
14 which the subject property may be put. The failure of the
15 governmental entity to issue a written ripeness decision
16 during the applicable 90-day-notice period or 180-day-notice
17 period shall be deemed to ripen the prior action of the
18 governmental entity, and shall operate as a ripeness decision
19 that has been rejected by the property owner. The ripeness
20 decision, as a matter of law, constitutes the last
21 prerequisite to judicial review, and the matter shall be
22 deemed ripe or final for the purposes of the judicial
23 proceeding created by this section, notwithstanding the
24 availability of other administrative remedies.

25 Section 2. Subsection (5) is added to section
26 163.3162, Florida Statutes, to read:

27 163.3162 Agricultural Lands and Practices Act.--

28 (5)(a) The owner of a parcel of land defined as an
29 agricultural enclave under s. 163.3164(32)(e)1. may apply for
30 an amendment to the local government comprehensive plan
31 pursuant to s. 163.3187. Such amendment is not subject to

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1 rule 9J-5.006(5), Florida Administrative Code, and may include
2 land uses and intensities of use that are consistent with the
3 uses and intensities of use of the industrial, commercial, or
4 residential areas that surround the parcel. The local
5 government shall make a determination regarding transmittal of
6 such amendment within 120 days after receipt of a complete
7 application for the amendment and transmit the amendment to
8 the state land planning agency for review pursuant to s.
9 163.3184 at the first available transmittal cycle. The state
10 land planning agency may not use any provision of rule
11 9J-5.006(5), Florida Administrative Code, as a factor in
12 determining compliance of an amendment under this paragraph.

13 (b) In order to preserve commercial agricultural
14 activity, encourage mixed-use infill development, prevent
15 urban sprawl, and provide more efficient delivery of municipal
16 services and facilities, the owner of a parcel of land defined
17 as an agricultural enclave under s. 163.3164(32)(e)2. may
18 apply for an amendment to the local government comprehensive
19 plan pursuant to s. 163.3187. Such amendment is not subject to
20 rule 9J-5.006(5), Florida Administrative Code, and may include
21 land uses and intensities of use that are consistent with the
22 uses and intensities of use of the industrial, commercial, or
23 residential areas that surround the parcel. Each application
24 for a comprehensive plan amendment under this paragraph must
25 include appropriate new urbanism concepts such as clustering,
26 mixed-use development, the creation of rural village and city
27 centers, and the transfer of development rights in order to
28 discourage urban sprawl while protecting landowner rights.

29 1. The local government and the owner of a parcel of
30 land that is the subject of an application for an amendment
31 under this paragraph have 180 days following the date that the

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1 local government receives a complete application to negotiate
 2 in good faith to reach consensus on the land uses and
 3 intensities of use that are consistent with the uses and
 4 intensities of use of the industrial, commercial, or
 5 residential areas that surround the parcel. Within 30 days
 6 after the local government's receipt of such an application,
 7 the local government and owner must agree in writing to a
 8 schedule for information submittal, public hearings,
 9 negotiations, and final action on the amendment, which
 10 schedule may thereafter be altered only with the written
 11 consent of the local government and the owner. Compliance
 12 with the schedule in the written agreement constitutes good
 13 faith negotiations for purposes of subparagraph 3.

14 2. Upon conclusion of good faith negotiations under
 15 subparagraph 1., regardless of whether the local government
 16 and owner reach consensus on the land uses and intensities of
 17 use that are consistent with the uses and intensities of use
 18 of the industrial, commercial, or residential areas that
 19 surround the parcel, the amendment must be transmitted to the
 20 state land planning agency for review pursuant to s. 163.3184.
 21 If the local government fails to transmit the amendment within
 22 180 days after receipt of a complete application, the
 23 amendment must be immediately transferred to the state land
 24 planning agency for such review at the first available
 25 transmittal cycle. The state land planning agency may not use
 26 any provision of rule 9J-5.006(5), Florida Administrative
 27 Code, as a factor in determining compliance of an amendment
 28 under this paragraph.

29 3. If the owner fails to negotiate in good faith, rule
 30 9J-5.006(5), Florida Administrative Code, shall apply
 31 throughout the negotiation and amendment process under this

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1 paragraph.

2 Section 3. Subsection (32) is added to section
3 163.3164, Florida Statutes, to read:

4 163.3164 Local Government Comprehensive Planning and
5 Land Development Regulation Act; definitions.--As used in this
6 act:

7 (32) "Agricultural enclave" means an unincorporated,
8 undeveloped parcel that:

9 (a) Is owned by a single person or entity;

10 (b) Has been in continuous use for bona fide
11 agricultural purposes, as defined by s. 193.461, for a period
12 of 5 years prior to the date of any comprehensive plan
13 amendment application;

14 (c) Is surrounded on at least 75 percent of its
15 perimeter by:

16 1. Property that has existing industrial, commercial,
17 or residential development; or

18 2. Property that the local government has designated,
19 in the local government's comprehensive plan, zoning map, and
20 future land use map, as land that is to be developed for
21 industrial, commercial, or residential purposes, and at least
22 75 percent of such property is existing industrial,
23 commercial, or residential development,

24 (d) Has public services, including water, wastewater,
25 transportation, schools, and recreation facilities, available
26 or such public services are scheduled to be provided as part
27 of a financially feasible 5-year schedule of capital
28 improvements that is adopted by the local government or by an
29 alternative provider of local government infrastructure; and

30 (e) Satisfies one of the following acreage criteria:

31 1. The parcel may not exceed 500 acres or;

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1 agricultural land must provide notice of a
2 claim prior to filing an action against a
3 governmental entity regarding private property
4 rights; amending s. 163.3162, F.S.; providing
5 for application for an amendment to the local
6 comprehensive plan by the owner of land that
7 meets certain provisions of the definition of
8 an agricultural enclave; providing requirements
9 relating to such applications; exempting
10 certain amendments from specified rules of the
11 Department of Community Affairs under certain
12 circumstances; amending s. 163.3164, F.S.;
13 defining the term "agricultural enclave" for
14 purposes of the Local Government Comprehensive
15 Planning and Land Development Regulation Act;

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