

1 regarding qualification for
2 agricultural-related exemptions; providing an
3 effective date.

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

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

10 70.001 Private property rights protection.--

11 (4)(a) Not less than 180 days prior to filing an
12 action under this section against a governmental entity, a
13 property owner who seeks compensation under this section must
14 present the claim in writing to the head of the governmental
15 entity, except that if the property is classified as
16 agricultural pursuant to s. 193.461, the notice period is 90
17 days. The property owner must submit, along with the claim, a
18 bona fide, valid appraisal that supports the claim and
19 demonstrates the loss in fair market value to the real
20 property. If the action of government is the culmination of a
21 process that involves more than one governmental entity, or if
22 a complete resolution of all relevant issues, in the view of
23 the property owner or in the view of a governmental entity to
24 whom a claim is presented, requires the active participation
25 of more than one governmental entity, the property owner shall
26 present the claim as provided in this section to each of the
27 governmental entities.

28 (c) During the 90-day-notice period or the
29 180-day-notice period, unless extended by agreement of the
30 parties, the governmental entity shall make a written
31 settlement offer to effectuate:

1 1. An adjustment of land development or permit
2 standards or other provisions controlling the development or
3 use of land.

4 2. Increases or modifications in the density,
5 intensity, or use of areas of development.

6 3. The transfer of developmental rights.

7 4. Land swaps or exchanges.

8 5. Mitigation, including payments in lieu of onsite
9 mitigation.

10 6. Location on the least sensitive portion of the
11 property.

12 7. Conditioning the amount of development or use
13 permitted.

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

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

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

20 11. No changes to the action of the governmental
21 entity.

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23 If the property owner accepts the settlement offer, the
24 governmental entity may implement the settlement offer by
25 appropriate development agreement; by issuing a variance,
26 special exception, or other extraordinary relief; or by other
27 appropriate method, subject to paragraph (d).

28 (5)(a) During the 90-day-notice period or the
29 180-day-notice period, unless a settlement offer is accepted
30 by the property owner, each of the governmental entities
31 provided notice pursuant to paragraph (4)(a) shall issue a

1 written ripeness decision identifying the allowable uses to
2 which the subject property may be put. The failure of the
3 governmental entity to issue a written ripeness decision
4 during the applicable 90-day-notice period or 180-day-notice
5 period shall be deemed to ripen the prior action of the
6 governmental entity, and shall operate as a ripeness decision
7 that has been rejected by the property owner. The ripeness
8 decision, as a matter of law, constitutes the last
9 prerequisite to judicial review, and the matter shall be
10 deemed ripe or final for the purposes of the judicial
11 proceeding created by this section, notwithstanding the
12 availability of other administrative remedies.

13 Section 2. Subsection (5) is added to section
14 163.3162, Florida Statutes, to read:

15 163.3162 Agricultural Lands and Practices Act.--

16 (5)(a) The owner of a parcel of land defined as an
17 agricultural enclave under s. 163.3164(32)(e)1. may apply for
18 an amendment to the local government comprehensive plan
19 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. The local
24 government shall make a determination regarding transmittal of
25 such amendment within 120 days after receipt of a complete
26 application for the amendment and transmit the amendment to
27 the state land planning agency for review pursuant to s.
28 163.3184 at the first available transmittal cycle. The state
29 land planning agency may not use any provision of rule
30 9J-5.006(5), Florida Administrative Code, as a factor in
31 determining compliance of an amendment under this paragraph.

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

17 1. The local government and the owner of a parcel of
18 land that is the subject of an application for an amendment
19 under this paragraph have 180 days following the date that the
20 local government receives a complete application to negotiate
21 in good faith to reach consensus on the land uses and
22 intensities of use that are consistent with the uses and
23 intensities of use of the industrial, commercial, or
24 residential areas that surround the parcel. Within 30 days
25 after the local government's receipt of such an application,
26 the local government and owner must agree in writing to a
27 schedule for information submittal, public hearings,
28 negotiations, and final action on the amendment, which
29 schedule may thereafter be altered only with the written
30 consent of the local government and the owner. Compliance
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1 with the schedule in the written agreement constitutes good
2 faith negotiations for purposes of subparagraph 3.

3 2. Upon conclusion of good faith negotiations under
4 subparagraph 1., regardless of whether the local government
5 and owner reach consensus on the land uses and intensities of
6 use that are consistent with the uses and intensities of use
7 of the industrial, commercial, or residential areas that
8 surround the parcel, the amendment must be transmitted to the
9 state land planning agency for review pursuant to s. 163.3184.
10 If the local government fails to transmit the amendment within
11 180 days after receipt of a complete application, the
12 amendment must be immediately transferred to the state land
13 planning agency for such review at the first available
14 transmittal cycle. The state land planning agency may not use
15 any provision of rule 9J-5.006(5), Florida Administrative
16 Code, as a factor in determining compliance of an amendment
17 under this paragraph.

18 3. If the owner fails to negotiate in good faith, rule
19 9J-5.006(5), Florida Administrative Code, shall apply
20 throughout the negotiation and amendment process under this
21 paragraph.

22 (c) Nothing within this subsection relating to
23 agricultural enclaves shall preempt or replace any protection
24 currently existing for any property located within the
25 boundaries of the following areas:

26 1. The Wekiva Study Area, as described in s. 369.316;
27 or

28 2. The Everglades Protection Area, as defined in s.
29 373.4592(2).

30 Section 3. Subsection (32) is added to section
31 163.3164, Florida Statutes, to read:

1 163.3164 Local Government Comprehensive Planning and
2 Land Development Regulation Act; definitions.--As used in this
3 act:

4 (32) "Agricultural enclave" means an unincorporated,
5 undeveloped parcel that:

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

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

11 (c) Is surrounded on at least 75 percent of its
12 perimeter by:

13 1. Property that has existing industrial, commercial,
14 or residential development; or

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

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

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

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

29 2. The parcel may not exceed 2,560 acres, however, if
30 the parcel is in active agriculture production and is located
31 in a county, any portion of which is under a declared

1 quarantine pursuant to chapter 581 or chapter 585, the parcel
2 may not exceed 5,120 acres.

3 Section 4. Section 259.047, Florida Statutes, is
4 created to read:

5 259.047 Acquisition of land on which an agricultural
6 lease exists.--

7 (1) When land with an existing agricultural lease is
8 acquired in fee simple pursuant to this chapter or chapter
9 375, the existing agricultural lease may continue in force for
10 the actual time remaining on the lease agreement. Any entity
11 managing lands acquired under this section must consider
12 existing agricultural leases in the development of a land
13 management plan required under s. 253.034.

14 (2) Where consistent with the purposes for which the
15 property was acquired, the state or acquiring entity shall
16 make reasonable efforts to keep lands in agricultural
17 production which are in agricultural production at the time of
18 acquisition.

19 Section 5. Paragraph (a) of subsection (2) of section
20 373.0361, Florida Statutes, is amended to read:

21 373.0361 Regional water supply planning.--

22 (2) Each regional water supply plan shall be based on
23 at least a 20-year planning period and shall include, but not
24 be limited to:

25 (a) A water supply development component that
26 includes:

27 1. A quantification of the water supply needs for all
28 existing and reasonably projected future uses within the
29 planning horizon. The level-of-certainty planning goal
30 associated with identifying the water supply needs of existing
31 and future reasonable-beneficial uses shall be based upon

1 meeting those needs for a 1-in-10-year drought event.
2 Population projections used for determining public water
3 supply needs must be based upon the best available data. In
4 determining the best available data, the district shall
5 consider the University of Florida's Bureau of Economic and
6 Business Research (BEBR) medium population projections and any
7 population projection data and analysis submitted by a local
8 government pursuant to the public workshop described in
9 subsection (1) if the data and analysis support the local
10 government's comprehensive plan. Any adjustment of or
11 deviation from the BEBR projections must be fully described,
12 and the original BEBR data must be presented along with the
13 adjusted data.

14 2. A list of water source options, including
15 traditional and alternative source options, from which local
16 government, government-owned and privately owned utilities,
17 self-suppliers, and others may choose, for water supply
18 development, the total capacity of which will, in conjunction
19 with water conservation and other demand management measures,
20 exceed the needs identified in subparagraph 1. The list of
21 water-source options for water supply development must contain
22 provisions that recognize that alternative water-source
23 options for agricultural self-suppliers are limited.

24 3. For each option listed in subparagraph 2., the
25 estimated amount of water available for use and the estimated
26 costs of and potential sources of funding for water supply
27 development.

28 4. A list of water supply development projects that
29 meet the criteria in s. 373.0831(4).
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1 | The water supply development component of a regional water
2 | supply plan which deals with or affects public utilities and
3 | public water supply for those areas served by a regional water
4 | supply authority and its member governments within the
5 | boundaries of the Southwest Florida Water Management District
6 | shall be developed jointly by the authority and the district.

7 | Section 6. Section 373.2234, Florida Statutes, is
8 | amended to read:

9 | 373.2234 Preferred water supply sources.--The
10 | governing board of a water management district is authorized
11 | to adopt rules that identify preferred water supply sources
12 | for consumptive uses for which there is sufficient data to
13 | establish that a preferred source will provide a substantial
14 | new water supply to meet the existing and projected
15 | reasonable-beneficial uses of a water supply planning region
16 | identified pursuant to s. 373.0361(1), while sustaining
17 | existing water resources and natural systems. At a minimum,
18 | such rules must contain a description of the preferred water
19 | supply source and an assessment of the water the preferred
20 | source is projected to produce. If an applicant proposes to
21 | use a preferred water supply source, that applicant's proposed
22 | water use is subject to s. 373.223(1), except that the
23 | proposed use of a preferred water supply source must be
24 | considered by a water management district when determining
25 | whether a permit applicant's proposed use of water is
26 | consistent with the public interest pursuant to s.
27 | 373.223(1)(c). A consumptive use permit issued for the use of
28 | a preferred water supply source must be granted, when
29 | requested by the applicant, for at least a 20-year period and
30 | may be subject to the compliance reporting provisions of s.
31 | 373.236(4)(3). Nothing in this section shall be construed to

1 exempt the use of preferred water supply sources from the
2 provisions of ss. 373.016(4) and 373.223(2) and (3), or be
3 construed to provide that permits issued for the use of a
4 nonpreferred water supply source must be issued for a duration
5 of less than 20 years or that the use of a nonpreferred water
6 supply source is not consistent with the public interest.
7 Additionally, nothing in this section shall be interpreted to
8 require the use of a preferred water supply source or to
9 restrict or prohibit the use of a nonpreferred water supply
10 source. Rules adopted by the governing board of a water
11 management district to implement this section shall specify
12 that the use of a preferred water supply source is not
13 required and that the use of a nonpreferred water supply
14 source is not restricted or prohibited.

15 Section 7. Present subsections (2) and (3) of section
16 373.236, Florida Statutes, are renumbered as subsections (3)
17 and (4), respectively, and a new subsection (2) is added to
18 that section, to read:

19 373.236 Duration of permits; compliance reports.--

20 (2) The Legislature finds that some agricultural
21 landowners remain unaware of their ability to request a
22 20-year consumptive use permit under subsection (1) for
23 initial permits or for renewals. Therefore, the water
24 management districts shall inform agricultural applicants of
25 this option in the application form.

26 Section 8. Section 373.407, Florida Statutes, is
27 created to read:

28 373.407 Memorandum of agreement for an
29 agricultural-related exemption.--No later than July 1, 2006,
30 the Department of Agriculture and Consumer Services and each
31 water management district shall enter into a memorandum of

1 agreement under which the Department of Agricultural and
2 Consumer Services shall assist in a determination by a water
3 management district as to whether an existing or proposed
4 activity qualifies for the exemption in s. 373.406(2). The
5 memorandum of agreement shall provide a process by which, upon
6 the request of a water management district, the Department of
7 Agriculture and Consumer Services shall conduct a nonbinding
8 review as to whether an existing or proposed activity
9 qualifies for an agricultural-related exemption in s.
10 373.406(2). The memorandum of agreement shall provide
11 processes and procedures by which the Department of
12 Agriculture and Consumer Services shall undertake this review
13 effectively and efficiently and issue a recommendation.

14 Section 9. This act shall take effect upon becoming a
15 law.

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17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 COMMITTEE SUBSTITUTE FOR
19 CS for SB 716

20 The committee substitute provides that the notice period for
21 an action against a governmental entity by a property owner
22 seeking compensation regarding a property that is classified
as agricultural pursuant to s. 193.46, F.S., is reduced from
180 days to 90 days.

23 The owner of a parcel of land defined as an agricultural
24 enclave may apply for an amendment to the local governmental
comprehensive plan. The amendment is not subject to rule
25 9J-5.006(5), F.A.C., and may include land uses and intensities
of use that are consistent with the uses and intensities of
26 use of the industrial, commercial, or residential areas that
surround the parcel. Further, nothing relating to agricultural
27 enclaves shall preempt or replace any protection currently
existing for any property located within the boundaries of the
28 Wekiva Study Area or the Everglades Protection Area.

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