

## ENROLLED

HB 955, Engrossed 2

2005 Legislature

1                                   A bill to be entitled  
2           An act relating to waterfront property; amending s.  
3           163.3177, F.S.; requiring the future land use plan element  
4           of a local comprehensive plan for a coastal county to  
5           include criteria to encourage the preservation of  
6           recreational and commercial working waterfronts; including  
7           public access to waterways within those items indicated in  
8           a recreation and open space element; amending s. 163.3178,  
9           F.S.; providing requirements for the shoreline use  
10          component of a coastal management element with respect to  
11          recreational and commercial working waterfronts; amending  
12          s. 253.002, F.S.; removing an obsolete reference; revising  
13          the responsibilities of the Department of Agriculture and  
14          Consumer Services for aquaculture activities; amending s.  
15          253.03, F.S.; requiring the Board of Trustees of the  
16          Internal Improvement Trust Fund to encourage certain uses  
17          for sovereign submerged lands; amending s. 253.67, F.S.;  
18          clarifying the definition of "aquaculture"; amending s.  
19          253.68, F.S.; providing authority to the board for certain  
20          aquaculture activities; providing a definition; requiring  
21          the board to establish certain guidelines by rule;  
22          amending s. 253.74, F.S.; providing penalties for certain  
23          unauthorized aquaculture activities; amending s. 253.75,  
24          F.S.; revising the responsibilities of the board with  
25          regard to certain aquaculture activities; establishing the  
26          Waterfronts Florida Program within the Department of  
27          Community Affairs; providing definitions; requiring that  
28          the program implement the Waterfronts Florida Partnership

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29 | Program in coordination with the Department of  
30 | Environmental Protection; authorizing the Department of  
31 | Community Affairs to provide financial assistance to  
32 | certain local governments; requiring the Department of  
33 | Environmental Protection and water management districts to  
34 | adopt programs to expedite the processing of permits for  
35 | certain projects; requiring the Department of  
36 | Environmental Protection, in coordination with the Fish  
37 | and Wildlife Conservation Commission, to study the use of  
38 | state parks for recreational boating; requiring that the  
39 | department make recommendations to the Governor and the  
40 | Legislature; amending s. 328.72, F.S.; revising the  
41 | distribution of vessel registration fees; providing for a  
42 | portion of the fees to be designated for certain trust  
43 | funds; providing for a grant program for public launching  
44 | facilities; providing priority consideration for certain  
45 | counties; requiring certain counties to provide an annual  
46 | report to the Fish and Wildlife Conservation Commission;  
47 | requiring the commission to provide exemptions for certain  
48 | counties; creating s. 342.07, F.S.; enunciating the  
49 | state's interest in maintaining recreational and  
50 | commercial working waterfronts; defining the term  
51 | "recreational and commercial working waterfront"; creating  
52 | ss. 197.303-197.3047, F.S.; authorizing county commissions  
53 | to adopt tax deferral ordinances for recreational and  
54 | commercial working waterfront properties; requiring  
55 | bonding periods effective prior the deferral to remain in  
56 | effect for certain properties; providing requirements for

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57 | deferral notification and application for certain  
58 | properties; providing a tax deferral for ad valorem taxes  
59 | and non-ad valorem assessments authorized to be deferred  
60 | by ordinance and levied on recreational and commercial  
61 | working waterfronts; providing certain exceptions;  
62 | specifying the rate of the deferral; providing that the  
63 | taxes, assessments, and interest deferred constitute a  
64 | prior lien on the property; providing an application  
65 | process; providing notice requirements; providing for a  
66 | decision of the tax collector to be appealed to the value  
67 | adjustment board; providing for calculating the deferral;  
68 | providing requirements for deferred payment tax  
69 | certificates; providing for the deferral to cease under  
70 | certain circumstances; requiring notice to the tax  
71 | collector; requiring payment of deferred taxes,  
72 | assessments, and interest under certain circumstances;  
73 | authorizing specified parties to make a prepayment of  
74 | deferred taxes; providing for distribution of payments;  
75 | providing for construction of provisions authorizing the  
76 | deferments; providing penalties; providing for a penalty  
77 | to be appealed to the value adjustment board; amending s.  
78 | 163.3246, F.S.; revising provisions for the local  
79 | government comprehensive planning certification program;  
80 | providing for certain municipalities to be considered  
81 | certified; requiring the state land planning agency to  
82 | provide a written notice of certification; specifying  
83 | components of such notice; requiring local governments to  
84 | submit monitoring reports to the state land planning

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85 | agency; providing exemptions from certain development-of-  
 86 | regional-impact reviews; providing an exemption; providing  
 87 | an effective date.

88 |

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

90 |

91 | Section 1. Paragraphs (a) and (e) of subsection (6) of  
 92 | section 163.3177, Florida Statutes, are amended to read:

93 | 163.3177 Required and optional elements of comprehensive  
 94 | plan; studies and surveys.--

95 | (6) In addition to the requirements of subsections (1)-  
 96 | (5), the comprehensive plan shall include the following  
 97 | elements:

98 | (a) A future land use plan element designating proposed  
 99 | future general distribution, location, and extent of the uses of  
 100 | land for residential uses, commercial uses, industry,  
 101 | agriculture, recreation, conservation, education, public  
 102 | buildings and grounds, other public facilities, and other  
 103 | categories of the public and private uses of land. Counties are  
 104 | encouraged to designate rural land stewardship areas, pursuant  
 105 | to the provisions of paragraph (11)(d), as overlays on the  
 106 | future land use map. Each future land use category must be  
 107 | defined in terms of uses included, and must include standards to  
 108 | be followed in the control and distribution of population  
 109 | densities and building and structure intensities. The proposed  
 110 | distribution, location, and extent of the various categories of  
 111 | land use shall be shown on a land use map or map series which  
 112 | shall be supplemented by goals, policies, and measurable

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113 objectives. The future land use plan shall be based upon  
114 surveys, studies, and data regarding the area, including the  
115 amount of land required to accommodate anticipated growth; the  
116 projected population of the area; the character of undeveloped  
117 land; the availability of public services; the need for  
118 redevelopment, including the renewal of blighted areas and the  
119 elimination of nonconforming uses which are inconsistent with  
120 the character of the community; the compatibility of uses on  
121 lands adjacent to or closely proximate to military  
122 installations; and, in rural communities, the need for job  
123 creation, capital investment, and economic development that will  
124 strengthen and diversify the community's economy. The future  
125 land use plan may designate areas for future planned development  
126 use involving combinations of types of uses for which special  
127 regulations may be necessary to ensure development in accord  
128 with the principles and standards of the comprehensive plan and  
129 this act. The future land use plan element shall include  
130 criteria to be used to achieve the compatibility of adjacent or  
131 closely proximate lands with military installations. In  
132 addition, for rural communities, the amount of land designated  
133 for future planned industrial use shall be based upon surveys  
134 and studies that reflect the need for job creation, capital  
135 investment, and the necessity to strengthen and diversify the  
136 local economies, and shall not be limited solely by the  
137 projected population of the rural community. The future land use  
138 plan of a county may also designate areas for possible future  
139 municipal incorporation. The land use maps or map series shall  
140 generally identify and depict historic district boundaries and

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141 shall designate historically significant properties meriting  
142 protection. For coastal counties, the future land use element  
143 must include, without limitation, regulatory incentives and  
144 criteria that encourage the preservation of recreational and  
145 commercial working waterfronts as defined in s. 342.07. The  
146 future land use element must clearly identify the land use  
147 categories in which public schools are an allowable use. When  
148 delineating the land use categories in which public schools are  
149 an allowable use, a local government shall include in the  
150 categories sufficient land proximate to residential development  
151 to meet the projected needs for schools in coordination with  
152 public school boards and may establish differing criteria for  
153 schools of different type or size. Each local government shall  
154 include lands contiguous to existing school sites, to the  
155 maximum extent possible, within the land use categories in which  
156 public schools are an allowable use. All comprehensive plans  
157 must comply with the school siting requirements of this  
158 paragraph no later than October 1, 1999. The failure by a local  
159 government to comply with these school siting requirements by  
160 October 1, 1999, will result in the prohibition of the local  
161 government's ability to amend the local comprehensive plan,  
162 except for plan amendments described in s. 163.3187(1)(b), until  
163 the school siting requirements are met. Amendments proposed by a  
164 local government for purposes of identifying the land use  
165 categories in which public schools are an allowable use or for  
166 adopting or amending the school-siting maps pursuant to s.  
167 163.31776(3) are exempt from the limitation on the frequency of  
168 plan amendments contained in s. 163.3187. The future land use

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169 element shall include criteria that encourage the location of  
170 schools proximate to urban residential areas to the extent  
171 possible and shall require that the local government seek to  
172 collocate public facilities, such as parks, libraries, and  
173 community centers, with schools to the extent possible and to  
174 encourage the use of elementary schools as focal points for  
175 neighborhoods. For schools serving predominantly rural counties,  
176 defined as a county with a population of 100,000 or fewer, an  
177 agricultural land use category shall be eligible for the  
178 location of public school facilities if the local comprehensive  
179 plan contains school siting criteria and the location is  
180 consistent with such criteria. Local governments required to  
181 update or amend their comprehensive plan to include criteria and  
182 address compatibility of adjacent or closely proximate lands  
183 with existing military installations in their future land use  
184 plan element shall transmit the update or amendment to the  
185 department by June 30, 2006.

186 (e) A recreation and open space element indicating a  
187 comprehensive system of public and private sites for recreation,  
188 including, but not limited to, natural reservations, parks and  
189 playgrounds, parkways, beaches and public access to beaches,  
190 open spaces, waterways, and other recreational facilities.

191 Section 2. Paragraph (g) of subsection (2) of section  
192 163.3178, Florida Statutes, is amended to read:

193 163.3178 Coastal management.--

194 (2) Each coastal management element required by s.  
195 163.3177(6)(g) shall be based on studies, surveys, and data; be

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196 consistent with coastal resource plans prepared and adopted  
 197 pursuant to general or special law; and contain:

198 (g) A shoreline use component that ~~which~~ identifies public  
 199 access to beach and shoreline areas and addresses the need for  
 200 water-dependent and water-related facilities, including marinas,  
 201 along shoreline areas. Such component must include the  
 202 strategies that will be used to preserve recreational and  
 203 commercial working waterfronts as defined in s. 342.07.

204 Section 3. Subsection (1) of section 253.002, Florida  
 205 Statutes, is amended to read:

206 253.002 Department of Environmental Protection, water  
 207 management districts, and Department of Agriculture and Consumer  
 208 Services; duties with respect to state lands.--

209 (1) The Department of Environmental Protection shall  
 210 perform all staff duties and functions related to the  
 211 acquisition, administration, and disposition of state lands,  
 212 title to which is or will be vested in the Board of Trustees of  
 213 the Internal Improvement Trust Fund. However, upon the effective  
 214 date of rules adopted pursuant to s. 373.427, a water management  
 215 district created under s. 373.069 shall perform the staff duties  
 216 and functions related to the review of any application for  
 217 authorization to use board of trustees-owned submerged lands  
 218 necessary for an activity regulated under part IV of chapter 373  
 219 for which the water management district has permitting  
 220 responsibility as set forth in an operating agreement adopted  
 221 pursuant to s. 373.046(4); and ~~effective July 1, 2000,~~ the  
 222 Department of Agriculture and Consumer Services shall perform  
 223 the staff duties and functions related to the review of



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224 applications and compliance with ~~lease~~ conditions for use of  
 225 board of trustees-owned submerged lands under authorizations or  
 226 leases issued pursuant to ss. 253.67-253.75 and 597.010. Unless  
 227 expressly prohibited by law, the board of trustees may delegate  
 228 to the department any statutory duty or obligation relating to  
 229 the acquisition, administration, or disposition of lands, title  
 230 to which is or will be vested in the board of trustees. The  
 231 board of trustees may also delegate to any water management  
 232 district created under s. 373.069 the authority to take final  
 233 agency action, without any action on behalf of the board, on  
 234 applications for authorization to use board of trustees-owned  
 235 submerged lands for any activity regulated under part IV of  
 236 chapter 373 for which the water management district has  
 237 permitting responsibility as set forth in an operating agreement  
 238 adopted pursuant to s. 373.046(4). This water management  
 239 district responsibility under this subsection shall be subject  
 240 to the department's general supervisory authority pursuant to s.  
 241 373.026(7). The board of trustees may also delegate to the  
 242 Department of Agriculture and Consumer Services the authority to  
 243 take final agency action on behalf of the board on applications  
 244 to use board of trustees-owned submerged lands for any activity  
 245 for which that department has responsibility pursuant to ss.  
 246 253.67-253.75 and 597.010. However, the board of trustees shall  
 247 retain the authority to take final agency action on establishing  
 248 any areas for leasing, new leases, expanding existing lease  
 249 areas, or changing the type of lease activity in existing  
 250 leases. Upon issuance of an aquaculture lease or other real  
 251 property transaction relating to aquaculture, the Department of

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252 Agriculture and Consumer Services must send a copy of the  
 253 document and the accompanying survey to the Department of  
 254 Environmental Protection.

255 Section 4. Subsection (15) of section 253.03, Florida  
 256 Statutes, is renumbered as subsection (16), and a new subsection  
 257 (15) is added to said section to read:

258 253.03 Board of trustees to administer state lands; lands  
 259 enumerated.--

260 (15) The Board of Trustees of the Internal Improvement  
 261 Trust Fund shall encourage the use of sovereign submerged lands  
 262 for water-dependent uses and public access.

263 Section 5. Subsection (1) of section 253.67, Florida  
 264 Statutes, is amended to read:

265 253.67 Definitions.--As used in ss. 253.67-253.75:

266 (1) "Aquaculture" means the cultivation of aquatic  
 267 organisms and associated activities, including, but not limited  
 268 to, grading, sorting, transporting, harvesting, holding,  
 269 storing, growing, and planting.

270 Section 6. Subsection (1) and paragraph (a) of subsection  
 271 (2) of section 253.68, Florida Statutes, are amended to read:

272 253.68 Authority to lease or use submerged lands ~~land~~ and  
 273 water column for aquaculture activities.--

274 (1) To the extent that it is not contrary to the public  
 275 interest, and subject to limitations contained in ss. 253.67-  
 276 253.75, the board of trustees may lease or authorize the use of  
 277 submerged lands to which it has title for the conduct of  
 278 aquaculture activities and grant exclusive use of the bottom and  
 279 the water column to the extent required by such activities.

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280 "Aquaculture activities" means any activities, as determined by  
 281 board rule, related to the production of aquacultural products,  
 282 including, but not limited to, producing, storing, handling,  
 283 grading, sorting, transporting, harvesting, and aquaculture  
 284 support docking. Such leases or authorizations may permit  
 285 ~~authorize~~ use of the submerged land and water column for either  
 286 commercial or experimental purposes. However, a resolution of  
 287 objection adopted by a majority of the county commission of a  
 288 county within whose boundaries the proposed leased area would  
 289 lie, if the boundaries were extended to the extent of the  
 290 interest of the state, may be filed with the board of trustees  
 291 within 30 days of the date of the first publication of notice as  
 292 required by s. 253.70. Prior to the granting of any such leases  
 293 or authorizations, the board shall by rule establish and publish  
 294 ~~a list of~~ guidelines to be followed when considering  
 295 applications for lease or authorization. Such guidelines shall  
 296 be designed to protect the public's interest in submerged lands  
 297 and the publicly owned water column.

298 (2) (a) The Legislature finds that the state's ability to  
 299 supply fresh seafood and other aquaculture products has been  
 300 diminished by a combination of factors, including a diminution  
 301 of the resources and restrictions on the harvest of certain  
 302 marine species. The Legislature declares that it is in the  
 303 state's economic, resource enhancement, and food production  
 304 interests to promote aquaculture production of food and nonfood  
 305 aquatic species by facilitating the review and approval  
 306 processes for authorizing the use of ~~leasing~~ sovereignty  
 307 submerged land or the water column; simplifying environmental

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308 | permitting; supporting educational, research, and demonstration  
 309 | programs; and assisting certain local governments to develop  
 310 | aquaculture as a means to promote economic development. The  
 311 | Legislature declares that aquaculture shall be recognized as a  
 312 | practicable resource management alternative to produce marine  
 313 | aquaculture products, to protect and conserve natural resources,  
 314 | to reduce competition for natural stocks, and to augment and  
 315 | restore natural populations. Therefore, for the purpose of this  
 316 | section, the Legislature declares that aquaculture is in the  
 317 | public interest.

318 |       Section 7. Section 253.74, Florida Statutes, is amended to  
 319 | read:

320 |       253.74 Penalties.--

321 |       (1) Any person who conducts aquaculture activities in  
 322 | excess of those authorized by ~~lease agreement with~~ the board or  
 323 | who conducts such activities on state-owned submerged lands  
 324 | without having previously obtained an authorization from the  
 325 | board commits ~~leased the same shall be guilty of~~ a misdemeanor  
 326 | and shall be subject to imprisonment for not more than 6 months  
 327 | or fine of not more than \$1,000, or both. In addition to such  
 328 | fine and imprisonment, all works, improvements, animal and plant  
 329 | life involved in the project, may be forfeited to the state.

330 |       (2) Any person who is found by the department to have  
 331 | violated the provisions of chapter 403 or chapter 597 shall be  
 332 | subject to having his or her lease of state-owned submerged  
 333 | lands canceled.

334 |       Section 8. Subsection (1) of section 253.75, Florida  
 335 | Statutes, is amended to read:

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336 253.75 Studies and recommendations by the department and  
 337 the Fish and Wildlife Conservation Commission; designation of  
 338 recommended traditional and other use zones; supervision of  
 339 aquaculture operations.--

340 (1) Prior to the granting of any form of authorization  
 341 ~~lease~~ under this act, the board shall request comments by the  
 342 Fish and Wildlife Conservation Commission when the application  
 343 relates to bottom land covered by fresh or salt water. Such  
 344 comments shall be based on such factors as an assessment of the  
 345 probable effect of the proposed use lease on the conservation of  
 346 fish or wildlife or other programs under the constitutional or  
 347 statutory authority of the Fish and Wildlife Conservation  
 348 Commission.

349 Section 9. Waterfronts Florida Program.--

350 (1) There is established within the Department of  
 351 Community Affairs the Waterfronts Florida Program to provide  
 352 technical assistance and support to communities in revitalizing  
 353 waterfront areas in this state.

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

355 (a) "Waterfront community" means a municipality or county  
 356 that is required to prepare a coastal element for its local  
 357 government comprehensive plan.

358 (b) "Recreational and commercial working waterfront" means  
 359 a parcel or parcels of real property that provide access for  
 360 water-dependent commercial activities or provide access for the  
 361 public to the navigable waters of the state. Recreational and  
 362 commercial working waterfronts require direct access to or a  
 363 location on, over, or adjacent to a navigable body of water. The

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364 term includes water-dependent facilities that are open to the  
 365 public and offer public access by vessels to the waters of the  
 366 state or that are support facilities for recreational,  
 367 commercial, research, or governmental vessels. These facilities  
 368 include docks, wharfs, lifts, wet and dry marinas, boat ramps,  
 369 boat hauling and repair facilities, commercial fishing  
 370 facilities, boat construction facilities, and other support  
 371 structures over the water.

372 (3) The purpose of this program is to provide technical  
 373 assistance, support, training, and financial assistance to  
 374 waterfront communities in their efforts to revitalize waterfront  
 375 areas. The program shall direct its efforts on the following  
 376 priority concerns:

- 377 (a) Protecting environmental and cultural resources;
- 378 (b) Providing public access;
- 379 (c) Mitigating hazards; and
- 380 (d) Enhancing the viable traditional economy.

381 (4) The program is responsible for:

- 382 (a) Implementing the Waterfronts Florida Partnership  
 383 Program. The department, in coordination with the Department of  
 384 Environmental Protection, shall develop procedures and  
 385 requirements governing program eligibility, application  
 386 procedures, and application review. The department may provide  
 387 financial assistance to eligible local governments to develop  
 388 local plans to further the purpose of the program. In  
 389 recognition of limited funding, the department may limit the  
 390 number of local governments assisted by the program based on the

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391 amount of funding appropriated to the department for the purpose  
392 of the program.

393 (b) Serving as a source for information and technical  
394 assistance for Florida's waterfront communities in preserving  
395 traditional recreational and commercial working waterfronts.

396 Section 10. The Department of Environmental Protection  
397 and, as appropriate, the water management districts created by  
398 chapter 373, Florida Statutes, shall adopt programs to expedite  
399 the processing of wetland resource and environmental resource  
400 permits for marina projects that reserve at least 10 percent of  
401 available boat slips for public use.

402 Section 11. The Department of Environmental Protection, in  
403 coordination with the Fish and Wildlife Conservation Commission,  
404 shall undertake a study evaluating the current use of state  
405 parks for purposes of recreational boating and identify  
406 opportunities for increasing recreational boating access within  
407 the state park system. The study must include recommendations  
408 regarding the most appropriate locations for expanding existing  
409 recreational boating access and must identify state parks where  
410 new recreational boating access may be located. The environment  
411 and wildlife values shall be taken into consideration but shall  
412 not dictate the final outcome. The report must contain estimates  
413 of the costs necessary to expand and construct additional  
414 recreational boating facilities at specific state parks. The  
415 department shall submit a report summarizing its findings and  
416 recommendations to the Governor, the President of the Senate,  
417 and the Speaker of the House of Representatives by January 1,  
418 2006.

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419 Section 12. Subsection (15) of section 328.72, Florida  
 420 Statutes, is amended to read:  
 421 328.72 Classification; registration; fees and charges;  
 422 surcharge; disposition of fees; fines; marine turtle stickers.--  
 423 (15) DISTRIBUTION OF FEES.--Except for the first \$2, \$1  
 424 of~~7~~ which shall be remitted to the state for deposit into the  
 425 Save the Manatee Trust Fund created within the Fish and Wildlife  
 426 Conservation Commission and \$1 of which shall be remitted to the  
 427 state for deposit into the Marine Resources Conservation Trust  
 428 Fund to fund a grant program for public launching facilities,  
 429 pursuant to s. 327.47, giving priority consideration to counties  
 430 with more than 35,000 registered vessels.~~7~~ Moneys designated for  
 431 the use of the counties, as specified in subsection (1), shall  
 432 be distributed by the tax collector to the board of county  
 433 commissioners for use as provided in this section. Such moneys  
 434 to be returned to the counties are for the sole purposes of  
 435 providing recreational channel marking and public launching  
 436 facilities and other boating-related activities, for removal of  
 437 vessels and floating structures deemed a hazard to public safety  
 438 and health for failure to comply with s. 327.53, and for manatee  
 439 and marine mammal protection and recovery. Counties that  
 440 demonstrate through an annual detailed accounting report of  
 441 vessel registration revenues that at least \$1 of the  
 442 registration fees were spent on boating infrastructure shall  
 443 only be required to transfer the first \$1 of the fees to the  
 444 Save the Manatee Trust Fund. This report shall be provided to  
 445 the Fish and Wildlife Conservation Commission no later than  
 446 November 1 of each year. The commission shall provide an



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447 exemption letter to the department by December 15 of each year  
 448 for qualifying counties.

449 Section 13. Section 342.07, Florida Statutes, is created  
 450 to read:

451 342.07 Recreational and commercial working waterfronts;  
 452 legislative findings; definitions.--

453 (1) The Legislature recognizes that there is an important  
 454 state interest in facilitating boating access to the state's  
 455 navigable waters. This access is vital to recreational users and  
 456 the marine industry in the state, to maintaining or enhancing  
 457 the \$14 billion economic impact of boating in the state, and to  
 458 ensuring continued access to all residents and visitors to the  
 459 navigable waters of the state. The Legislature recognizes that  
 460 there is an important state interest in maintaining viable  
 461 water-dependent support facilities, such as boat hauling and  
 462 repairing and commercial fishing facilities, and in maintaining  
 463 the availability of public access to the navigable waters of the  
 464 state. The Legislature further recognizes that the waterways of  
 465 the state are important for engaging in commerce and the  
 466 transportation of goods and people upon such waterways and that  
 467 such commerce and transportation is not feasible unless there is  
 468 access to and from the navigable waters of the state through  
 469 recreational and commercial working waterfronts.

470 (2) As used in this section, the term "recreational and  
 471 commercial working waterfront" means a parcel or parcels of real  
 472 property that provide access for water-dependent commercial  
 473 activities or provide access for the public to the navigable  
 474 waters of the state. Recreational and commercial working

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475 waterfronts require direct access to or a location on, over, or  
 476 adjacent to a navigable body of water. The term includes water-  
 477 dependent facilities that are open to the public and offer  
 478 public access by vessels to the waters of the state or that are  
 479 support facilities for recreational, commercial, research, or  
 480 governmental vessels. These facilities include docks, wharfs,  
 481 lifts, wet and dry marinas, boat ramps, boat hauling and repair  
 482 facilities, commercial fishing facilities, boat construction  
 483 facilities, and other support structures over the water. As used  
 484 in this section, the term "vessel" has the same meaning as in s.  
 485 327.02(37). Seaports are excluded from the definition.

486 Section 14. Sections 197.303, 197.304, 197.3041, 197.3042,  
 487 197.3043, 197.3044, 197.3045, 197.3046, and 197.3047, Florida  
 488 Statutes, are created to read:

489 197.303 Ad valorem tax deferral for recreational and  
 490 commercial working waterfront properties.--

491 (1) The board of county commissioners of any county or the  
 492 governing authority of any municipality may adopt an ordinance  
 493 to allow for ad valorem tax deferrals for recreational and  
 494 commercial working waterfront properties if the owners are  
 495 engaging in the operation, rehabilitation, or renovation of such  
 496 properties in accordance with guidelines established in this  
 497 section.

498 (2) The board of county commissioners or the governing  
 499 authority of the municipality by ordinance may authorize the  
 500 deferral of ad valorem taxation and non-ad valorem assessments  
 501 for recreational and commercial working waterfront properties.

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502       (3) The ordinance shall designate the type and location of  
503 working waterfront property for which deferrals may be granted,  
504 which may include any property meeting the provisions of s.  
505 342.07(2), which property may be further required to be located  
506 within a particular geographic area or areas of the county or  
507 municipality.

508       (4) The ordinance must specify that such deferrals apply  
509 only to taxes levied by the unit of government granting the  
510 deferral. The deferrals do not apply, however, to taxes or non-  
511 ad valorem assessments defined in s. 197.3632(1)(d) levied for  
512 the payment of bonds or to taxes authorized by a vote of the  
513 electors pursuant to s. 9(b) or s. 12, Art. VII of the State  
514 Constitution.

515       (5) The ordinance must specify that any deferral granted  
516 remains in effect regardless of any change in the authority of  
517 the county or municipality to grant the deferral. In order to  
518 retain the deferral, however, the use and ownership of the  
519 property as a working waterfront must be maintained over the  
520 period for which the deferral is granted.

521       (6) (a) If an application for deferral is granted on  
522 property that is located in a community redevelopment area, the  
523 amount of taxes eligible for deferral shall be reduced, as  
524 provided for in paragraph (b), if:

525           1. The community redevelopment agency has previously  
526 issued instruments of indebtedness that are secured by increment  
527 revenues on deposit in the community redevelopment trust fund;  
528 and

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529 2. Those instruments of indebtedness are associated with  
530 the real property applying for the deferral.

531 (b) If the provisions of paragraph (a) apply, the tax  
532 deferral shall not apply to an amount of taxes equal to the  
533 amount that must be deposited into the community redevelopment  
534 trust fund by the entity granting the deferral based upon the  
535 taxable value of the property upon which the deferral is being  
536 granted. Once all instruments of indebtedness that existed at  
537 the time the deferral was originally granted are no longer  
538 outstanding or have otherwise been defeased, the provisions of  
539 this paragraph shall no longer apply.

540 (c) If a portion of the taxes on a property were not  
541 eligible for deferral because of the provisions of paragraph  
542 (b), the community redevelopment agency shall notify the  
543 property owner and the tax collector 1 year before the debt  
544 instruments that prevented said taxes from being deferred are no  
545 longer outstanding or otherwise defeased.

546 (d) The tax collector shall notify a community  
547 redevelopment agency of any tax deferral that has been granted  
548 on property located within the community redevelopment area of  
549 that agency.

550 (e) Issuance of debt obligation after the date a deferral  
551 has been granted shall not reduce the amount of taxes eligible  
552 for deferral.

553 197.304 Tax deferral for recreational and commercial  
554 working waterfronts.--

555 (1) Any property owner in a jurisdiction that has adopted  
556 a tax deferral ordinance pursuant to s. 197.303 that owns a

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557 recreational and commercial working waterfront facility as  
558 defined in s. 342.07 may elect to defer payment of those ad  
559 valorem taxes and non-ad valorem assessments designated in the  
560 ordinance authorizing the deferral by filing an annual  
561 application for tax deferral with the county tax collector on or  
562 before January 31 following the year in which the taxes and non-  
563 ad valorem assessments are assessed. The applicant has the  
564 burden to affirmatively demonstrate compliance with the  
565 requirements of this section.

566 (2) Approval of an application for tax deferral shall  
567 defer that portion of the combined total of ad valorem taxes and  
568 any non-ad valorem assessments that are authorized to be  
569 deferred by the ordinance authorizing the deferral.

570 (3) A tax deferral may not be granted if:

571 (a) The total amount of deferred taxes, non-ad valorem  
572 assessments, and interest plus the total amount of all other  
573 unsatisfied liens on the property exceeds 85 percent of the  
574 assessed value of the property; or

575 (b) The primary financing on the property is for an amount  
576 that exceeds 70 percent of the assessed value of the property.

577 (4) The amount of taxes, non-ad valorem assessments, and  
578 interest deferred shall accrue interest at a rate equal to the  
579 semiannually compounded rate of one-half of 1 percent plus the  
580 average yield to maturity of the long-term fixed-income portion  
581 of the Florida Retirement System investments as of the end of  
582 the quarter preceding the date of the sale of the deferred  
583 payment tax certificates; however, the interest rate may not  
584 exceed 9.5 percent.

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585       (5) The taxes, non-ad valorem assessments, and interest  
 586 deferred pursuant to this section constitute a prior lien and  
 587 shall attach as of the date and in the same manner and be  
 588 collected as other liens for taxes, as provided for under this  
 589 chapter, but such deferred taxes, non-ad valorem assessments,  
 590 and interest shall only be due, payable, and delinquent as  
 591 provided in ss. 197.303-197.3047.

592       197.3041 Tax deferral for recreational and commercial  
 593 working waterfronts; application.--

594       (1) The application for deferral must be made annually  
 595 upon a form prescribed by the department and furnished by the  
 596 county tax collector. The application form must be signed upon  
 597 oath by the applicant before an officer authorized by the state  
 598 to administer oaths. The tax collector may require the applicant  
 599 to submit any other evidence and documentation as deemed  
 600 necessary by the tax collector in considering the application.  
 601 The application form must provide notice to the applicant of the  
 602 manner in which interest is computed. Each application form must  
 603 contain an explanation of the conditions to be met for approval  
 604 and the conditions under which deferred taxes and interest  
 605 become due, payable, and delinquent. Each application must  
 606 clearly state that all deferrals pursuant to ss. 197.303-  
 607 197.3047 constitute a lien on the applicant's property.

608       (2) (a) The tax collector shall consider and render his or  
 609 her findings, determinations, and decision on each annual  
 610 application for a tax deferral for recreational and commercial  
 611 working waterfronts within 45 days after the date the  
 612 application is filed. The tax collector shall exercise

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613 reasonable discretion based upon applicable information  
614 available under this section. The determinations and findings of  
615 the tax collector as provided for in this paragraph are not  
616 quasi judicial and are subject exclusively to review by the  
617 value adjustment board as provided by this section. A tax  
618 collector who finds that the applicant is entitled to the tax  
619 deferral shall approve the application and file the application  
620 in the permanent records. A tax collector who finds that the  
621 applicant is not entitled to the deferral shall send a notice of  
622 disapproval within 45 days after the date the application is  
623 filed, giving reasons for the disapproval to the applicant. The  
624 notice must be sent by personal delivery or registered mail to  
625 the mailing address given by the applicant in the manner in  
626 which the original notice thereof was served upon the applicant  
627 and must be filed among the permanent records of the tax  
628 collector's office. The original notice of disapproval sent to  
629 the applicant shall advise the applicant of the right to appeal  
630 the decision of the tax collector to the value adjustment board  
631 and inform the applicant of the procedure for filing such an  
632 appeal.

633 (b) An appeal of the decision of the tax collector to the  
634 value adjustment board must be in writing on a form prescribed  
635 by the department and furnished by the tax collector. The appeal  
636 must be filed with the value adjustment board within 20 days  
637 after the applicant's receipt of the notice of disapproval, and  
638 the board must approve or disapprove the appeal within 30 days  
639 after receipt. The value adjustment board shall review the  
640 application and the evidence presented to the tax collector upon

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641 which the applicant based his or her claim for tax deferral and,  
 642 at the election of the applicant, shall hear the applicant in  
 643 person, or by agent on the applicant's behalf, on his or her  
 644 right to the tax deferral. The value adjustment board shall  
 645 reverse the decision of the tax collector and grant a tax  
 646 deferral to the applicant if, in its judgment, the applicant is  
 647 entitled to the tax deferral or shall affirm the decision of the  
 648 tax collector. Action by the value adjustment board is final  
 649 unless the applicant or tax collector or other lienholder,  
 650 within 15 days after the date of disapproval of the application  
 651 by the board, files in the circuit court of the county in which  
 652 the property is located a de novo proceeding for a declaratory  
 653 judgment or other appropriate proceeding.

654 (3) Each application must contain a list of, and the  
 655 current value of, all outstanding liens on the applicant's  
 656 property.

657 (4) For approved applications, the date of receipt by the  
 658 tax collector of the application for tax deferral shall be used  
 659 in calculating taxes due and payable net of discounts for early  
 660 payment.

661 (5) If such proof has not been furnished with a prior  
 662 application, each applicant shall furnish proof of fire and  
 663 extended coverage insurance in an amount that is in excess of  
 664 the sum of all outstanding liens and deferred taxes and interest  
 665 with a loss payable clause to the county tax collector.

666 (6) The tax collector shall notify the property appraiser  
 667 in writing of those parcels for which taxes have been deferred.



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668       (7) The property appraiser shall promptly notify the tax  
 669 collector of changes in ownership or use of properties that have  
 670 been granted a tax deferral.

671       197.3042 Deferred payment tax certificates.--

672       (1) The tax collector shall notify each local governing  
 673 body of the amount of taxes and non-ad valorem assessments  
 674 deferred which would otherwise have been collected for such  
 675 governing body. The county shall then, at the time of the tax  
 676 certificate sale held pursuant to s. 197.432, strike each  
 677 certificate off to the county. Certificates issued pursuant to  
 678 this section are exempt from the public sale of tax certificates  
 679 held pursuant to s. 197.432.

680       (2) The certificates so held by the county shall bear  
 681 interest at a rate equal to the semiannually compounded rate of  
 682 0.5 percent plus the average yield to maturity of the long-term  
 683 fixed-income portion of the Florida Retirement System  
 684 investments as of the end of the quarter preceding the date of  
 685 the sale of the deferred payment tax certificates; however, the  
 686 interest rate may not exceed 9.5 percent.

687       197.3043 Change in use or ownership of property.--

688       (1) If there is a change in use or ownership of the tax-  
 689 deferred property such that the owner is no longer entitled to  
 690 claim the property as a recreational or commercial working  
 691 waterfront facility, or there is a change in the legal or  
 692 beneficial ownership of the property, or the owner fails to  
 693 maintain the required fire and extended insurance coverage, the  
 694 total amount of deferred taxes and interest for all previous  
 695 years becomes due and payable November 1 of the year in which

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696 the change in use or ownership occurs or on the date failure to  
 697 maintain insurance occurs, and is delinquent on April 1 of the  
 698 year following the year in which the change in use or ownership  
 699 or failure to maintain insurance occurs.

700 (2) Whenever the property appraiser discovers that there  
 701 has been a change in the use or ownership of the property that  
 702 has been granted a tax deferral, the property appraiser shall  
 703 notify the tax collector in writing of the date such change  
 704 occurs, and the tax collector shall collect any taxes and  
 705 interest due or delinquent.

706 (3) During any year in which the total amount of deferred  
 707 taxes, interest, and all other unsatisfied liens on the property  
 708 exceeds 85 percent of the assessed value of the property, the  
 709 tax collector shall immediately notify the owner of the property  
 710 on which taxes and interest have been deferred that the portion  
 711 of taxes and interest which exceeds 85 percent of the assessed  
 712 value of the property is due and payable within 30 days after  
 713 receipt of the notice. Failure to pay the amount due shall cause  
 714 the total amount of deferred taxes and interest to become  
 715 delinquent.

716 (4) If deferred taxes become delinquent under this  
 717 chapter, on or before June 1 following the date the taxes become  
 718 delinquent, the tax collector shall sell a tax certificate for  
 719 the delinquent taxes and interest in the manner provided by s.  
 720 197.432.

721 197.3044 Prepayment of deferred taxes.--

722 (1) All or part of the deferred taxes and accrued interest  
 723 may at any time be paid to the tax collector by:

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724           (a) The owner of the property.

725           (b) The next of kin of the owner, heir of the owner, child  
 726 of the owner, or any person having or claiming a legal or  
 727 equitable interest in the property, if no objection is made by  
 728 the owner within 30 days after the tax collector notifies the  
 729 owner of the fact that such payment has been tendered.

730           (2) Any partial payment made pursuant to this section  
 731 shall be applied first to accrued interest.

732           197.3045 Distribution of payments.--When any deferred  
 733 taxes or interest is collected, the tax collector shall maintain  
 734 a record of the payment, setting forth a description of the  
 735 property and the amount of taxes or interest collected for the  
 736 property. The tax collector shall distribute payments received  
 737 in accordance with the procedures for distributing ad valorem  
 738 taxes or redemption moneys as prescribed in this chapter.

739           197.3046 Construction.--Sections 197.303-197.3047 do not  
 740 prevent the collection of personal property taxes that become a  
 741 lien against tax-deferred property, defer payment of special  
 742 assessments to benefited property other than those specifically  
 743 allowed to be deferred, or affect any provision of any mortgage  
 744 or other instrument relating to property requiring a person to  
 745 pay ad valorem taxes or non-ad valorem assessments.

746           197.3047 Penalties.--

747           (1) The following penalties shall be imposed on any person  
 748 who willfully files information required under ss. 197.303-  
 749 197.3047 which is incorrect:

750           (a) The person shall pay the total amount of taxes and  
 751 interest deferred, which amount shall immediately become due;

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752           (b) The person shall be disqualified from filing a tax  
 753 deferral application for the next 3 years; and

754           (c) The person shall pay a penalty of 25 percent of the  
 755 total amount of taxes and interest deferred.

756           (2) Any person against whom the penalties prescribed in  
 757 this section have been imposed may appeal the penalties imposed  
 758 to the value adjustment board within 30 days after the penalties  
 759 are imposed.

760           Section 15. Subsections (10), (11), and (12) of section  
 761 163.3246, Florida Statutes, are renumbered as subsections (12),  
 762 (13), and (14), respectively, and new subsections (10) and (11)  
 763 are added to said section to read:

764           163.3246 Local government comprehensive planning  
 765 certification program.--

766           (10) Notwithstanding subsections (2), (4), (5), (6), and  
 767 (7), any municipality designated as a rural area of critical  
 768 economic concern pursuant to s. 288.0656 which is located within  
 769 a county eligible to levy the Small County Surtax under s.  
 770 212.055(3) shall be considered certified during the  
 771 effectiveness of the designation of rural area of critical  
 772 economic concern. The state land planning agency shall provide a  
 773 written notice of certification to the local government of the  
 774 certified area, which shall be considered final agency action  
 775 subject to challenge under s. 120.569. The notice of  
 776 certification shall include the following components:

777           (a) The boundary of the certification area.

778           (b) A requirement that the local government submit either  
 779 an annual or biennial monitoring report to the state land

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780 planning agency according to the schedule provided in the  
 781 written notice. The monitoring report shall, at a minimum,  
 782 include the number of amendments to the comprehensive plan  
 783 adopted by the local government, the number of plan amendments  
 784 challenged by an affected person, and the disposition of those  
 785 challenges.

786 (11) If the local government of an area described in  
 787 subsection (10) does not request that the state land planning  
 788 agency review the developments of regional impact that are  
 789 proposed within the certified area, an application for approval  
 790 of a development order within the certified area shall be exempt  
 791 from review under s. 380.06, subject to the following:

792 (a) Concurrent with filing an application for development  
 793 approval with the local government, a developer proposing a  
 794 project that would have been subject to review pursuant to s.  
 795 380.06 shall notify in writing the regional planning council  
 796 with jurisdiction.

797 (b) The regional planning council shall coordinate with  
 798 the developer and the local government to ensure that all  
 799 concurrency requirements as well as federal, state, and local  
 800 environmental permit requirements are met.

801 Section 16. Paragraph (1) is added to subsection (24) of  
 802 section 380.06, Florida Statutes, to read:

803 380.06 Developments of regional impact.--

804 (24) STATUTORY EXEMPTIONS.--

805 (1) The establishment, relocation, or expansion of any  
 806 military installation as defined in s. 163.3175, is exempt from  
 807 this section.

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Section 17. This act shall take effect January 1, 2006.