

1 A bill to be entitled
 2 An act relating to land development regulation; amending
 3 s. 163.3162, F.S.; providing for the use of certain lands
 4 surrounding an agricultural enclave; creating a rebuttable
 5 presumption for the imposition of certain development
 6 conditions relating to agricultural enclaves; providing a
 7 timeframe for submitting certain information relating to
 8 proposed plan amendments; creating a rebuttable
 9 presumption for denial of or failure to approve plan
 10 amendments relating to agricultural enclaves; amending s.
 11 163.3245, F.S.; revising provisions relating to optional
 12 sector plans; providing applicability to certain pending
 13 applications; providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Subsection (5) of section 163.3162, Florida
 18 Statutes, is amended to read:

19 163.3162 Agricultural Lands and Practices Act.--

20 (5) AMENDMENT TO LOCAL GOVERNMENT COMPREHENSIVE PLAN.--The
 21 owner of a parcel of land defined as an agricultural enclave
 22 under s. 163.3164(33) may apply for an amendment to the local
 23 government comprehensive plan pursuant to s. 163.3187. Such
 24 amendment is presumed to be consistent with rule 9J-5.006(5),
 25 Florida Administrative Code, and may include land uses,
 26 densities, and intensities of use that are consistent with the
 27 uses, densities, and intensities of use of the industrial,
 28 commercial, or residential areas that surround the parcel. This

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29 | presumption may be rebutted by clear and convincing evidence.
30 | Each application for a comprehensive plan amendment under this
31 | subsection for a parcel larger than 640 acres must include
32 | appropriate new urbanism concepts such as clustering, mixed-use
33 | development, the creation of rural village and city centers, and
34 | the transfer of development rights in order to discourage urban
35 | sprawl while protecting landowner rights. Notwithstanding the
36 | provisions of a comprehensive plan, the local government may not
37 | prohibit land uses, densities, and intensities of use that are
38 | consistent with the uses, densities, and intensities of use of
39 | the industrial, commercial, or residential areas that surround
40 | the parcel to a distance equal to the longest dimension of the
41 | parcel. Intensities of uses for an agricultural enclave shall,
42 | at minimum, equal the average intensity of the areas that
43 | surround the parcel to a distance equal to the longest dimension
44 | of the parcel. If a local government imposes development
45 | conditions that prevent the owner from achieving consistent
46 | densities and intensities of use pursuant to this subsection,
47 | the owner may apply to the circuit court for appropriate relief
48 | pursuant to s. 70.001. The imposition of such conditions is
49 | presumed to impose an inordinate burden. This presumption may be
50 | rebutted by clear and convincing evidence.

51 | (a) The local government and the owner of a parcel of land
52 | that is the subject of an application for an amendment shall
53 | have 180 days following the date that the local government
54 | receives a complete application to negotiate in good faith to
55 | reach consensus on the land uses, densities, and intensities of
56 | use that are consistent with the uses, densities, and

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57 intensities of use of the industrial, commercial, or residential
58 areas that surround the parcel. Within 30 days after the local
59 government's receipt of such an application, the local
60 government and owner must agree in writing to a schedule for
61 information submittal, public hearings, negotiations, and final
62 action on the amendment, which schedule may thereafter be
63 altered only with the written consent of the local government
64 and the owner. Compliance with the schedule in the written
65 agreement constitutes good faith negotiations for purposes of
66 paragraph (d) ~~(e)~~.

67 (b) Upon conclusion of good faith negotiations under
68 paragraph (a), regardless of whether the local government and
69 owner reach consensus on the land uses, densities, and
70 intensities of use that are consistent with the uses, densities,
71 and intensities of use of the industrial, commercial, or
72 residential areas that surround the parcel, the amendment must
73 be transmitted to the state land planning agency for review
74 pursuant to s. 163.3184. If the local government fails to
75 transmit the amendment within 180 days after receipt of a
76 complete application, the amendment must be immediately
77 transferred to the state land planning agency for such review at
78 the first available transmittal cycle. A plan amendment
79 transmitted to the state land planning agency submitted under
80 this subsection is presumed to be consistent with rule 9J-
81 5.006(5), Florida Administrative Code. This presumption may be
82 rebutted by clear and convincing evidence.

83 (c) Notwithstanding the provisions of a comprehensive
84 plan, after review by the state land planning agency, the owner

85 shall respond to any objections, recommendations, or comments
 86 issued by the agency pursuant to s. 163.3184(6). If the
 87 department has issued no objections, recommendations, or
 88 comments, or if the owner has responded to any objections,
 89 recommendations, or comments and the local government denies or
 90 fails to approve the amendment within the time period specified
 91 in s. 163.3184(7), such denial or failure to approve the
 92 amendment is presumed to impose an inordinate burden, and the
 93 owner may apply to the circuit court for appropriate relief
 94 pursuant to s. 70.001. A plan amendment reviewed by the land
 95 planning agency under this subsection is presumed to be
 96 consistent with the provisions of rule 9J-5.006(5), Florida
 97 Administrative Code. This presumption may be rebutted by clear
 98 and convincing evidence.

99 (d)~~(e)~~ If the owner fails to negotiate in good faith, a
 100 plan amendment submitted under this subsection is not entitled
 101 to the rebuttable presumption under this subsection in the
 102 negotiation and amendment process.

103 (e)~~(d)~~ Nothing within this subsection relating to
 104 agricultural enclaves shall preempt or replace any protection
 105 currently existing for any property located within the
 106 boundaries of the following areas:

- 107 1. The Wekiva Study Area, as described in s. 369.316; or
- 108 2. The Everglades Protection Area, as defined in s.
- 109 373.4592(2).

110 Section 2. Subsections (6) and (7) of section 163.3245,
 111 Florida Statutes, are renumbered as subsections (7) and (8),

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112 | respectively, and a new subsection (6) is added to that section
113 | to read:

114 | 163.3245 Optional sector plans.--

115 | (6) If an application for development approval or an
116 | application for a comprehensive plan amendment pursuant to this
117 | part has been filed and is pending prior to the effective date
118 | of a sector plan, the application shall only be required to
119 | comply with the provisions of a subsequently adopted sector plan
120 | upon written consent of the applicant. This subsection applies
121 | to all applications within a sector planning area pending before
122 | a local government on or before December 31, 2007.

123 | Section 3. This act shall take effect July 1, 2008.