

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; providing
 11 concurrency for the treatment of agricultural enclaves in
 12 relation to certain surrounding lands; amending s.
 13 163.3164, F.S.; revising the definition of "agricultural
 14 enclave"; amending s. 163.3245, F.S.; revising provisions
 15 relating to optional sector plans; providing applicability
 16 to certain pending applications; providing an effective
 17 date.

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

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 21 Section 1. Subsection (5) of section 163.3162, Florida
 22 Statutes, is amended to read:

23 163.3162 Agricultural Lands and Practices Act.--

24 (5) AMENDMENT TO LOCAL GOVERNMENT COMPREHENSIVE PLAN.--The
 25 owner of a parcel of land defined as an agricultural enclave
 26 under s. 163.3164(33) may apply for an amendment to the local
 27 government comprehensive plan pursuant to s. 163.3187. Such
 28 amendment is presumed to be consistent with rule 9J-5.006(5),

29 Florida Administrative Code, and may include land uses,
30 densities, and intensities of use that are consistent with the
31 uses, densities, and intensities of use of the industrial,
32 commercial, or residential areas that surround the parcel. This
33 presumption may be rebutted by clear and convincing evidence.
34 Each application for a comprehensive plan amendment under this
35 subsection for a parcel larger than 640 acres must include
36 appropriate new urbanism concepts such as clustering, mixed-use
37 development, the creation of rural village and city centers, and
38 the transfer of development rights in order to discourage urban
39 sprawl while protecting landowner rights. Notwithstanding the
40 provisions of a comprehensive plan, the local government may not
41 prohibit land uses, densities, and intensities of use that are
42 consistent with the uses, densities, and intensities of use of
43 the industrial, commercial, or residential areas that surround
44 the parcel. Densities and intensities of use for an agricultural
45 enclave shall, at minimum, be calculated as the average density
46 or intensity of uses within 3 miles of the perimeter of the
47 parcel. If a local government imposes development conditions
48 that prevent the owner from achieving consistent densities and
49 intensities of use pursuant to this subsection, the owner may
50 apply to the circuit court for appropriate relief pursuant to s.
51 70.001. The imposition of such conditions is presumed to impose
52 an inordinate burden. This presumption may be rebutted by clear
53 and convincing evidence.

54 (a) The local government and the owner of a parcel of land
55 that is the subject of an application for an amendment shall
56 have 180 days following the date that the local government

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

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

84 5.006(5), Florida Administrative Code. This presumption may be
 85 rebutted by clear and convincing evidence.

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

102 (d)-(e) If the owner fails to negotiate in good faith, a
 103 plan amendment submitted under this subsection is not entitled
 104 to the rebuttable presumption under this subsection in the
 105 negotiation and amendment process.

106 (e)-(d) Nothing within this subsection relating to
 107 agricultural enclaves shall preempt or replace any protection
 108 currently existing for any property located within the
 109 boundaries of the following areas:

- 110 1. The Wekiva Study Area, as described in s. 369.316; or

111 2. The Everglades Protection Area, as defined in s.
112 373.4592(2).

113 (f) For concurrency purposes, agricultural enclaves shall
114 be treated as any previously approved development surrounding
115 the agricultural enclave has been treated and calculated as the
116 average concurrency requirements within 3 miles of the perimeter
117 of the parcel.

118 Section 2. Paragraph (d) of subsection (33) of section
119 163.3164, Florida Statutes, is amended to read:

120 163.3164 Local Government Comprehensive Planning and Land
121 Development Regulation Act; definitions.--As used in this act:

122 (33) "Agricultural enclave" means an unincorporated,
123 undeveloped parcel that:

124 (d) Has public services, including water, wastewater,
125 transportation, schools, and recreation facilities, available or
126 such public services are scheduled in the capital improvement
127 element to be provided by the local government or can be
128 provided by an alternative provider of local government
129 ~~infrastructure in order to ensure consistency with applicable~~
130 ~~concurrency provisions of s. 163.3180; and~~

131 Section 3. Subsections (6) and (7) of section 163.3245,
132 Florida Statutes, are renumbered as subsections (7) and (8),
133 respectively, and a new subsection (6) is added to that section
134 to read:

135 163.3245 Optional sector plans.--

136 (6) If an application for development approval or an
137 application for a comprehensive plan amendment pursuant to this
138 part has been filed and is pending prior to the effective date

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139 | of a sector plan, the application shall only be required to
140 | comply with the provisions of a subsequently adopted sector plan
141 | upon written consent of the applicant. This subsection applies
142 | to all applications within a sector planning area pending before
143 | a local government on or before December 31, 2007.

144 | Section 4. This act shall take effect July 1, 2008.