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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/3/2008	.	
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1 The Committee on Agriculture (Peaden) recommended the following  
 2 **amendment:**

**Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause  
6 and insert:

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

9 163.3162 Agricultural Lands and Practices Act.--

10 (5) AMENDMENT TO LOCAL GOVERNMENT COMPREHENSIVE PLAN.--The  
 11 owner of a parcel of land defined as an agricultural enclave  
 12 under s. 163.3164(33) may apply for an amendment to the local  
 13 government comprehensive plan pursuant to s. 163.3187. Such  
 14 amendment is presumed to be consistent with rule 9J-5.006(5),  
 15 Florida Administrative Code, and may include land uses,  
 16 densities, and intensities of use that are consistent with the  
 17 uses, densities, and intensities of use of the industrial,



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

40 (a) The local government and the owner of a parcel of land  
41 that is the subject of an application for an amendment shall have  
42 180 days following the date that the local government receives a  
43 complete application to negotiate in good faith to reach  
44 consensus on the land uses, densities, and intensities of use  
45 that are consistent with the uses, densities, and intensities of  
46 use of the industrial, commercial, or residential areas that  
47 surround the parcel. Within 30 days after the local government's

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48 receipt of such an application, the local government and owner  
49 must agree in writing to a schedule for information submittal,  
50 public hearings, negotiations, and final action on the amendment,  
51 which schedule may thereafter be altered only with the written  
52 consent of the local government and the owner. Compliance with  
53 the schedule in the written agreement constitutes good faith  
54 negotiations for purposes of paragraph (d) ~~(e)~~.

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

71 (c) Notwithstanding the provisions of a comprehensive plan,  
72 after review by the state land planning agency, the owner shall  
73 respond to any objections, recommendations, or comments issued by  
74 the agency pursuant to s. 163.3184(6). If the department has not  
75 issued any objections, recommendations, or comments, or if the  
76 owner has responded to any objections, recommendations, or  
77 comments and the local government denies or fails to approve the



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78 amendment within the time period specified in s. 163.3184(7),  
79 such denial or failure to approve the amendment is presumed to  
80 impose an inordinate burden, and the owner may apply to the  
81 circuit court for appropriate relief pursuant to s. 70.001. A  
82 plan amendment reviewed by the land planning agency under this  
83 subsection is presumed to be consistent with the provisions of  
84 rule 9J-5.006(5), Florida Administrative Code. This presumption  
85 may be rebutted by clear and convincing evidence.

86 (d) ~~(e)~~ If the owner fails to negotiate in good faith, a  
87 plan amendment submitted under this subsection is not entitled to  
88 the rebuttable presumption under this subsection in the  
89 negotiation and amendment process.

90 (e) ~~(d)~~ Nothing within this subsection relating to  
91 agricultural enclaves shall preempt or replace any protection  
92 currently existing for any property located within the boundaries  
93 of the following areas:

94 (f) An agricultural enclave shall not be subjected to  
95 higher concurrency standards than the concurrency standards  
96 applied to previously approved development contiguous to the  
97 enclave.

98 1. The Wekiva Study Area, as described in s. 369.316; or  
99 2. The Everglades Protection Area, as defined in s.  
100 373.4592(2).

101 Section 2. Subsections (6) and (7) of section 163.3245,  
102 Florida Statutes, are renumbered as subsections (7) and (8),  
103 respectively, and a subsection (6) is added to that section, to  
104 read:

105 163.3245 Optional sector plans.--

106 (6) If an application for development approval or an  
107 application for a comprehensive plan amendment pursuant to this



108 part has been filed and is pending prior to the effective date of  
109 a sector plan, the application shall only be required to comply  
110 with the provisions of a subsequently adopted sector plan upon  
111 written consent of the applicant. This subsection applies to all  
112 applications within a sector planning area pending before a local  
113 government on or before December 31, 2007.

114 Section 3. Subsection (33) of section 163.3164, Florida  
115 Statutes, is amended to read:

116 163.3164 Local Government Comprehensive Planning and Land  
117 Development Regulation Act; definitions.--As used in this act:

118 (33) "Agricultural enclave" means an unincorporated,  
119 undeveloped parcel that:

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

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

124 (c) Is surrounded on at least 75 percent of its perimeter  
125 by:

126 1. Property that has existing industrial, commercial, or  
127 residential development; or

128 2. Property that the local government has designated, in  
129 the local government's comprehensive plan, zoning map, and future  
130 land use map, as land that is to be developed for industrial,  
131 commercial, or residential purposes, and at least 75 percent of  
132 such property is existing industrial, commercial, or residential  
133 development;

134 (d) Has public services, including water, wastewater,  
135 transportation, schools, and recreation facilities, available or  
136 such public services are scheduled in the capital improvement  
137 element to be provided by the local government or can be provided



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138 | by an alternative provider of local government infrastructure ~~in~~  
 139 | ~~order to ensure consistency with applicable concurrency~~  
 140 | ~~provisions of s. 163.3180; and~~

141 |       (e) Does not exceed 1,280 acres; however, if the property  
 142 | is surrounded by existing or authorized residential development  
 143 | that will result in a density at buildout of at least 1,000  
 144 | residents per square mile, then the area shall be determined to  
 145 | be urban and the parcel may not exceed 4,480 acres.

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

147 |  
 148 | ===== T I T L E   A M E N D M E N T =====

149 | And the title is amended as follows:

150 |       Delete everything before the enacting clause  
 151 | and insert:

152 |                               A bill to be entitled  
 153 |       An act relating to land development regulation; amending  
 154 |       s. 163.3162, F.S.; providing for the use of certain lands  
 155 |       surrounding an agricultural enclave; creating a rebuttable  
 156 |       presumption for the imposition of certain development  
 157 |       conditions relating to agricultural enclaves; providing a  
 158 |       timeframe for submitting certain information relating to  
 159 |       proposed plan amendments; creating a rebuttable  
 160 |       presumption for denial of or failure to approve plan  
 161 |       amendments relating to agricultural enclaves; providing  
 162 |       concurrency standards for agricultural enclaves in  
 163 |       relation to previously approved development contiguous to  
 164 |       the enclave; amending s. 163.3245, F.S.; revising  
 165 |       provisions relating to optional sector plans; providing  
 166 |       applicability to certain pending applications; amending s.

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167 | 163.3164, F.S.; revising the definition of "agricultural  
168 | enclave"; providing an effective date.