

By Senator Gaetz

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1                   A bill to be entitled  
2           An act relating to affordable housing; amending s.  
3           163.3177, F.S.; requiring that a county adopt a local land  
4           development regulation that requires certain housing to be  
5           affordable; requiring the county to transmit a copy of  
6           such regulation to the Department of Community Affairs;  
7           requiring the state land planning agency to adopt rules by  
8           a certain date; providing a penalty if a local government  
9           fails to adopt and transmit the regulation to the state  
10          land planning agency; creating s. 163.32461, F.S.;  
11          providing legislative intent relating to the availability  
12          of affordable housing; providing definitions; providing  
13          for expedited state and regional review of proposals for  
14          affordable housing developments; requiring that certain  
15          counties and municipalities amend their local  
16          comprehensive plans by a certain date to include criteria  
17          for such review; providing that such review applies within  
18          an urban service area; requiring certain counties to amend  
19          their comprehensive plans to include rural affordable  
20          housing overlay by a certain date; providing that certain  
21          future land use map amendments are subject to the  
22          alternative state review process; requiring the state land  
23          planning agency to adopt a schedule; providing a penalty  
24          for a local government that fails to comply with such  
25          schedule; requiring certain counties and municipalities to  
26          provide density bonuses; providing limitations on such  
27          density bonuses; requiring a local government to establish  
28          procedures for the unified and streamlined review of  
29          proposals for affordable housing developments near an

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30 employment center; providing for the expedited review and  
31 issuance of certain permit applications; exempting certain  
32 affordable housing developments from the transportation  
33 concurrency requirements; repealing s. 420.615, F.S.,  
34 relating to affordable housing land donation density bonus  
35 incentives; providing an effective date.

36  
37 Be It Enacted by the Legislature of the State of Florida:

38  
39 Section 1. Paragraph (f) of subsection (6) of section  
40 163.3177, Florida Statutes, is amended to read:

41 163.3177 Required and optional elements of comprehensive  
42 plan; studies and surveys.--

43 (6) In addition to the requirements of subsections (1)-(5)  
44 and (12), the comprehensive plan shall include the following  
45 elements:

46 (f)1. A housing element consisting of standards, plans, and  
47 principles to be followed in:

48 a. The provision of housing for all current and anticipated  
49 future residents of the jurisdiction.

50 b. The elimination of substandard dwelling conditions.

51 c. The structural and aesthetic improvement of existing  
52 housing.

53 d. The provision of adequate sites for future housing,  
54 including affordable workforce housing as defined in s.  
55 380.0651(3)(j), housing for low-income, very low-income, and  
56 moderate-income families, mobile homes, and group home facilities  
57 and foster care facilities, with supporting infrastructure and  
58 public facilities.

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59 e. Provision for relocation housing and identification of  
60 historically significant and other housing for purposes of  
61 conservation, rehabilitation, or replacement.

62 f. The formulation of housing implementation programs.

63 g. The creation or preservation of affordable housing to  
64 minimize the need for additional local services and avoid the  
65 concentration of affordable housing units only in specific areas  
66 of the jurisdiction.

67 h. By July 1, 2008, each county in which the gap between  
68 the buying power of a family of four and the median county home  
69 sale price exceeds \$170,000, as determined by the Florida Housing  
70 Finance Corporation, and which is not designated as an area of  
71 critical state concern shall adopt a plan for ensuring affordable  
72 workforce housing. At a minimum, the plan shall identify adequate  
73 sites for such housing. For purposes of this sub-subparagraph,  
74 the term "workforce housing" means housing that is affordable to  
75 natural persons or families whose total household income does not  
76 exceed 140 percent of the area median income, adjusted for  
77 household size.

78 i. Failure by a local government to comply with the  
79 requirement in sub-subparagraph h. will result in the local  
80 government being ineligible to receive any state housing  
81 assistance grants until the requirement of sub-subparagraph h. is  
82 met.

83  
84 The goals, objectives, and policies of the housing element must  
85 be based on the data and analysis prepared on housing needs,  
86 including the affordable housing needs assessment. State and  
87 federal housing plans prepared on behalf of the local government

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88 must be consistent with the goals, objectives, and policies of  
89 the housing element. Local governments are encouraged to utilize  
90 job training, job creation, and economic solutions to address a  
91 portion of their affordable housing concerns.

92 2. To assist local governments in housing data collection  
93 and analysis and assure uniform and consistent information  
94 regarding the state's housing needs, the state land planning  
95 agency shall conduct an affordable housing needs assessment for  
96 all local jurisdictions on a schedule that coordinates the  
97 implementation of the needs assessment with the evaluation and  
98 appraisal reports required by s. 163.3191. Each local government  
99 shall utilize the data and analysis from the needs assessment as  
100 one basis for the housing element of its local comprehensive  
101 plan. The agency shall allow a local government the option to  
102 perform its own needs assessment, if it uses the methodology  
103 established by the agency by rule.

104 3. By July 1, 2009, each county shall adopt a local land  
105 development regulation that requires at least 15 percent of all  
106 newly constructed housing within developments of 200 or more  
107 residential units to be affordable as defined in s. 420.0004. The  
108 state land planning agency shall provide a model land development  
109 regulation to the county. Immediately after adoption, the county  
110 shall transmit a copy of the land development regulation to the  
111 state land planning agency. The state land planning agency shall  
112 adopt rules to implement the requirement, which must include, but  
113 need not be limited to, options for the distribution of units  
114 among income categories and mechanisms for creating long-term or  
115 permanent affordability. The requirement must be implemented by  
116 October 1, 2008, and may be adopted at the local level. If a

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117 local government fails to adopt a land development regulation in  
118 accordance with this subparagraph, such local government may not  
119 adopt amendments to its comprehensive plan which increase  
120 residential density until the land development regulation has  
121 been adopted and transmitted to the state land planning agency.

122 Section 2. Section 163.32461, Florida Statutes, is created  
123 to read:

124 163.32461 Affordable housing growth strategies.--

125 (1) LEGISLATIVE INTENT.--It is the intent of the  
126 Legislature to increase the availability of affordable housing in  
127 the state consistent with this section, the State Comprehensive  
128 Plan, and the State Housing Strategy Act. The Legislature  
129 recognizes that construction costs increase as a result of  
130 regulatory delays in approving the development of affordable  
131 housing. The Legislature further recognizes that the state's  
132 growth management laws need to be amended in a manner that will  
133 assist in making affordable housing more readily available.  
134 Therefore, it is the intent of the Legislature to streamline and  
135 expedite state review of comprehensive plan amendments and local  
136 government review of development proposals that will provide for  
137 affordable housing. It is further the intent of the Legislature  
138 to require local governments to amend their respective local  
139 comprehensive plans so that there is a greater opportunity for  
140 the development of affordable housing. It is further the intent  
141 of the Legislature to establish a procedure for the state to  
142 review local decisions that deny a unified application to provide  
143 affordable housing.

144 (2) DEFINITIONS.--As used in this section, the term:

145 (a) "Expedited state and regional review" means the

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146 alternative state review process in s. 163.32465(2)-(6).

147 (b) "Affordable housing" means residential units subject to  
148 a deed restriction that requires the units to be sold or rented  
149 solely to a person qualifying as extremely low-income, low-  
150 income, moderate-income, or very-low-income as defined in s.  
151 420.0004.

152 (c) "Green affordable housing" means housing that is  
153 certified by a governmental or nonprofit organization which  
154 incorporates the principles of sustainable design and satisfies  
155 the Leadership in Energy and Environmental Design Standards, the  
156 Florida Green Building Coalition's Green Development Standards,  
157 or the standards of another certification program recognized by  
158 the state, and that is subject to a deed restriction that  
159 requires the units to be sold or rented solely to a person  
160 qualifying as extremely low-income, low-income, moderate-income,  
161 or very-low-income for a period of not less than 10 years.

162 (3) EXPEDITED REVIEW OF FUTURE LAND USE MAP AMENDMENTS.--

163 (a) Each county having a population greater than 75,000 and  
164 any municipality within such county shall amend its respective  
165 local comprehensive plan by July 1, 2009, to include specific  
166 criteria that a proposal for the development of affordable  
167 housing must satisfy in order to receive expedited state and  
168 regional review. The criteria may require, but need not be  
169 limited to, long-term deed or rental restrictions and a certain  
170 number of affordable units. The expedited review applies within  
171 an urban service area as identified in the local comprehensive  
172 plan.

173 (b) Each county having a population of 75,000 or fewer  
174 shall amend its local comprehensive plan to include a rural

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175 affordable housing overlay by July 1, 2010. The rural affordable  
176 housing overlay must identify areas that are appropriate for  
177 affordable housing and identify goals and policies to encourage  
178 the development of affordable housing in such identified areas.  
179 The county may adopt a rural land stewardship overlay as provided  
180 in s. 163.3177 at the same time as the rural affordable housing  
181 overlay.

182 (c) After a local government has amended its local  
183 comprehensive plan and confirmed by resolution that the future  
184 land use map amendment relating to affordable housing is  
185 consistent with the local government's comprehensive plan, such  
186 future land use map amendment is subject to the alternative  
187 review process provided in s. 163.32465(3)-(6). Any policies or  
188 map notations for a special area plan which are directly related  
189 to the land use map amendment may be adopted at the same time and  
190 in the same manner as the land use map amendment.

191 (d) The alternative review process applies to any future  
192 land use map amendment relating to a development in which all of  
193 the housing units are certified by a governmental or nonprofit  
194 organization as incorporating the principles of sustainable  
195 design and satisfying the Leadership in Energy and Environmental  
196 Design Standards, the Florida Green Building Coalition's Green  
197 Development Standards, or other certification program recognized  
198 by the state.

199 (e) The alternative review process applies to any future  
200 land use map amendment for a development in which all of the  
201 units meet the Florida Building Code Plus under part IV of  
202 chapter 553 or satisfy the Leadership in Energy and Environmental  
203 Design Standards, the Florida Green Building Coalition's Green

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204 Development Standards, or other certification program recognized  
205 by the state.

206 (f) The state land planning agency shall develop and adopt  
207 a schedule for local governments to follow when amending their  
208 respective comprehensive plans as required by this subsection.  
209 The state land planning agency shall develop a schedule that  
210 prioritizes the transmission of the comprehensive plan amendments  
211 based on data compiled by the Shimberg Center for Affordable  
212 Housing at the University of Florida in the 2005 Gap Between  
213 Buying Power and Median Sales Price, by County for Homesteaded  
214 Single Family Homes, with the local governments that have the  
215 greatest gap transmitting their amendments first.

216 (g) A local government that does not transmit an amendment  
217 to its comprehensive plan in accordance with the schedule is  
218 ineligible to receive any state funding for the affordable  
219 housing until the amendment has been transmitted to the state  
220 land planning agency.

221 (4) AFFORDABLE HOUSING DENSITY BONUSES.--Each county having  
222 a population greater than 75,000 and any municipality within such  
223 county shall amend its respective comprehensive plan by December  
224 31, 2009, to provide density bonuses that encourage the provision  
225 of affordable housing.

226 (a) Each local government shall amend its local  
227 comprehensive plan to provide a density bonus if land is donated  
228 for the development of affordable housing. The density bonus must  
229 be at least a 40-percent increase above the allowable number of  
230 residential units. The donated land must be suitable for the  
231 development of affordable housing and conveyed to the local  
232 government in fee simple. The local government may transfer all



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233 or a portion of the donated land to a nonprofit organization,  
234 including a community land trust, housing authority, or community  
235 redevelopment agency, to be used for the development and  
236 preservation of permanent affordable housing in a project in  
237 which at least 30 percent of the residential units are  
238 affordable.

239 (b) Each local government shall amend its comprehensive  
240 plan to provide a density bonus for the development of green  
241 affordable housing. The green affordable housing density bonus  
242 shall be at least a 40-percent increase above the allowable  
243 number of residential units.

244 (c) Each local government shall adopt, as part of its  
245 comprehensive plan, policies for the development of affordable  
246 housing and mixed-use affordable housing near employment centers  
247 requiring compact development and served by central water and  
248 sewer. Any development of affordable housing or mixed-use  
249 affordable housing that complies with the local comprehensive  
250 plan and is located within 2 miles of an existing employment  
251 center or an employment center shall receive at least a 40  
252 percent density bonus above the allowable number of residential  
253 units. For purposes of this paragraph, the term "employment  
254 center" means a single place of employment that employs 25 or  
255 more full-time employees and is not within a rural land  
256 stewardship area or sector plan.

257 (d) The density bonuses authorized under this subsection  
258 may be used only on land within a designated urban service area  
259 and not used on land within a coastal high-hazard area, an area  
260 of critical state concern, or any other hazard vulnerability  
261 zones or on lands identified in the local comprehensive plan as

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262 environmentally sensitive. The density bonuses do not require an  
263 amendment to the local comprehensive plan text or map and shall  
264 be awarded at the time the developer receives site plan approval  
265 for the development of the affordable housing units.

266 (5) UNIFIED APPLICATION AND STREAMLINED REVIEW.--Each local  
267 government subject to subsection (2) shall amend its  
268 comprehensive plan and subsequently amend its land development  
269 regulations to establish a process for the unified and  
270 streamlined review of an application for a proposal to develop  
271 affordable housing, green affordable housing, or mixed-use  
272 affordable housing near an employment center.

273 (a) Each local government shall develop a unified  
274 application for all comprehensive plan amendments related to  
275 affordable housing, green affordable housing, and mixed-use  
276 affordable housing. A local government may adopt procedures and  
277 requirements for a preapplication conference to coordinate with  
278 the applicant for the completion and submission of the  
279 application.

280 (b) Each local government shall adopt procedures that  
281 require an expedited review of a unified application. At a  
282 minimum, the procedures shall require the governing body of a  
283 local government to consider the comprehensive plan amendment  
284 portion of the unified application as provided in s. 163.32465(4)  
285 no later than 60 days after the application is complete. The  
286 procedures shall require the governing body of the local  
287 government to consider the entire unified application no later  
288 than 30 days after receipt of any agency comments submitted  
289 pursuant to 163.32465(4) (b).

290 (c) Upon consideration of a unified application, the

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291 governing body of a local government may approve, approve with  
292 conditions, or deny a request for a comprehensive plan amendment  
293 or rezoning.

294 (d) Each local government shall adopt procedures to ensure  
295 that applications for a subdivision, site plan approval, or  
296 building permits for affordable housing are issued expeditiously.

297 (6) TRANSPORTATION CONCURRENCY EXEMPTION.--Any development  
298 of affordable housing that is located within a designated urban  
299 service area is exempt from the transportation concurrency  
300 requirements of s. 163.3180.

301 Section 3. Section 420.615, Florida Statutes, is repealed.

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