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Proposed Committee Substitute by the Committee on Community
Affairs

1 A bill to be entitled
2 An act relating to growth management; amending s.
3 163.3164, F.S.; redefining the term "existing urban
4 service area" as "urban service area"; defining the
5 term "dense urban land area"; requiring the Office of
6 Economic and Demographic Research to annually
7 calculate the population and density criteria needed
8 to determine which jurisdictions qualify as dense
9 urban land areas; providing for the use of certain
10 data and certain boundaries for such determination;
11 requiring the Office of Economic and Demographic
12 Research to submit to the state land planning agency
13 the list of jurisdictions that meet certain criteria
14 by a specified date; requiring the state land planning
15 agency to publish such list; amending s. 163.3177,
16 F.S.; authorizing the state land planning agency to
17 allow for a projected 5-year capital outlay full-time
18 equivalent student growth rate to exceed certain
19 percent under certain circumstances; amending s.
20 163.3180, F.S.; revising concurrency requirements;
21 revising legislative findings; providing for the
22 applicability of transportation concurrency exception
23 areas; deleting certain requirements for
24 transportation concurrency exception areas; requiring
25 that a local government that has certain
26 transportation concurrency exception area adopt land
27 use and transportation strategies within a specified



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28 timeframe; requiring the state land planning agency to
29 submit certain finding to the Administration
30 Commission; providing that the designation of a
31 transportation concurrency exception area does not
32 limit a local government's home rule power to adopt
33 ordinances or impose fees and does not affect any
34 contract or agreement entered into or development
35 order rendered before such designation; requiring that
36 the Office of Program Policy Analysis and Government
37 Accountability submit a report to the Legislature by a
38 specified date; requiring that the report contain
39 certain information relating to transportation
40 concurrency exception areas; providing for an
41 exemption from level-of-service standards for proposed
42 development related to qualified job creation
43 projects; revising provisions relating to school
44 concurrency requirements; requiring that charter
45 schools be considered as a mitigation option under
46 certain circumstances; creating s. 163.31802, F.S.;
47 prohibiting the establishment of local security
48 standards requiring businesses to expend funds to
49 enhance local governmental services or functions under
50 certain circumstances; providing an exception;
51 amending s. 171.091, F.S.; requiring that a
52 municipality submit a copy of any revision to the
53 charter boundary article which results from an
54 annexation or contraction to the Office of Economic
55 and Demographic Research; providing legislative
56 findings and determinations relating to replacing the



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57 transportation concurrency system with a mobility fee
58 system; requiring that the state land planning agency
59 and the Department of Transportation develop a
60 methodology for a mobility fee system; requiring that
61 the state land planning agency and the department
62 submit joint reports to the Legislature by a specified
63 date; extending certain permits, orders, or
64 applications that are due to expire on or before
65 September 1, 2011; providing for application of the
66 extension to certain related activities; providing
67 exceptions; providing a declaration of important state
68 interest; providing an effective date.

69

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

71

72 Section 1. Subsection (29) of section 163.3164, Florida
73 Statutes, is amended, and subsection (34) is added to that
74 section, to read:

75 163.3164 Local Government Comprehensive Planning and Land
76 Development Regulation Act; definitions.—As used in this act:

77 (29) "~~Existing~~ Urban service area" means built-up areas
78 where public facilities and services, including, but not limited
79 to, central water and sewer ~~such as sewage treatment systems,~~
80 roads, schools, and recreation areas, are already in place. In
81 addition, for counties that qualify as dense urban land areas
82 under subsection (34), the nonrural area of a county, which has
83 adopted into the county charter a Rural Area designation or
84 areas identified in the comprehensive plan as urban service
85 areas or urban growth boundaries on or before July 1, 2009, are



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86 also urban service areas under this definition.

87 (34) "Dense urban land area" means:

88 (a) A municipality that has an average of at least 1,000
89 people per square mile of land area and a minimum total
90 population of at least 5,000;

91 (b) A county, including the municipalities located therein,
92 which has an average of at least 1,000 people per square mile of
93 land area; or

94 (c) A county, including the municipalities located therein,
95 which has a population of at least 1 million.

96
97 The Office of Economic and Demographic Research within the
98 Legislature shall annually calculate the population and density
99 criteria needed to determine which jurisdictions qualify as
100 dense urban land areas by using the most recent land area data
101 from the decennial census conducted by the Bureau of the Census
102 of the United States Department of Commerce and the latest
103 available population estimates determined pursuant to s.
104 186.901. If any local government has had an annexation,
105 contraction, or new incorporation, the Office of Economic and
106 Demographic Research shall determine the population density
107 using the new jurisdictional boundaries as recorded in
108 accordance with s. 171.091. The Office of Economic and
109 Demographic Research shall submit to the state land planning
110 agency a list of jurisdictions that meet the total population
111 and density criteria necessary for designation as a dense urban
112 land area by July 1, 2009, and every year thereafter. The state
113 land planning agency shall publish the list of jurisdictions on
114 its Internet website within 7 days after the list is received.



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115 The designation of jurisdictions that qualify or do not qualify
116 as a dense urban land area is effective upon publication on the
117 state land planning agency's Internet website.

118 Section 2. Paragraph (a) of subsection (12) of section
119 163.3177, Florida Statutes, is amended to read:

120 163.3177 Required and optional elements of comprehensive
121 plan; studies and surveys.-

122 (12) A public school facilities element adopted to
123 implement a school concurrency program shall meet the
124 requirements of this subsection. Each county and each
125 municipality within the county, unless exempt or subject to a
126 waiver, must adopt a public school facilities element that is
127 consistent with those adopted by the other local governments
128 within the county and enter the interlocal agreement pursuant to
129 s. 163.31777.

130 (a) The state land planning agency may provide a waiver to
131 a county and to the municipalities within the county if the
132 capacity rate for all schools within the school district is no
133 greater than 100 percent and the projected 5-year capital outlay
134 full-time equivalent student growth rate is less than 10
135 percent. The state land planning agency may allow for a
136 projected 5-year capital outlay full-time equivalent student
137 growth rate to exceed 10 percent when the projected 10-year
138 capital outlay full-time equivalent student enrollment is less
139 than 2,000 students and the capacity rate for all schools within
140 the school district in the tenth year will not exceed the 100-
141 percent limitation. The state land planning agency may allow for
142 a single school to exceed the 100-percent limitation if it can
143 be demonstrated that the capacity rate for that single school is



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144 not greater than 105 percent. In making this determination, the
145 state land planning agency shall consider the following
146 criteria:

147 1. Whether the exceedance is due to temporary
148 circumstances;

149 2. Whether the projected 5-year capital outlay full time
150 equivalent student growth rate for the school district is
151 approaching the 10-percent threshold;

152 3. Whether one or more additional schools within the school
153 district are at or approaching the 100-percent threshold; and

154 4. The adequacy of the data and analysis submitted to
155 support the waiver request.

156 Section 3. Subsections (5) and (10) and paragraph (e) of
157 subsection (13) of section 163.3180, Florida Statutes, are
158 amended to read:

159 163.3180 Concurrency.—

160 (5) (a) The Legislature finds that under limited
161 circumstances ~~dealing with transportation facilities,~~
162 countervailing planning and public policy goals may come into
163 conflict with the requirement that adequate public
164 transportation facilities and services be available concurrent
165 with the impacts of such development. The Legislature further
166 finds that ~~often~~ the unintended result of the concurrency
167 requirement for transportation facilities is often the
168 discouragement of urban infill development and redevelopment.
169 Such unintended results directly conflict with the goals and
170 policies of the state comprehensive plan and the intent of this
171 part. The Legislature also finds that in urban centers,
172 transportation cannot be effectively managed and mobility cannot



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173 be improved solely through the expansion of roadway capacity,
174 that the expansion of roadway capacity is not always physically
175 or financially possible, and that a range of transportation
176 alternatives are essential to satisfy mobility needs, reduce
177 congestion, and achieve healthy, vibrant centers. Therefore,
178 ~~exceptions from the concurrency requirement for transportation~~
179 ~~facilities may be granted as provided by this subsection.~~

180 (b)1. The following are transportation concurrency
181 exception areas:

182 a. A municipality that qualifies as a dense urban land area
183 under s. 163.3164(34);

184 b. An urban service area under s. 163.3164(29) which has
185 been adopted into the local comprehensive plan and is located
186 within a county that qualifies as a dense urban land area under
187 s. 163.3164(34), except limited urban service areas are not
188 included as an urban service area unless the parcel is defined
189 as 163.3164(33); and

190 c. A county, including the municipalities located therein,
191 which has a population of at least 900,000 and qualifies as a
192 dense urban land area under s. 163.3164(34), but does not have
193 an urban service area designated in the local comprehensive
194 plan.

195 2. A municipality that does not qualify as a dense urban
196 land area pursuant to s. 163.3164(34) may designate in its local
197 comprehensive plan the following areas as transportation
198 concurrency exception areas:

199 a. Urban infill as defined in s. 163.3164(27);

200 b. Community redevelopment areas as defined in s.
201 163.340(10);



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202 c. Downtown revitalization areas as defined in s.
203 163.3164(25);
204 d. Urban infill and redevelopment under s. 163.2517; or
205 e. Urban service areas as defined in s. 163.3164(29) or
206 areas within a designated urban service boundary under s.
207 163.3177(14).
208 3. A county that does not qualify as a dense urban land
209 area pursuant to s. 163.3164(34) may designate in its local
210 comprehensive plan the following areas as transportation
211 concurrency exception areas:
212 a. Urban infill as defined in s. 163.3164(27);
213 b. Urban infill and redevelopment under s. 163.2517; or
214 c. Urban service areas as defined in s. 163.3164(29).
215 4. A local government that has a transportation concurrency
216 exception area designated pursuant to subparagraph 1.,
217 subparagraph 2., or subparagraph 3. must, within 2 years after
218 the designated area becomes exempt, adopt into its local
219 comprehensive plan land use and transportation strategies to
220 support and fund mobility within the exception area, including
221 alternative modes of transportation. Local governments are
222 encouraged to adopt complementary land use and transportation
223 strategies that reflect the region's shared vision for its
224 future. If the state land planning agency finds insufficient
225 cause for the local government's failure to adopt into its
226 comprehensive plan land use and transportation strategies to
227 support and fund mobility within the designated exception area
228 after 2 years, the agency shall submit the finding to the
229 Administration Commission, which may impose any of the sanctions
230 set forth in s. 163.3184(11) (a) and (b) against the local



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231 government.

232 5. Transportation concurrency exception areas designated
233 under subparagraph 1., subparagraph 2., or subparagraph 3. do
234 not apply to designated transportation concurrency districts
235 located within a county that has a population of at least 1.5
236 million, has implemented and uses a transportation-related
237 concurrency assessment to support alternative modes of
238 transportation, including, but not limited to, mass transit, and
239 does not levy transportation impact fees within the concurrency
240 district.

241 6. A local government that does not have a transportation
242 concurrency exception area designated pursuant to subparagraph
243 1., subparagraph 2., or subparagraph 3. may grant an exception
244 from the concurrency requirement for transportation facilities
245 if the proposed development is otherwise consistent with the
246 adopted local government comprehensive plan and is a project
247 that promotes public transportation or is located within an area
248 designated in the comprehensive plan for:

- 249 a.1. Urban infill development;
250 b.2. Urban redevelopment;
251 c.3. Downtown revitalization;
252 d.4. Urban infill and redevelopment under s. 163.2517; or
253 e.5. An urban service area specifically designated as a
254 transportation concurrency exception area which includes lands
255 appropriate for compact, contiguous urban development, which
256 does not exceed the amount of land needed to accommodate the
257 projected population growth at densities consistent with the
258 adopted comprehensive plan within the 10-year planning period,
259 and which is served or is planned to be served with public



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260 facilities and services as provided by the capital improvements
261 element.

262 (c) The Legislature also finds that developments located
263 within urban infill, urban redevelopment, ~~existing~~ urban
264 service, or downtown revitalization areas or areas designated as
265 urban infill and redevelopment areas under s. 163.2517, which
266 pose only special part-time demands on the transportation
267 system, are exempt ~~should be excepted~~ from the concurrency
268 requirement for transportation facilities. A special part-time
269 demand is one that does not have more than 200 scheduled events
270 during any calendar year and does not affect the 100 highest
271 traffic volume hours.

272 (d) Except for transportation concurrency exception areas
273 designated pursuant to subparagraph (b)1., subparagraph (b)2.,
274 or subparagraph (b)3., the following requirements apply: ~~A local~~
275 ~~government shall establish guidelines in the comprehensive plan~~
276 ~~for granting the exceptions authorized in paragraphs (b) and (c)~~
277 ~~and subsections (7) and (15) which must be consistent with and~~
278 ~~support a comprehensive strategy adopted in the plan to promote~~
279 ~~the purpose of the exceptions.~~

280 1.(e) The local government shall both adopt into the
281 comprehensive plan and implement long-term strategies to support
282 and fund mobility within the designated exception area,
283 including alternative modes of transportation. The plan
284 amendment must also demonstrate how strategies will support the
285 purpose of the exception and how mobility within the designated
286 exception area will be provided.

287 2. ~~In addition,~~ The strategies must address urban design;
288 appropriate land use mixes, including intensity and density; and



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289 network connectivity plans needed to promote urban infill,
290 redevelopment, or downtown revitalization. The comprehensive
291 plan amendment designating the concurrency exception area must
292 be accompanied by data and analysis justifying the size of the
293 area.

294 ~~(e)-(f) Before designating~~ Prior to the designation of a
295 concurrency exception area pursuant to subparagraph (b)6., the
296 state land planning agency and the Department of Transportation
297 shall be consulted by the local government to assess the impact
298 that the proposed exception area is expected to have on the
299 adopted level-of-service standards established for regional
300 transportation facilities identified pursuant to s. 186.507,
301 including the Strategic Intermodal System facilities, as defined
302 in s. 339.64, and roadway facilities funded in accordance with
303 s. 339.2819. Further, the local government shall provide a plan
304 for the mitigation of, in consultation with the state land
305 planning agency and the Department of Transportation, develop a
306 plan to mitigate any impacts to the Strategic Intermodal System,
307 including, if appropriate, access management, parallel reliever
308 roads, transportation demand management, and other measures the
309 development of a long-term concurrency management system
310 pursuant to subsection (9) and s. 163.3177(3) (d). The exceptions
311 may be available only within the specific geographic area of the
312 jurisdiction designated in the plan. Pursuant to s. 163.3184,
313 any affected person may challenge a plan amendment establishing
314 these guidelines and the areas within which an exception could
315 be granted.

316 ~~(g) Transportation concurrency exception areas existing~~
317 ~~prior to July 1, 2005, must, at a minimum, meet the provisions~~



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318 ~~of this section by July 1, 2006, or at the time of the~~
319 ~~comprehensive plan update pursuant to the evaluation and~~
320 ~~appraisal report, whichever occurs last.~~

321 (f) The designation of a transportation concurrency
322 exception area does not limit a local government's home rule
323 power to adopt ordinances or impose fees. This subsection does
324 not affect any contract or agreement entered into or development
325 order rendered before the creation of the transportation
326 concurrency exception area.

327 (g) The Office of Program Policy Analysis and Government
328 Accountability shall submit to the President of the Senate and
329 the Speaker of the House of Representatives by February 1, 2015,
330 a report on transportation concurrency exception areas created
331 pursuant to this subsection. At a minimum, the report must
332 address the methods that local governments have used to
333 implement and fund transportation strategies to achieve the
334 purposes of designated transportation concurrency exception
335 area; the effects of the strategies on mobility, congestion,
336 urban design; the density and intensity of land use mixes; and
337 the network connectivity plans used to promote urban infill,
338 redevelopment, or downtown revitalization.

339 (10) Except in transportation concurrency exception areas,
340 with regard to roadway facilities on the Strategic Intermodal
341 System designated in accordance with ~~s. 339.63 ss. 339.61,~~
342 ~~339.62, 339.63, and 339.64, the Florida Intrastate Highway~~
343 ~~System as defined in s. 338.001, and roadway facilities funded~~
344 ~~in accordance with s. 339.2819, local governments shall adopt~~
345 the level-of-service standard established by the Department of
346 Transportation by rule. However, if the Office of Tourism,



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347 Trade, and Economic Development concurs in writing with the
348 local government that the proposed development is for a
349 qualified job creation project under s. 288.0656 or s. 403.973,
350 the affected local government, after consulting with the
351 Department of Transportation, may allow for a waiver of
352 transportation concurrency for the project. For all other roads
353 on the State Highway System, local governments shall establish
354 an adequate level-of-service standard that need not be
355 consistent with any level-of-service standard established by the
356 Department of Transportation. In establishing adequate level-of-
357 service standards for any arterial roads, or collector roads as
358 appropriate, which traverse multiple jurisdictions, local
359 governments shall consider compatibility with the roadway
360 facility's adopted level-of-service standards in adjacent
361 jurisdictions. Each local government within a county shall use a
362 professionally accepted methodology for measuring impacts on
363 transportation facilities for the purposes of implementing its
364 concurrency management system. Counties are encouraged to
365 coordinate with adjacent counties, and local governments within
366 a county are encouraged to coordinate, for the purpose of using
367 common methodologies for measuring impacts on transportation
368 facilities for the purpose of implementing their concurrency
369 management systems.

370 (13) School concurrency shall be established on a
371 districtwide basis and shall include all public schools in the
372 district and all portions of the district, whether located in a
373 municipality or an unincorporated area unless exempt from the
374 public school facilities element pursuant to s. 163.3177(12).
375 The application of school concurrency to development shall be



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376 based upon the adopted comprehensive plan, as amended. All local
377 governments within a county, except as provided in paragraph
378 (f), shall adopt and transmit to the state land planning agency
379 the necessary plan amendments, along with the interlocal
380 agreement, for a compliance review pursuant to s. 163.3184(7)
381 and (8). The minimum requirements for school concurrency are the
382 following:

383 (e) *Availability standard.*—Consistent with the public
384 welfare, a local government may not deny an application for site
385 plan, final subdivision approval, or the functional equivalent
386 for a development or phase of a development authorizing
387 residential development for failure to achieve and maintain the
388 level-of-service standard for public school capacity in a local
389 school concurrency management system where adequate school
390 facilities will be in place or under actual construction within
391 3 years after the issuance of final subdivision or site plan
392 approval, or the functional equivalent. School concurrency is
393 satisfied if the developer executes a legally binding commitment
394 to provide mitigation proportionate to the demand for public
395 school facilities to be created by actual development of the
396 property, including, but not limited to, the options described
397 in subparagraph 1. Options for proportionate-share mitigation of
398 impacts on public school facilities must be established in the
399 public school facilities element and the interlocal agreement
400 pursuant to s. 163.31777.

401 1. Appropriate mitigation options include the contribution
402 of land; the construction, expansion, or payment for land
403 acquisition or construction of a public school facility; the
404 construction of a charter school that complies with the



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405 requirements of s. 1002.33(18)(f); or the creation of mitigation
406 banking based on the construction of a public school facility in
407 exchange for the right to sell capacity credits. Such options
408 must include execution by the applicant and the local government
409 of a development agreement that constitutes a legally binding
410 commitment to pay proportionate-share mitigation for the
411 additional residential units approved by the local government in
412 a development order and actually developed on the property,
413 taking into account residential density allowed on the property
414 prior to the plan amendment that increased the overall
415 residential density. The district school board must be a party
416 to such an agreement. As a condition of its entry into such a
417 development agreement, the local government may require the
418 landowner to agree to continuing renewal of the agreement upon
419 its expiration.

420 2. If the education facilities plan and the public
421 educational facilities element authorize a contribution of land;
422 the construction, expansion, or payment for land acquisition; ~~or~~
423 the construction or expansion of a public school facility, or a
424 portion thereof; or the construction of a charter school that
425 complies with the requirements of s. 1002.33(18)(f), as
426 proportionate-share mitigation, the local government shall
427 credit such a contribution, construction, expansion, or payment
428 toward any other impact fee or exaction imposed by local
429 ordinance for the same need, on a dollar-for-dollar basis at
430 fair market value.

431 3. Any proportionate-share mitigation must be directed by
432 the school board toward a school capacity improvement identified
433 in a financially feasible 5-year district work plan that



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434 satisfies the demands created by the development in accordance
435 with a binding developer's agreement.

436 4. If a development is precluded from commencing because
437 there is inadequate classroom capacity to mitigate the impacts
438 of the development, the development may nevertheless commence if
439 there are accelerated facilities in an approved capital
440 improvement element scheduled for construction in year four or
441 later of such plan which, when built, will mitigate the proposed
442 development, or if such accelerated facilities will be in the
443 next annual update of the capital facilities element, the
444 developer enters into a binding, financially guaranteed
445 agreement with the school district to construct an accelerated
446 facility within the first 3 years of an approved capital
447 improvement plan, and the cost of the school facility is equal
448 to or greater than the development's proportionate share. When
449 the completed school facility is conveyed to the school
450 district, the developer shall receive impact fee credits usable
451 within the zone where the facility is constructed or any
452 attendance zone contiguous with or adjacent to the zone where
453 the facility is constructed.

454 5. This paragraph does not limit the authority of a local
455 government to deny a development permit or its functional
456 equivalent pursuant to its home rule regulatory powers, except
457 as provided in this part.

458 Section 4. Section 163.31802, Florida Statutes, is created
459 to read:

460 163.31802 Prohibited standards for security.—A county,
461 municipality, or other local government entity may not adopt or
462 maintain in effect an ordinance or rule that establish standards



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463 for security devices which require a lawful business to expend
464 funds to enhance the services or functions provided by local
465 government unless specifically provided by general law. This
466 section does not apply to municipalities that have a total
467 population of 50,000 or less which adopted an ordinance or rule
468 establishing standards for security devices before February 1,
469 2009.

470 Section 5. Section 171.091, Florida Statutes, is amended to
471 read:

472 171.091 Recording.—Any change in the municipal boundaries
473 through annexation or contraction shall revise the charter
474 boundary article and shall be filed as a revision of the charter
475 with the Department of State within 30 days. A copy of such
476 revision must be submitted to the Office of Economic and
477 Demographic Research along with a statement specifying the
478 population census effect and the affected land area.

479 Section 6. (1) (a) The Legislature finds that the existing
480 transportation concurrency system has not adequately addressed
481 the transportation needs of this state in an effective,
482 predictable, and equitable manner and is not producing a
483 sustainable transportation system for the state. The Legislature
484 finds that the current system is complex, inequitable, lacks
485 uniformity among jurisdictions, is too focused on roadways to
486 the detriment of desired land use patterns and transportation
487 alternatives, and frequently prevents the attainment of
488 important growth management goals.

489 (b) The Legislature determines that the state shall
490 evaluate and consider the implementation of a mobility fee. The
491 mobility fee should be designed to provide for mobility needs,



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492 ensure that all development provides mitigation for its impacts
493 on the transportation system in approximate proportionality to
494 those impacts, fairly distribute financial burdens, and promote
495 compact, mixed-use, and energy efficient development.

496 (2) The state land planning agency and the Department of
497 Transportation shall continue their current mobility fee studies
498 and submit to the President of the Senate and the Speaker of the
499 House of Representatives joint reports no later than December 1,
500 2009.

501 Section 7. (1) Except as provided in subsection (4), and in
502 recognition of the 2009 real estate market conditions, any
503 permit issued by the Department of Environmental Protection, any
504 permit issued by a water management district under part IV of
505 chapter 373, Florida Statutes, any development order issued by
506 the Department of Community Affairs pursuant to s. 380.06,
507 Florida Statutes, and any development order, building permit, or
508 other land use approval issued by a local government which
509 expired or will expire on or after September 1, 2008, but before
510 September 1, 2011, is extended and renewed for a period of 2
511 years after its date of expiration. For development orders and
512 land use approvals, including, but not limited to, certificates
513 of concurrency and development agreements, this extension also
514 includes phase, commencement, and buildout dates, including any
515 buildout date extension previously granted under s.
516 380.06(19)(c), Florida Statutes. This subsection does not
517 prohibit conversion from the construction phase to the operation
518 phase upon completion of construction for combined construction
519 and operation permits.

520 (2) The completion date for any required mitigation



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521 associated with a phased construction project shall be extended
522 and renewed so that mitigation takes place in the same timeframe
523 relative to the phase as originally permitted.

524 (3) The holder of an agency or district permit, or a
525 development order, building permit, or other land use approval
526 issued by a local government which is eligible for the 2-year
527 extension shall notify the authorizing agency in writing no
528 later than September 30, 2010, identifying the specific
529 authorization for which the holder intends to use the extended
530 or renewed permit, order, or approval.

531 (4) The extensions and renewals provided for in subsection
532 (1) do not apply to:

533 (a) A permit or other authorization under any programmatic
534 or regional general permit issued by the United States Army
535 Corps of Engineers.

536 (b) An agency or district permit, or a development order,
537 building permit, or other land use approval issued by a local
538 government and held by an owner or operator determined to be in
539 significant noncompliance with the conditions of the permit,
540 order, or approval as established through the issuance of a
541 warning letter or notice of violation, the initiation of formal
542 enforcement, or other equivalent action by the authorizing
543 agency.

544 (5) Permits, development orders, and other land use
545 approvals extended and renewed under this section shall continue
546 to be governed by rules in effect at the time the permit, order,
547 or approval was issued. This subsection applies to any
548 modification of the plans, terms, and conditions of such permit,
549 development order, or other land use approval that lessens the



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550 environmental impact, except that any such modification does not
551 extend the permit, order, or other land use approval beyond the
552 2 years authorized under subsection (1).

553 Section 8. The Legislature finds that this act fulfills an
554 important state interest.

555 Section 9. This act shall take effect upon becoming a law.