

HB 1415

2012

1 A bill to be entitled
 2 An act relating to agricultural lands; amending s.
 3 163.3162, F.S.; adding criteria under which an
 4 amendment to a local government land use plan is
 5 presumed not to be urban sprawl; adding presumptions
 6 that the same land use designation is appropriate for
 7 a parcel abutted by land having only one land use
 8 designation and that negotiation is not required in
 9 that circumstance; amending s. 163.3164, F.S.;
 10 revising the definition of the term "agricultural
 11 enclave" for purposes of the Community Planning Act;
 12 providing an effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Subsection (4) of section 163.3162, Florida
 17 Statutes, is amended to read:

18 163.3162 Agricultural Lands and Practices.—

19 (4) AMENDMENT TO LOCAL GOVERNMENT COMPREHENSIVE PLAN.—The
 20 owner of a parcel of land defined as an agricultural enclave
 21 under s. 163.3164 may apply for an amendment to the local
 22 government comprehensive plan pursuant to s. 163.3184. ~~The~~ Such
 23 amendment is presumed not to be urban sprawl as defined in s.
 24 163.3164 if it includes land uses and intensities of use which
 25 ~~that~~ are consistent with the existing uses and intensities of
 26 use of, or consistent with the uses and intensities of uses
 27 authorized for, the industrial, commercial, or residential areas
 28 that surround the parcel. This presumption may be rebutted only

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29 | by clear and convincing evidence. Each application for a
30 | comprehensive plan amendment under this subsection for a parcel
31 | larger than 640 acres must include appropriate new urbanism
32 | concepts such as clustering, mixed-use development, the creation
33 | of rural village and city centers, and the transfer of
34 | development rights in order to discourage urban sprawl while
35 | protecting landowner rights.

36 | (a) Unless the parcel of land that is the subject of an
37 | application for an amendment is abutted by land having only one
38 | land use designation, the local government and the owner ~~of a~~
39 | ~~parcel of land that is the subject of an application for an~~
40 | ~~amendment~~ shall have 180 days following the date that the local
41 | government receives a complete application to negotiate in good
42 | faith to reach consensus on the land uses and intensities of use
43 | which that are consistent with the existing uses and intensities
44 | of use of, or consistent with the uses and intensities of uses
45 | authorized for, ~~of~~ the industrial, commercial, or residential
46 | areas that surround the parcel. Within 30 days after the local
47 | government's receipt of the ~~such an~~ application, the local
48 | government and owner must agree in writing to a schedule for
49 | information submittal, public hearings, negotiations, and final
50 | action on the amendment, which schedule may thereafter be
51 | altered only with the written consent of the local government
52 | and the owner. Compliance with the schedule in the written
53 | agreement constitutes good faith negotiations for purposes of
54 | paragraph (c). If the parcel is abutted by land having only one
55 | land use designation, the same land use designation is presumed
56 | to be appropriate for the parcel, and no negotiation is

57 | required.

58 | (b) Upon conclusion of good faith negotiations under
 59 | paragraph (a), if negotiations are required, and regardless of
 60 | whether the local government and owner reach consensus on the
 61 | land uses and intensities of use which ~~that~~ are consistent with
 62 | the uses and intensities of use of the industrial, commercial,
 63 | or residential areas that surround the parcel, the amendment
 64 | must be transmitted to the state land planning agency for review
 65 | pursuant to s. 163.3184. If the local government fails to
 66 | transmit the amendment within 180 days after receipt of a
 67 | complete application, the amendment must be immediately
 68 | transferred to the state land planning agency for such review. A
 69 | plan amendment transmitted to the state land planning agency
 70 | submitted under this subsection is presumed not to be urban
 71 | sprawl as defined in s. 163.3164. This presumption may be
 72 | rebutted only by clear and convincing evidence.

73 | (c) If the owner fails to negotiate in good faith, a plan
 74 | amendment submitted under this subsection is not entitled to the
 75 | rebuttable presumption under this subsection in the negotiation
 76 | and amendment process.

77 | (d) ~~Nothing within~~ This subsection does not ~~relating to~~
 78 | ~~agricultural enclaves shall~~ preempt or replace any protection
 79 | relating to agricultural enclaves which is currently existing
 80 | for ~~any~~ property located within the boundaries of the following
 81 | areas:

- 82 | 1. The Wekiva Study Area, as described in s. 369.316; or
- 83 | 2. The Everglades Protection Area, as defined in s.
- 84 | 373.4592(2).

85 Section 2. Subsection (4) of section 163.3164, Florida
 86 Statutes, is amended to read:

87 163.3164 Community Planning Act; definitions.—As used in
 88 this act:

89 (4) "Agricultural enclave" means an unincorporated,
 90 undeveloped parcel that:

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

92 (b) Has been in continuous use for bona fide agricultural
 93 purposes, as defined by s. 193.461, for a period of 5 years
 94 before ~~prior to~~ the date of any comprehensive plan amendment
 95 application;

96 (c) 1. Is surrounded on at least 75 percent of its
 97 perimeter by:

98 ~~a.1.~~ Property that has existing industrial, commercial, or
 99 residential development; or

100 ~~b.2.~~ Property that the local government has designated, in
 101 the local government's comprehensive plan, zoning map, and
 102 future land use map, as land that is to be developed for
 103 industrial, commercial, or residential purposes, and at least 75
 104 percent of such property is existing industrial, commercial, or
 105 residential development;

106 2. Is surrounded on at least 90 percent of its perimeter
 107 by property that the local government has designated, in the
 108 local government's comprehensive plan and future land use map,
 109 as land that is to be developed for industrial, commercial, or
 110 residential purposes; or

111 3. Is surrounded by existing or authorized residential
 112 development that will result in a density at buildout of at

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113 | least 1,000 residents per square mile;

114 | (d) Has public services, including water, wastewater,
115 | transportation, schools, and recreation facilities, available or
116 | such public services are scheduled in the capital improvement
117 | element to be provided by the local government or can be
118 | provided by an alternative provider of local government
119 | infrastructure in order to ensure consistency with applicable
120 | concurrency provisions of s. 163.3180; and

121 | (e) Does not exceed 1,280 acres; however, if the property
122 | meets the criteria in subparagraph (c)3., ~~is surrounded by~~
123 | ~~existing or authorized residential development that will result~~
124 | ~~in a density at buildout of at least 1,000 residents per square~~
125 | ~~mile,~~ then the area shall be determined to be urban and the
126 | parcel may not exceed 4,480 acres.

127 | Section 3. This act shall take effect July 1, 2012.