

By Senator Dean

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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 use
27 authorized for, the industrial, commercial, or residential areas
28 that surround the parcel. This presumption may be rebutted only
29 by clear and convincing evidence. Each application for a

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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 use
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

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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

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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 perimeter
97 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 by
107 property that the local government has designated, in the local
108 government's comprehensive plan and future land use map, as land
109 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
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

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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.