

By Senator Perry

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1 A bill to be entitled
2 An act relating to growth management; amending s.
3 163.3167, F.S.; specifying requirements for certain
4 comprehensive plans effective, rather than adopted,
5 after a specified date and for associated land
6 development regulations; amending s. 163.3177, F.S.;
7 requiring local governments to include a property
8 rights element in their comprehensive plans; providing
9 a statement of rights which a local government may
10 use; requiring a local government to adopt a property
11 rights element by a specified date; prohibiting a
12 local government's property rights element from
13 conflicting with the statement of rights contained in
14 the act; amending s. 163.3237, F.S.; providing that
15 the consent of certain property owners is not required
16 for development agreement changes under certain
17 circumstances; providing an exception; amending s.
18 337.25, F.S.; requiring the Department of
19 Transportation to afford a right of first refusal to
20 certain individuals under specified circumstances;
21 providing requirements and procedures for the right of
22 first refusal; amending s. 380.06, F.S.; authorizing
23 certain developments of regional impact agreements to
24 be amended under certain circumstances; providing
25 retroactive applicability; providing a declaration of
26 important state interest; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Subsection (3) of section 163.3167, Florida
31 Statutes, is amended to read:

32 163.3167 Scope of act.—

33 (3) A municipality established after the effective date of
34 this act shall, within 1 year after incorporation, establish a
35 local planning agency, pursuant to s. 163.3174, and prepare and
36 adopt a comprehensive plan of the type and in the manner set out
37 in this act within 3 years after the date of such incorporation.
38 A county comprehensive plan is controlling until the
39 municipality adopts a comprehensive plan in accordance with this
40 act. A comprehensive plan effective ~~adopted~~ after January 1,
41 2019, and all land development regulations adopted to implement
42 the comprehensive plan must incorporate each development order
43 existing before the comprehensive plan's effective date, may not
44 impair the completion of a development in accordance with such
45 existing development order, and must vest the density and
46 intensity approved by such development order existing on the
47 effective date of the comprehensive plan without limitation or
48 modification.

49 Section 2. Paragraph (i) is added to subsection (6) of
50 section 163.3177, Florida Statutes, to read:

51 163.3177 Required and optional elements of comprehensive
52 plan; studies and surveys.—

53 (6) In addition to the requirements of subsections (1)-(5),
54 the comprehensive plan shall include the following elements:

55 (i)1. In accordance with the legislative intent expressed
56 in ss. 163.3161(10) and 187.101(3) that governmental entities
57 respect judicially acknowledged and constitutionally protected
58 private property rights, each local government shall include in

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59 its comprehensive plan a property rights element to ensure that
60 private property rights are considered in local decisionmaking.
61 A local government may adopt its own property rights element or
62 use the following statement of rights:

63
64 The following rights shall be considered in local
65 decisionmaking:

66
67 1. The right of a property owner to physically possess
68 and control his or her interests in the property,
69 including easements, leases, or mineral rights.

70
71 2. The right of a property owner to use, maintain,
72 develop, and improve his or her property for personal
73 use or the use of any other person, subject to state
74 law and local ordinances.

75
76 3. The right of the property owner to privacy and to
77 exclude others from the property to protect the
78 owner's possessions and property.

79
80 4. The right of a property owner to dispose of his or
81 her property through sale or gift.

82
83 2. Each local government must adopt a property rights
84 element in its comprehensive plan by the earlier of its next
85 proposed plan amendment or July 1, 2023. If a local government
86 adopts its own property rights element, the element may not
87 conflict with the statement of rights provided in subparagraph

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88 1.

89 Section 3. Section 163.3237, Florida Statutes, is amended
90 to read:

91 163.3237 Amendment or cancellation of a development
92 agreement.—A development agreement may be amended or canceled by
93 mutual consent of the parties to the agreement or by their
94 successors in interest. A party or its designated successor in
95 interest to a development agreement and a local government may
96 amend or cancel a development agreement without securing the
97 consent of other parcel owners whose property was originally
98 subject to the development agreement, unless the amendment or
99 cancellation directly modifies the allowable uses or
100 entitlements of such owners' property.

101 Section 4. Subsection (4) of section 337.25, Florida
102 Statutes, is amended to read:

103 337.25 Acquisition, lease, and disposal of real and
104 personal property.—

105 (4) The department may convey, in the name of the state,
106 any land, building, or other property, real or personal, which
107 was acquired under subsection (1) and which the department has
108 determined is not needed for the construction, operation, and
109 maintenance of a transportation facility. When such a
110 determination has been made, property may be disposed of through
111 negotiations, sealed competitive bids, auctions, or any other
112 means the department deems to be in its best interest, with due
113 advertisement for property valued by the department at greater
114 than \$10,000. A sale may not occur at a price less than the
115 department's current estimate of value, except as provided in
116 paragraphs (a)-(d). The department may afford a right of first

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117 refusal to the local government or other political subdivision
118 in the jurisdiction in which the parcel is situated, except in a
119 conveyance transacted under paragraph (a), paragraph (c), or
120 paragraph (e). Notwithstanding any provision of this section to
121 the contrary, before any conveyance under this subsection may be
122 made, except a conveyance under paragraph (a) or paragraph (c),
123 the department shall first afford a right of first refusal to
124 the previous property owner for the department's current
125 estimate of value of the property. The right of first refusal
126 must be made in writing and sent to the previous owner via
127 certified mail or hand delivery, effective upon receipt. The
128 right of first refusal must provide the previous owner with a
129 minimum of 30 days to exercise the right in writing and must be
130 sent to the originator of the offer by certified mail or hand
131 delivery, effective upon dispatch. If the previous owner
132 exercises his or her right of first refusal, the previous owner
133 has a minimum of 90 days to close on the property.

134 (a) If the property has been donated to the state for
135 transportation purposes and a transportation facility has not
136 been constructed for at least 5 years, plans have not been
137 prepared for the construction of such facility, and the property
138 is not located in a transportation corridor, the governmental
139 entity may authorize reconveyance of the donated property for no
140 consideration to the original donor or the donor's heirs,
141 successors, assigns, or representatives.

142 (b) If the property is to be used for a public purpose, the
143 property may be conveyed without consideration to a governmental
144 entity.

145 (c) If the property was originally acquired specifically to

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146 provide replacement housing for persons displaced by
147 transportation projects, the department may negotiate for the
148 sale of such property as replacement housing. As compensation,
149 the state shall receive at least its investment in such property
150 or the department's current estimate of value, whichever is
151 lower. It is expressly intended that this benefit be extended
152 only to persons actually displaced by the project. Dispositions
153 to any other person must be for at least the department's
154 current estimate of value.

155 (d) If the department determines that the property requires
156 significant costs to be incurred or that continued ownership of
157 the property exposes the department to significant liability
158 risks, the department may use the projected maintenance costs
159 over the next 10 years to offset the property's value in
160 establishing a value for disposal of the property, even if that
161 value is zero.

162 (e) If, at the discretion of the department, a sale to a
163 person other than an abutting property owner would be
164 inequitable, the property may be sold to the abutting owner for
165 the department's current estimate of value.

166 Section 5. Paragraph (d) of subsection (4) of section
167 380.06, Florida Statutes, is amended to read:

168 380.06 Developments of regional impact.—

169 (4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

170 (d) Any agreement entered into by the state land planning
171 agency, the developer, and the local government with respect to
172 an approved development of regional impact previously classified
173 as essentially built out, or any other official determination
174 that an approved development of regional impact is essentially

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175 built out, remains valid unless it expired on or before April 6,
176 2018, and may be amended pursuant to the processes adopted by
177 the local government for amending development orders. Any such
178 agreement or amendment may authorize the developer to exchange
179 approved land uses, subject to demonstrating that the exchange
180 will not increase impacts to public facilities. This paragraph
181 applies to all such agreements and amendments effective on or
182 after April 6, 2018.

183 Section 6. The Legislature finds and declares that this act
184 fulfills an important state interest.

185 Section 7. This act shall take effect July 1, 2021.