

By the Committee on Community Affairs; and Senator Perry

578-02373-21

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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 the earlier of its adoption of its  
12      next proposed plan amendment initiated after a certain  
13      date or the next scheduled evaluation and appraisal of  
14      its comprehensive plan; prohibiting a local  
15      government's property rights element from conflicting  
16      with the statement of rights contained in the act;  
17      amending s. 163.3237, F.S.; providing that the consent  
18      of certain property owners is not required for  
19      development agreement changes under certain  
20      circumstances; providing an exception; amending s.  
21      337.25, F.S.; requiring the Department of  
22      Transportation to afford a right of first refusal to  
23      certain individuals under specified circumstances;  
24      providing requirements and procedures for the right of  
25      first refusal; amending s. 380.06, F.S.; authorizing  
26      certain developments of regional impact agreements to  
27      be amended under certain circumstances; providing  
28      retroactive applicability; providing a declaration of  
29      important state interest; providing an effective date.

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

Section 1. Subsection (3) of section 163.3167, Florida Statutes, is amended to read:

163.3167 Scope of act.—

(3) A municipality established after the effective date of this act shall, within 1 year after incorporation, establish a local planning agency, pursuant to s. 163.3174, and prepare and adopt a comprehensive plan of the type and in the manner set out in this act within 3 years after the date of such incorporation. A county comprehensive plan is controlling until the municipality adopts a comprehensive plan in accordance with this act. A comprehensive plan for a newly incorporated municipality which becomes effective ~~adopted~~ after January 1, 2016 ~~2019~~, and all land development regulations adopted to implement the comprehensive plan must incorporate each development order existing before the comprehensive plan's effective date, may not impair the completion of a development in accordance with such existing development order, and must vest the density and intensity approved by such development order existing on the effective date of the comprehensive plan without limitation or modification.

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

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

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

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59 (i)1. In accordance with the legislative intent expressed  
60 in ss. 163.3161(10) and 187.101(3) that governmental entities  
61 respect judicially acknowledged and constitutionally protected  
62 private property rights, each local government shall include in  
63 its comprehensive plan a property rights element to ensure that  
64 private property rights are considered in local decisionmaking.  
65 A local government may adopt its own property rights element or  
66 use the following statement of rights:

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68 The following rights shall be considered in local  
69 decisionmaking:

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71 1. The right of a property owner to physically possess  
72 and control his or her interests in the property,  
73 including easements, leases, or mineral rights.

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75 2. The right of a property owner to use, maintain,  
76 develop, and improve his or her property for personal  
77 use or the use of any other person, subject to state  
78 law and local ordinances.

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80 3. The right of the property owner to privacy and to  
81 exclude others from the property to protect the  
82 owner's possessions and property.

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84 4. The right of a property owner to dispose of his or  
85 her property through sale or gift.

86  
87 2. Each local government must adopt a property rights

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88 element in its comprehensive plan by the earlier of its adoption  
89 of its next proposed plan amendment that is initiated after July  
90 1, 2021, or the next scheduled evaluation and appraisal of its  
91 comprehensive plan pursuant to s. 163.3191. If a local  
92 government adopts its own property rights element, the element  
93 may not conflict with the statement of rights provided in  
94 subparagraph 1.

95 Section 3. Section 163.3237, Florida Statutes, is amended  
96 to read:

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

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

109 337.25 Acquisition, lease, and disposal of real and  
110 personal property.—

111 (4) The department may convey, in the name of the state,  
112 any land, building, or other property, real or personal, which  
113 was acquired under subsection (1) and which the department has  
114 determined is not needed for the construction, operation, and  
115 maintenance of a transportation facility. When such a  
116 determination has been made, property may be disposed of through

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117 negotiations, sealed competitive bids, auctions, or any other  
118 means the department deems to be in its best interest, with due  
119 advertisement for property valued by the department at greater  
120 than \$10,000. A sale may not occur at a price less than the  
121 department's current estimate of value, except as provided in  
122 paragraphs (a)-(d). The department may afford a right of first  
123 refusal to the local government or other political subdivision  
124 in the jurisdiction in which the parcel is situated, except in a  
125 conveyance transacted under paragraph (a), paragraph (c), or  
126 paragraph (e). Notwithstanding any provision of this section to  
127 the contrary, before any conveyance under this subsection may be  
128 made, except a conveyance under paragraph (a) or paragraph (c),  
129 the department shall first afford a right of first refusal to  
130 the previous property owner for the department's current  
131 estimate of value of the property. The right of first refusal  
132 must be made in writing and sent to the previous owner via  
133 certified mail or hand delivery, effective upon receipt. The  
134 right of first refusal must provide the previous owner with a  
135 minimum of 30 days to exercise the right in writing and must be  
136 sent to the originator of the offer by certified mail or hand  
137 delivery, effective upon dispatch. If the previous owner  
138 exercises his or her right of first refusal, the previous owner  
139 has a minimum of 90 days to close on the property.

140 (a) If the property has been donated to the state for  
141 transportation purposes and a transportation facility has not  
142 been constructed for at least 5 years, plans have not been  
143 prepared for the construction of such facility, and the property  
144 is not located in a transportation corridor, the governmental  
145 entity may authorize reconveyance of the donated property for no

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146 consideration to the original donor or the donor's heirs,  
147 successors, assigns, or representatives.

148 (b) If the property is to be used for a public purpose, the  
149 property may be conveyed without consideration to a governmental  
150 entity.

151 (c) If the property was originally acquired specifically to  
152 provide replacement housing for persons displaced by  
153 transportation projects, the department may negotiate for the  
154 sale of such property as replacement housing. As compensation,  
155 the state shall receive at least its investment in such property  
156 or the department's current estimate of value, whichever is  
157 lower. It is expressly intended that this benefit be extended  
158 only to persons actually displaced by the project. Dispositions  
159 to any other person must be for at least the department's  
160 current estimate of value.

161 (d) If the department determines that the property requires  
162 significant costs to be incurred or that continued ownership of  
163 the property exposes the department to significant liability  
164 risks, the department may use the projected maintenance costs  
165 over the next 10 years to offset the property's value in  
166 establishing a value for disposal of the property, even if that  
167 value is zero.

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

172 Section 5. Paragraph (d) of subsection (4) of section  
173 380.06, Florida Statutes, is amended to read:

174 380.06 Developments of regional impact.—

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175 (4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

176 (d) Any agreement entered into by the state land planning  
177 agency, the developer, and the local government with respect to  
178 an approved development of regional impact previously classified  
179 as essentially built out, or any other official determination  
180 that an approved development of regional impact is essentially  
181 built out, remains valid unless it expired on or before April 6,  
182 2018, and may be amended pursuant to the processes adopted by  
183 the local government for amending development orders. Any such  
184 agreement or amendment may authorize the developer to exchange  
185 approved land uses, subject to demonstrating that the exchange  
186 will not increase impacts to public facilities. This paragraph  
187 applies to all such agreements and amendments effective on or  
188 after April 6, 2018.

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

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