

1                   A bill to be entitled  
2           An act relating to growth management; amending s.  
3           163.3177, F.S.; requiring local governments to include  
4           a property rights element in their comprehensive  
5           plans; providing a statement of rights that a local  
6           government may use; requiring a local government to  
7           adopt a property rights element by a specified date;  
8           prohibiting a local government's property rights  
9           element from conflicting with the statutorily provided  
10          statement of rights; amending s. 163.3237, F.S.;  
11          providing that certain property owners are not  
12          required to consent to development agreement changes  
13          under certain circumstances; amending s. 171.042,  
14          F.S.; prohibiting a municipality from annexing  
15          specified areas under certain circumstances; amending  
16          s. 337.25, F.S.; requiring the Department of  
17          Transportation to afford a right of first refusal to  
18          certain individuals under specified circumstances;  
19          providing requirements and procedures for the right of  
20          first refusal; amending s. 380.06, F.S.; authorizing  
21          certain developments of regional impact agreements to  
22          be amended under certain circumstances; providing  
23          retroactive applicability; providing that the act  
24          fulfills an important state interest; providing an  
25          effective date.

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

Section 1. 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:

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

The following rights shall be considered in local decisionmaking:

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

51 rights.

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53 2. The right of a property owner to use, maintain,  
 54 develop, and improve his or her property for personal  
 55 use or the use of any other person, subject to state  
 56 law and local ordinances.

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58 3. The right of the property owner to privacy and to  
 59 exclude others from the property to protect the  
 60 owner's possessions and property.

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

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65 2. Each local government must adopt a property rights  
 66 element in its comprehensive plan by the earlier of its next  
 67 proposed plan amendment or July 1, 2024. If a local government  
 68 adopts its own property rights element, the element may not  
 69 conflict with the statement of rights provided in subparagraph  
 70 1.

71 Section 2. Section 163.3237, Florida Statutes, is amended  
 72 to read:

73 163.3237 Amendment or cancellation of a development  
 74 agreement.—A development agreement may be amended or canceled by  
 75 mutual consent of the parties to the agreement or by their

76 | successors in interest. A party or its designated successor in  
 77 | interest to a development agreement and a local government may  
 78 | amend or cancel a development agreement without securing the  
 79 | consent of other property owners whose property was originally  
 80 | subject to the development agreement, unless the amendment or  
 81 | cancellation directly modifies the allowable uses or  
 82 | entitlements of such owners' property.

83 | Section 3. Subsection (4) is added to section 171.042,  
 84 | Florida Statutes, to read:

85 | 171.042 Prerequisites to annexation.—

86 | (4) Except as otherwise provided in s. 171.205, a  
 87 | municipality may not annex an area within another municipal  
 88 | jurisdiction without the other municipality's consent.

89 | Section 4. Subsection (4) of section 337.25, Florida  
 90 | Statutes, is amended to read:

91 | 337.25 Acquisition, lease, and disposal of real and  
 92 | personal property.—

93 | (4) The department may convey, in the name of the state,  
 94 | any land, building, or other property, real or personal, which  
 95 | was acquired under subsection (1) and which the department has  
 96 | determined is not needed for the construction, operation, and  
 97 | maintenance of a transportation facility. When such a  
 98 | determination has been made, property may be disposed of through  
 99 | negotiations, sealed competitive bids, auctions, or any other  
 100 | means the department deems to be in its best interest, with due

101 advertisement for property valued by the department at greater  
102 than \$10,000. A sale may not occur at a price less than the  
103 department's current estimate of value, except as provided in  
104 paragraphs (a)-(d). The department may afford a right of first  
105 refusal to the local government or other political subdivision  
106 in the jurisdiction in which the parcel is situated, except in a  
107 conveyance transacted under paragraph (a), paragraph (c), or  
108 paragraph (e). Notwithstanding any provision of this section to  
109 the contrary, before any conveyance under this subsection may be  
110 made, except a conveyance under paragraph (a) or paragraph (c),  
111 the department shall first afford a right of first refusal to  
112 the previous property owner for the department's current  
113 estimate of value of the property. The right of first refusal  
114 must be made in writing and sent to the previous owner via  
115 certified mail or hand delivery, effective upon receipt. The  
116 right of first refusal must provide the previous owner with a  
117 minimum of 30 days to exercise the right in writing and must be  
118 sent to the originator of the offer by certified mail or hand  
119 delivery, effective upon dispatch. If the previous owner  
120 exercises his or her right of first refusal, the previous owner  
121 shall have at least 90 days to close on the property.

122 (a) If the property has been donated to the state for  
123 transportation purposes and a transportation facility has not  
124 been constructed for at least 5 years, plans have not been  
125 prepared for the construction of such facility, and the property

126 is not located in a transportation corridor, the governmental  
127 entity may authorize reconveyance of the donated property for no  
128 consideration to the original donor or the donor's heirs,  
129 successors, assigns, or representatives.

130 (b) If the property is to be used for a public purpose,  
131 the property may be conveyed without consideration to a  
132 governmental entity.

133 (c) If the property was originally acquired specifically  
134 to provide replacement housing for persons displaced by  
135 transportation projects, the department may negotiate for the  
136 sale of such property as replacement housing. As compensation,  
137 the state shall receive at least its investment in such property  
138 or the department's current estimate of value, whichever is  
139 lower. It is expressly intended that this benefit be extended  
140 only to persons actually displaced by the project. Dispositions  
141 to any other person must be for at least the department's  
142 current estimate of value.

143 (d) If the department determines that the property  
144 requires significant costs to be incurred or that continued  
145 ownership of the property exposes the department to significant  
146 liability risks, the department may use the projected  
147 maintenance costs over the next 10 years to offset the  
148 property's value in establishing a value for disposal of the  
149 property, even if that value is zero.

150 (e) If, at the discretion of the department, a sale to a

151 person other than an abutting property owner would be  
152 inequitable, the property may be sold to the abutting owner for  
153 the department's current estimate of value.

154 Section 5. Paragraph (d) of subsection (4) of section  
155 380.06, Florida Statutes, is amended to read:

156 380.06 Developments of regional impact.—

157 (4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

158 (d) Any agreement entered into by the state land planning  
159 agency, the developer, and the local government with respect to  
160 an approved development of regional impact previously classified  
161 as essentially built out, or any other official determination  
162 that an approved development of regional impact is essentially  
163 built out, remains valid unless it expired on or before April 6,  
164 2018, and may be amended pursuant to the processes adopted by  
165 the local government for amending development orders. Any such  
166 agreement or amendment may authorize the developer to exchange  
167 approved land uses, subject to demonstrating that the exchange  
168 will not increase impacts to public facilities. This paragraph  
169 applies to all such agreements and amendments effective on or  
170 after April 6, 2018.

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

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