

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

26 interest; providing an effective date.

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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 for a municipality established ~~adopted~~
 41 after January 1, 2016 ~~2019~~, and all land development regulations
 42 adopted to implement the comprehensive plan must incorporate
 43 each development order existing before the comprehensive plan's
 44 effective date, may not impair the completion of a development
 45 in accordance with such existing development order, and must
 46 vest the density and intensity approved by such development
 47 order existing on the effective date of the comprehensive plan
 48 without limitation or 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)-
54 (5), the comprehensive plan shall include the following
55 elements:

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

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65 The following rights shall be considered in local
66 decisionmaking:

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

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

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

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

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

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

163.3237 Amendment or cancellation of a development agreement.—A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest. A party or its designated successor in interest to a development agreement and a local government may amend or cancel a development agreement without securing the consent of other property owners whose property was originally subject to the development agreement, unless the amendment or cancellation directly modifies the allowable uses or

101 entitlements of such owners' property.

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

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

106 (4) The department may convey, in the name of the state,
107 any land, building, or other property, real or personal, which
108 was acquired under subsection (1) and which the department has
109 determined is not needed for the construction, operation, and
110 maintenance of a transportation facility. When such a
111 determination has been made, property may be disposed of through
112 negotiations, sealed competitive bids, auctions, or any other
113 means the department deems to be in its best interest, with due
114 advertisement for property valued by the department at greater
115 than \$10,000. A sale may not occur at a price less than the
116 department's current estimate of value, except as provided in
117 paragraphs (a)-(d). The department may afford a right of first
118 refusal to the local government or other political subdivision
119 in the jurisdiction in which the parcel is situated, except in a
120 conveyance transacted under paragraph (a), paragraph (c), or
121 paragraph (e). Notwithstanding any provision of this section to
122 the contrary, before any conveyance under this subsection may be
123 made, except a conveyance under paragraph (a) or paragraph (c),
124 the department shall first afford a right of first refusal to
125 the previous property owner for the department's current

126 estimate of value of the property. The right of first refusal
127 must be made in writing and sent to the previous owner via
128 certified mail or hand delivery, effective upon receipt. The
129 right of first refusal must provide the previous owner with a
130 minimum of 30 days to exercise the right in writing and must be
131 sent to the originator of the offer by certified mail or hand
132 delivery, effective upon dispatch. If the previous owner
133 exercises his or her right of first refusal, the previous owner
134 shall have at least 90 days to close on the property.

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

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

146 (c) If the property was originally acquired specifically
147 to provide replacement housing for persons displaced by
148 transportation projects, the department may negotiate for the
149 sale of such property as replacement housing. As compensation,
150 the state shall receive at least its investment in such property

151 or the department's current estimate of value, whichever is
152 lower. It is expressly intended that this benefit be extended
153 only to persons actually displaced by the project. Dispositions
154 to any other person must be for at least the department's
155 current estimate of value.

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

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

167 Section 5. Paragraph (d) of subsection (4) of section
168 380.06, Florida Statutes, is amended to read:

169 380.06 Developments of regional impact.—

170 (4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

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

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

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

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