

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 within a specified
12 timeframe; prohibiting a local government's property
13 rights element from conflicting with the statutorily
14 provided statement of rights; amending s. 163.3237,
15 F.S.; 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 with a population of 10,000 or more must adopt a property rights element in its comprehensive plan by the earlier of the date of its adoption of its next proposed plan amendment or July 1, 2024. Each local government with a population of less than 10,000 must adopt a property rights element in its comprehensive plan in conjunction with the next scheduled evaluation and appraisal of its comprehensive plan under s. 163.3191. 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

101 amend or cancel a development agreement without securing the
102 consent of other property owners whose property was originally
103 subject to the development agreement, unless the amendment or
104 cancellation directly modifies the allowable uses or
105 entitlements of such owners' property.

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

108 337.25 Acquisition, lease, and disposal of real and
109 personal property.—

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

126 | the contrary, before any conveyance under this subsection may be
127 | made, except a conveyance under paragraph (a) or paragraph (c),
128 | the department shall first afford a right of first refusal to
129 | the previous property owner for the department's current
130 | estimate of value of the property. The right of first refusal
131 | must be made in writing and sent to the previous owner via
132 | certified mail or hand delivery, effective upon receipt. The
133 | right of first refusal must provide the previous owner with a
134 | minimum of 30 days to exercise the right in writing and must be
135 | sent to the originator of the offer by certified mail or hand
136 | delivery, effective upon dispatch. If the previous owner
137 | exercises his or her right of first refusal, the previous owner
138 | shall have at least 90 days to close on the property.

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

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

150 | (c) If the property was originally acquired specifically

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

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

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

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

173 380.06 Developments of regional impact.—

174 (4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

175 (d) Any agreement entered into by the state land planning

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

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

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