

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.

30 |

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

32 |

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

35 |       163.3167 Scope of act.—

36 |       (3) A municipality established after the effective date of  
 37 | this act shall, within 1 year after incorporation, establish a  
 38 | local planning agency, pursuant to s. 163.3174, and prepare and  
 39 | adopt a comprehensive plan of the type and in the manner set out  
 40 | in this act within 3 years after the date of such incorporation.

41 | A county comprehensive plan is controlling until the  
 42 | municipality adopts a comprehensive plan in accordance with this  
 43 | act. A comprehensive plan for a newly incorporated municipality  
 44 | which becomes effective ~~adopted~~ after January 1, 2016 ~~2019~~, and  
 45 | all land development regulations adopted to implement the  
 46 | comprehensive plan must incorporate each development order  
 47 | existing before the comprehensive plan's effective date, may not  
 48 | impair the completion of a development in accordance with such  
 49 | existing development order, and must vest the density and  
 50 | intensity approved by such development order existing on the

51 effective date of the comprehensive plan without limitation or  
 52 modification.

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

55 163.3177 Required and optional elements of comprehensive  
 56 plan; studies and surveys.—

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

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

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

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

76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100

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

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 the date of its adoption of its next proposed plan amendment that is initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to 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

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

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

111 337.25 Acquisition, lease, and disposal of real and  
112 personal property.—

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

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

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

150 (b) If the property is to be used for a public purpose,

151 the property may be conveyed without consideration to a  
152 governmental entity.

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

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

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

174 Section 5. Paragraph (d) of subsection (4) of section  
175 380.06, Florida Statutes, is amended to read:

176 380.06 Developments of regional impact.—

177 (4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

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

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

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